Compliance Alert

Benefit Comply
Employee Benefit Compliance Support Services

Draft Uniform Summary of Benefits and Coverage Created

Background
The Affordable Care Act (ACA) requires plans, and some employers, to provide a new uniform four-page summary of benefits and coverage (benefit summary) to plan applicants and enrollees. The benefit summary applies to both grandfathered and non-grandfathered plans in addition to existing ERISA disclosure requirements.

The Department of Health and Human Services (HHS) is required to release regulations by March 23, 2011, and the benefit summary must be distributed for plan year beginning after March 23, 2012. Importantly, the benefit summary must be provided by the employer/plan administrator for self-insured health plans, but is principally the responsibility of the insurer for fully-insured health plans.

Model Benefit Summary Developed
A model benefit summary has been developed by a working group organized by the National Association of Insurance Commissioners (NAIC). The attached document is the draft of the benefits summary developed by the NAIC working group, and recently submitted to HHS. While HHS may still make some changes to the format, it is expected that the final model will closely resemble this draft.

60 Day Advance Notice Rule
Insurers and employers are required to provide a 60 day advance notice of any material changes to the plan not included in the most recently provided benefit summary. This rule has the potential to significantly alter the process most employers currently follow regarding plan changes. There are many outstanding questions regarding this new 60 day notice rule. Hopefully the HHS regulations will provide clear guidance on this aspect of the rule.

Summary
A number of additional issues are expected to be addressed in the regulations scheduled to be issued next month including:

- Who must receive the benefit summary - Generally, the benefit summary must be distributed to all applicants (at the time of application), policyholders (at issuance of the policy), and enrollees (at initial enrollment and annual enrollment).
- Distribution – The ACA does not make it clear if current ERISA rules for distributing SPDs and SMMs (including the DOL's safe harbor for electronic disclosure), will also apply to providing the benefit summary.

Watch for an update from Benefit Comply as soon as the HHS rules are released.

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