

Final Summary of Benefits and Coverage Regulations Effective October 1, 2012

On February 9, 2012, HHS, DOL and IRS issued final Summary of Benefits and Coverage (SBC) regulations (150 pages), a template SBC form and many additional resources on the EBSA web site (including instructions, a sample completed SBC form and additional guidance). What is an SBC? An SBC is intended to be the health plan equivalent of a standard food nutrition fact label. The standard SBC can be no more than 8 pages (4 pages double sided) using no smaller than 12 point font.

Proposed SBC regulations were released last August with a proposed implementation date of March 23, 2012 (as required by the ACA statute). In November the ACA Implementation FAQ Part VII stated that the SBC requirements would be delayed until final regulations were issued and, once issued, would include an applicability date that gives group health plans and health insurance issuers sufficient time to comply.

The final SBC regulation is here and will be published officially in the Federal Register on February 14, 2012. Here are some of the changes that are of interest to employers, beginning with the new applicability date:

Applicability Date

The requirements to provide an SBC apply:

- the first day of the **first open enrollment period** that begins on or after September 23, 2012 for disclosures to participants and beneficiaries who enroll or re-enroll in group health coverage through an open enrollment period (including re-enrollees and late enrollees). **This could be as early as October 1, 2012 for a calendar year plan.**
- the first day of the **first plan year** that begins on or after September 23, 2012 for disclosures to participants and beneficiaries who enroll in group health plan coverage other than through an open enrollment period (including individuals who are newly eligible for coverage and special enrollees). **This could be as early as October 1, 2012 for a fiscal year plan beginning October 1st – at least with respect to new hires and special enrollees (even though open enrollment may not be for another 10+ months). For calendar year plans, the requirement is January 1, 2013.**

SBCs Can be Integrated with an SPD

- The SBC may be provided either as a stand-alone document or in combination with other summary materials (for example, a summary plan description), if the SBC information is intact and prominently displayed at the beginning of the materials (such as immediately after the Table of Contents in a summary plan description).
- The SBC may be provided either in color or grayscale.

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Changes to the Template SBC Form

- Terms such as “policy” and “insurer” have been changed to “coverage” and “plan”, respectively at the request of self-insured plans, which commented that terminology in the proposed SBC template was appropriate only for insured coverage.
- The number of coverage examples required for SBCs issued during the first year of applicability has been reduced to two examples (the breast cancer example has been removed):
 - having a baby (normal delivery) and
 - managing type 2 diabetes (routine maintenance of a well-controlled condition).
- The uniform glossary of health coverage and medical terms may not be modified by plans or issuers.
- The disclaimer language at the beginning of the uniform glossary has been revised to make clear that the glossary is intended to be educational in nature and that the definitions contained in the glossary may not be the same as the definitions used by a particular plan or issuer.

Certain Health Plans Exempt

- An SBC need not be provided for stand-alone dental or vision plans or health FSAs if they constitute excepted benefits (which is generally the case).
- Benefits under an HRA generally do not constitute excepted benefits, and thus HRAs are generally subject to the SBC requirements.
 - A stand-alone HRA generally must satisfy the SBC requirements
 - An HRA integrated with other major medical coverage need not separately satisfy the SBC requirements. The SBC prepared for the other major medical coverage can address the effects of employer allocations to an account under the HRA in the appropriate spaces on the SBC for deductibles, copayments, coinsurance, and benefits otherwise not covered by the other major medical coverage.

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Electronically Provided SBCs

For SBCs provided electronically by a plan or issuer to participants and beneficiaries, the final regulations make a distinction between a participant or beneficiary who is already covered under the group health plan, and a participant or beneficiary who is eligible for coverage but not enrolled in a group health plan.

- An SBC provided by an issuer offering group health insurance coverage to a plan (or its sponsor), may be provided in paper form. Alternatively, the SBC may be provided electronically (such as by email or an Internet posting) if the following three conditions are satisfied –
 - The format is readily accessible by the plan (or its sponsor);
 - The SBC is provided in paper form free of charge upon request; and
 - If the electronic form is an Internet posting, the issuer timely advises the plan (or its sponsor) in paper form or email that the documents are available on the Internet and provides the Internet address.
- An SBC provided by a group health plan or health insurance issuer to a participant or beneficiary may be provided in paper form. Alternatively, the SBC may be provided electronically (such as by email or an Internet posting) if the following requirements are met.
 - With respect to participants and beneficiaries covered under the plan, the SBC may be provided electronically if the DOL electronic disclosure requirements of 29 CFR 2520.104b-1 are met.
 - With respect to participants and beneficiaries who are eligible but not enrolled for coverage, the SBC may be provided electronically if—
 - The format is readily accessible;
 - The SBC is provided in paper form free of charge upon request; and
 - In a case in which the electronic form is an Internet posting, the plan or issuer timely notifies the individual in paper form (such as a postcard) or email that the documents are available on the Internet, provides the Internet address, and notifies the individual that the documents are available in paper form upon request.

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The foregoing list is not a comprehensive summary of the final SBC regulation. Other items will be addressed at a later date, including revised, more flexible timelines for providing the SBC by carriers to plan sponsors, and from carriers/plan sponsors to participants/beneficiaries.

Resources

- Final Regulations, available at www.dol.gov/ebsa/pdf/SBCfinalreg.pdf
- Compliance Guide, available at www.dol.gov/ebsa/pdf/SBCguidance.pdf
- Summary of Benefits and Coverage Template, available at www.dol.gov/ebsa/pdf/SBCtemplate.pdf
- Sample Completed SBC, available at www.dol.gov/ebsa/pdf/SBCSampleCompleted.pdf
- Instructions for Completing the SBC - Group Health Plan Coverage, available at www.dol.gov/ebsa/pdf/SBCInstructionsGroup.pdf
- Instructions for Completing the SBC - Individual Health Insurance Coverage, available at www.dol.gov/ebsa/pdf/SBCInstructionsIndividual.pdf
- Why This Matters language for "Yes" Answers, available at www.dol.gov/ebsa/pdf/SBCYesAnswers.pdf
- Why This Matters language for "No" Answers, available at www.dol.gov/ebsa/pdf/SBCNoAnswers.pdf
- HHS Information for Simulating Coverage Examples, available at <http://cciio.cms.gov/resources/other/index.html#sbcug>
- Uniform Glossary of Coverage and Medical Terms, available at www.dol.gov/ebsa/pdf/SBCUniformGlossary.pdf

Technical Release 2012-01, available at <http://www.dol.gov/ebsa/newsroom/tr12-01.html>

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