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FAQs on Summary of Benefits and Coverage (SBC) Requirements

Effective for plan years and open enrollment periods beginning on or after September 23, 2012, group health plans and health insurance issuers offering group coverage are required to provide participants and beneficiaries with a summary of benefits and coverage (SBC) containing specific information about the plan and coverage, at several points during the enrollment process and upon request. Templates, instructions, and related materials are available from the Center for Consumer Information & Insurance Oversight.

Q. When must plans and issuers begin providing the SBC?

A. For group health plan coverage, the regulations provide that, for disclosures with respect to participants and beneficiaries who enroll or re-enroll through an open enrollment period (including late enrollees and re-enrollees), the SBC must be provided beginning on the first day of the first open enrollment period that begins on or after September 23, 2012. For disclosures with respect to participants and beneficiaries who enroll in coverage other than through an open enrollment period (including individuals who are newly eligible for coverage and special enrollees), the SBC must be provided beginning on the first day of the first plan year that begins on or after September 23, 2012.

Q. Are plans and issuers required to provide a separate SBC for each coverage tier (e.g., self-only coverage, employee plus-one coverage, family coverage) within a benefit package?

A. No, plans and issuers may combine information for different coverage tiers in one SBC, provided the appearance is understandable. In such circumstances, the coverage examples should be completed using the cost sharing (e.g., deductible and out-of-pocket limits) for the self-only coverage tier (also sometimes referred to as the individual coverage tier). In addition, the coverage examples should note this assumption.

Q. If a plan offers participants add-ons to major medical coverage that could affect their cost sharing and other information in the SBC (such as a health flexible spending arrangement (health FSA), health reimbursement arrangement (HRA), health savings account (HSA), or wellness program), is the plan permitted to combine information for all of these add-ons and reflect them in a single SBC?

A. Yes. As stated in the preamble to the final regulations and the instructions for completing the SBC template, plans and issuers are permitted to combine such information in one SBC, provided the appearance is understandable. That is, the effects of such add-ons can be denoted in the appropriate spaces on the SBC for deductibles, copayments, coinsurance, and benefits otherwise not covered by the major medical coverage. In such circumstances, the coverage examples should note the assumptions used in creating them. (The Departments' sample completed SBC provides an example of how to denote the effects of a diabetes wellness program.)

Q. Are plans and issuers required to provide SBCs to individuals who are COBRA qualified beneficiaries?

A. Yes. While a qualifying event does not, itself, trigger an SBC, during an open enrollment period, any COBRA qualified beneficiary who is receiving COBRA coverage must be given the same rights to elect different coverage as are provided to similarly situated non-COBRA beneficiaries. In this situation, a COBRA qualified beneficiary who has elected coverage has the same rights to receive an SBC as a similarly situated non-COBRA beneficiary. There are also limited situations in which a COBRA qualified beneficiary may need to be offered different coverage at the time of the qualifying event than the coverage he or she was receiving before the qualifying event and this may trigger the right to an SBC.

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Q. What circumstances will trigger the requirement to provide an SBC to a participant or beneficiary in a group health plan? In particular, how do the terms "application" and "renewal" apply to a self-insured plan?

A. The final regulations require that the SBC be provided in several instances:

- **Upon application.** If a plan (including a self-insured group health plan) or an issuer distributes written application materials for enrollment, the SBC must be provided as part of those materials. For this purpose, written application materials include any forms or requests for information, in paper form or through a website or email, that must be completed for enrollment. If the plan or issuer does not distribute written application materials for enrollment (in either paper or electronic form), the SBC must be provided no later than the first date on which the participant is eligible to enroll in coverage.
- **By first day of coverage (if there are any changes).** If there is any change in the information required to be in the SBC that was provided upon application and before the first day of coverage, the plan or issuer must update and provide a current SBC no later than the first day of coverage.
- **Special enrollees.** The SBC must be provided to special enrollees no later than the date on which a summary plan description is required to be provided (90 days from enrollment).
- **Upon renewal.** If a plan or issuer requires participants and beneficiaries to actively elect to maintain coverage during an open season, or provides them with the opportunity to change coverage options in an open season, the plan or issuer must provide the SBC at the same time it distributes open season materials. If there is no requirement to renew (sometimes referred to as an "evergreen" election), and no opportunity to change coverage options, renewal is considered to be automatic and the SBC [generally] must be provided no later than 30 days prior to the first day of the new plan or policy year.
- **Upon request.** The SBC must be provided upon request for an SBC or summary information about the health coverage as soon as practicable but in no event later than seven business days following receipt of the request.

