



Health Care Reform Update



LEGISLATIVE BRIEF

Issue 7 August 29, 2011

Health Care Reform – Health Plan Summary of Benefits and Coverage

The Patient Protection and Affordable Care Act (PPACA) requires health plans and health insurance issuers to begin providing a summary of benefits and coverage (SBC) no later than March 23, 2012. Both non-grandfathered and grandfathered plans will need to provide an SBC. An SBC is a concise document providing simple and consistent information about health plan benefits and coverage in plain language. Its purpose is to help health plan consumers better understand the coverage they have and, when selecting new coverage, to help them make apples-to-apples comparisons of different coverage options.

PPACA directed the Department of Health and Human Services (HHS) to develop standards for the SBC. On Aug. 17, 2011, HHS and the Departments of Labor and Treasury (Departments) announced [proposed regulations](#) for the SBC. The proposed regulations include guidance on:

- Providing the SBC, including who must provide the SBC and timing requirements; and
- Preparing the SBC, such as content, appearance and language requirements.

The Departments also announced the availability of a [proposed template](#) for the SBC and additional [proposed guidance](#) containing instructions and sample language for completing the proposed template, as well as the uniform glossary of terms for the disclosure. The proposed template, instructions, sample language and glossary of terms were prepared by the Departments in consultation with the National Association of Insurance Commissioners (NAIC).

The SBC guidance provided by the Departments is **not final**. The Departments encourage public comments on the proposed guidance and intend to make revisions based on the public comments they receive. However, the proposed guidance is a good reference point to learn about the standards the Departments are considering for the SBC.

This BB&T Insurance Services Legislative Brief summarizes PPACA's standards for the SBC, including the proposed guidance provided by the Departments.

PROVIDING THE SBC

General Requirements

The SBC does not replace any required disclosure documents for group health plan coverage, such as the summary plan description (SPD). Rather, it adds to the list of required disclosures. In the proposed regulations' preamble, the Departments express concern about potential redundancies and additional costs associated with SBCs. To address this concern, the Departments encourage public comments on how the SBC can be coordinated with other disclosure materials, such as the SPD or application and annual enrollment materials.

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PPACA provides that group health plans and health insurance issuers must provide an SBC at the following times: (1) to an applicant at the time of application; (2) to an enrollee prior to the time of enrollment or reenrollment; and (3) to a policyholder or certificate holder at the time of issuance of the policy or delivery of the certificate.

The proposed regulations include more specificity on providing the SBC and would require the following:

- **A health insurance issuer must provide an SBC to a group health plan** (or the plan's sponsor) at certain times, such as upon application or request for information about the health coverage, before the first day of coverage if there have been any changes in the information required to be in the SBC, when a policy is renewed or reissued and upon request.
- **Health plans and issuers must provide an SBC to a participant or beneficiary** with respect to each benefit package offered for which the participant or beneficiary is eligible. The SBC must be provided **annually at renewal** and at certain other times, such as with enrollment application materials, before the first day of coverage if there have been any changes in the information required to be in the SBC, within seven days of enrollment pursuant to a special enrollment period and upon request. For providing the SBC at renewal time:
 - If a written application is required for renewal, the SBC must be provided no later than when the application materials are distributed; or
 - If renewal is automatic, the SBC must be provided no later than **30 days** before the beginning of the new plan year.
- In addition, health plans and issuers must make the **uniform glossary of terms** available to participants and beneficiaries upon request.

According to the proposed regulations, if either the plan or issuer provides the SBC to a participant or beneficiary in accordance with the timing and content requirements, both will have satisfied their obligations. The Departments expect that plans and issuers will enter into contractual arrangements for sending SBCs.

To reduce unnecessary duplication for group health plans with multiple benefit packages, in connection with renewal, the proposed regulations require the plan or issuer to automatically provide only a new SBC with respect to the benefit package in which a participant or beneficiary is enrolled. SBCs for other benefit package options are not required to be provided automatically at renewal, but would need to be provided upon request.

Method of Delivery

The SBC may be provided in either **paper or electronic form**. The proposed regulations confirm that plans and issuers may electronically provide SBCs to participants and beneficiaries if they satisfy the Department of Labor's (DOL) regulations on electronic disclosure.

PREPARING THE SBC

The SBC is to be provided in a standardized format to help provide clear, consistent and comparable information about health plan coverage and benefits. As mentioned above, the Departments have provided a proposed template and a uniform glossary of terms for this purpose.



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Content

PPACA provides that SBCs must contain the following provisions:

- Uniform definitions of standard insurance and medical terms;
- A description of coverage, including cost-sharing for each of the categories of essential benefits;
- Exceptions, reductions and limitations on coverage;
- Cost-sharing provisions;
- Renewability and continuation of coverage provisions;
- A “coverage facts label” that includes examples to illustrate common benefits scenarios;
- A statement of whether the plan provides minimum essential coverage and ensures that the plan’s share of total allowed costs is not less than 60 percent, with respect to coverage beginning on or after Jan. 1, 2014;
- A statement that the outline is a summary of the policy and that the coverage document itself should be consulted for contractual provisions; and
- A contact number for consumers and a Web address where a copy of the actual coverage policy or certificate of coverage can be reviewed and obtained.

For the most part, the proposed regulations parallel the content elements required by PPACA. The proposed regulations, however, identify the four additional content elements:

- For plans and issuers with one or more provider networks, an Internet address (or similar contact information) for obtaining a list of the network providers;
- For plans and issuers with a prescription drug formulary, an Internet address (or similar contact information) for obtaining information about the prescription drug coverage;
- An Internet address for obtaining the uniform glossary of terms; and
- Premiums (or cost of coverage for a self-funded plan).

Appearance

PPACA requires the SBC to be relatively short; it cannot be longer than four pages. The proposed regulations interpret the four-page limitation as **four double-sided pages**. The proposed template is six pages long. The proposed guidance states that the SBC may be provided in color or black and white.

Language

PPACA requires the SBC to be presented in a **culturally and linguistically appropriate manner**, and use terminology that average enrollees can understand. To provide the SBC in a culturally and linguistically appropriate manner, the proposed regulations state that the plan or issuer must provide interpretive services and written translations in certain non-English languages upon request in specified U.S. counties where at least 10 percent of the population is literate only in the same non-English language. Also, in such counties, English versions of the SBC must disclose the availability of language services in the relevant language.



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MODIFICATIONS

Plans and issuers are required to give at least 60 days advance notice of any material modification in plan terms or coverage, if it is not reflected in most recent SBC and occurs other than in connection with a renewal or reissuance of coverage. According to the proposed regulations, a “material modification” includes: (1) an enhancement of covered benefits or services, such as coverage of previously excluded benefits or reduced cost-sharing; (2) a material reduction in covered services or benefits, such as through increased premiums or cost-sharing; or (3) more stringent requirements for recipient of benefits, such as a new referral requirement. The proposed regulations state that the material modification notice can be provided in a separate document describing the material modification or through an updated SBC.

PENALTIES

PPACA establishes a penalty of up to \$1,000 for each willful failure to provide the SBC. Failing to provide the SBC may also trigger an excise tax of \$100 per day per individual for each day of noncompliance.

COMPLIANCE DEADLINE

Under PPACA, plans and issuers must begin providing the SBCs by March 23, 2012. The proposed regulations do not make any adjustments to the compliance deadline. However, in the regulations’ preamble, the Departments request comments on how practical considerations might affect the timing of implementation.

BB&T Insurance Services will continue to monitor health care reform developments and will provide updated information as it becomes available.