

Compliance Alert

Final Summary of Benefits and Coverage Regulations Released

Release Date: 2/9/2012

The IRS, Department of Labor, and Health and Human Services (the agencies) have released final regulations regarding the Summary of Benefits and Coverage (SBC) requirements contained in the Affordable Care Act (ACA). The agencies had previously released proposed regulations in August 2011, which were scheduled to go into effect in March 2012. However, the agencies subsequently delayed the effective date until after the final regulations were released.

Effective Date for Group Health Plans

The final regulations and the requirements to provide the new standardized SBC are effective for group health plans on the following dates:

- Requirements that apply to communications to participants during an annual enrollment period are effective for open enrollment periods that begin on or after September 23, 2012.
- Requirements that apply to participants who enroll in a plan other than during an open enrollment period (e.g. new enrollees, and HIPAA special enrollees) are effective beginning on the first day of the first plan year that begins on or after September 23, 2012.

For example, an employer with a plan year that begins October 1, 2012, but starts their open enrollment period on September 1, 2012, would not be required to provide the SBC during open enrollment, but would be required to use the SBC for new enrollees beginning on the first day of the new plan year.

New Samples and Templates Also Released

The agencies have also published new simplified samples and templates that can be used as a basis for developing an SBC. The new templates and instructions can be found on the DOL website at <http://www.dol.gov/ebsa/healthreform/>.

Who is responsible to create and send the SBC?

The final regulations confirm that, in the case of fully insured plans, the insurance carrier is responsible to produce and provide a valid SBC to employers who sponsor group health plans. While self-funded employers are technically responsible to produce their own SBCs, it is anticipated that firms which assist employers in the administration of self-funded plans are likely to assist with the development of required SBCs. Employers will however have to play a role in the distribution of the SBC to participants, both during open enrollment periods, and to new participants.

Summary

Since employer group health plan years generally begin on the first of the month, the first employers who will be subject to these new rules will be those with plan years beginning October 1, 2012. Most employers will be able to depend on their carrier or claims administrator to actually produce the SBCs, but employers will need to adjust their enrollment procedures to comply with the new disclosure rules. To assist employers with preparing for these changes we will be releasing a detailed analysis of the requirements which apply specifically to employers soon.

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