Q. What are the circumstances in which an SBC may be provided electronically?

A. With respect to group health plan coverage, an SBC may be provided electronically: (1) by an issuer to a plan, and (2) by a plan or issuer to participants and beneficiaries who are eligible but not enrolled for coverage, if:

- The format is readily accessible (such as in an html, MS Word, or pdf format);
- The SBC is provided in paper form free of charge upon request; and
- If the SBC is provided via an Internet posting (including on the HHS web portal), the issuer timely advises the plan (or the plan or issuer timely advises the participants and beneficiaries) that the SBC is available on the Internet and provides the Internet address. Plans and issuers may make this disclosure (sometimes referred to as the "e-card" or "postcard" requirement) by email.

An SBC may also be provided electronically by a plan or issuer to a participant or **beneficiary who is covered under a plan** in accordance with the Department of Labor's disclosure regulations at 29 CFR 2520.104b-1. Those regulations include a safe harbor for disclosure through electronic media to participants who have the

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ability to effectively access documents furnished in electronic form at any location where the participant is reasonably expected to perform duties as an employee and with respect to whom access to the employer's or plan sponsor's electronic information system is an integral part of those duties. Under the safe harbor, other individuals may also opt into electronic delivery.

In addition, as stated in the regulations, unless the plan or issuer has knowledge of a separate address for a beneficiary, the SBC may be provided to the participant on behalf of the beneficiary (including by furnishing the SBC to the participant in electronic form).

Q. A previous FAQ outlined the circumstances in which an SBC may be provided electronically. The FAQ discussed a safe harbor for providing the SBC to participants or beneficiaries covered under the plan who are able to effectively access documents provided in electronic form at the work site. Are there any additional safe harbors for electronic delivery of SBCs?

A. Yes. The Departments have adopted the following additional safe harbor. SBCs may be provided electronically to participants and beneficiaries in connection with their online enrollment or online renewal of coverage under the plan. SBCs also may be provided electronically to participants and beneficiaries who request an SBC online. In either case, the individual must have the option to receive a paper copy upon request. (In addition, for individual market issuers that offer online enrollment or renewal, the SBC may be provided electronically, at all issuances, to consumers who enroll or renew online, consistent with the regulations.)

Q. Can the Departments provide model language to meet the requirement to provide an e-card or postcard in connection with evergreen website postings?

A. Yes. Plans and issuers have flexibility with respect to the postcard and may choose to tailor it in many ways. One example is:

Availability of Summary Health Information

As an employee, the health benefits available to you represent a significant component of your compensation package. They also provide important protection for you and your family in the case of illness or injury.

Your plan offers a series of health coverage options. Choosing a health coverage option is an important decision. To help you make an informed choice, your plan makes available a Summary of Benefits and Coverage (SBC), which summarizes important information about any health coverage option in a standard format, to help you compare across options.

Q. Is an SBC permitted to simply substitute a cross-reference to the summary plan description (SPD) or other documents for a content element of the SBC?

A. No, an SBC is not permitted to substitute a reference to the SPD or other document for any content element of the SBC. However, an SBC may include a reference to the SPD in the SBC footer. (For example, "Questions: Call 1-855-284-3722 or visit us at www.thesba.com for more information, including a copy of your plan's summary plan description.") In addition, wherever an SBC provides information that fully satisfies a particular content element of the SBC, it may add to that information a reference to specified pages or portions of the SPD in order to supplement or elaborate on that information.

Q. Is the SBC required to include a statement about whether the plan is a grandfathered health plan?

A. No, although plans may voluntarily choose to add a statement to the end of the SBC about whether the plan is a grandfathered health plan.