

update

Compliance News for Multiemployer Plans

June 25, 2015

New Rules Issued for the Affordable Care Act's Summary of Benefits and Coverage (SBC)

A Summary of Benefits and Coverage (SBC) form is required to be completed annually for every health plan, to allow individuals to easily compare health coverage options when shopping for or enrolling in group and individual health coverage. The Departments of Labor, Treasury and Health and Human Services (the Departments), which together are responsible for implementing the group health plan standards under the Affordable Care Act,¹ have slightly revised the rules governing the SBC.² In general, the rules now include guidance released over the past few years in the form of answers to frequently asked questions (FAQs).

Overview of the New Rules

The new rules applicable to group health plans are discussed below.

Special Rules to Prevent Unnecessary Duplication

In general, if a group health plan is insured, either the plan or insurer may prepare and distribute the SBC. Plan sponsors can rely on insurers as long as the insurer provides the SBC in a timely and complete manner.

The new rules include two additional, related provisions:

- **Obligation to Monitor** If a self-insured plan sponsor contracts with a third party (such as a third-party administrator) to provide the SBC, the plan sponsor needs to monitor the performance of the third party and take steps where it is not fulfilling its contractual duties. For example, if the plan sponsor learns that the third party has not provided the SBC and the plan sponsor has the information necessary to correct the problem, the plan sponsor needs to correct the noncompliance. If the plan sponsor does not have all the necessary information to correct the problem, it needs to communicate with plan participants and beneficiaries affected by the noncompliance and take significant steps as soon as possible to avoid future problems.
- **Option to Issue One Combined SBC or Multiple Partial SBCs** If a benefit option consists of benefits provided through two separate health insurers, the



Health Compliance News:

- Overview of the Updated Rules
- New Template Coming Soon
- Implications for Plan Sponsors

¹ The Affordable Care Act is the shorthand name for the Patient Protection and Affordable Care Act (PPACA), Public Law No. 111-48, as modified by the subsequently enacted Health Care and Education Reconciliation Act (HCERA), Public Law No. 111-152.

² The final rules were published in the June 16, 2015 [Federal Register](#).

plan sponsor has the option of combining the information into a single SBC or providing multiple partial SBCs. (This has been allowed for some time under previously issued FAQs.³)

Electronic Delivery

SBCs may be provided electronically in connection with online enrollment or online renewal of coverage.⁴ The new rules incorporate guidance from previous FAQs. As before, a paper copy must be provided upon request, free of charge.

New Template Coming Soon

In December 2014, the Departments proposed a new SBC template that includes significant changes from the existing template.⁵ However, the Departments will not release the final new template until later in 2015 or early 2016. They anticipate that it will have to be used for plan years beginning on or after January 1, 2017 (including open enrollment periods conducted in connection with that plan year). Plan sponsors should review the new template when it is released. It may include updated sample claims costs for the existing coverage examples plus a new third coverage example (simple fracture with emergency room visit).

Implications for Plan Sponsors

Plan sponsors should ensure that processes for providing SBCs are well organized and obligations are clearly stated between the plan and its insurers or service providers. Plans that rely on third parties to prepare SBCs should review them and monitor the process so that they comply with the new rules. Plan sponsors should look for the new SBC template scheduled for release by January 2016.

³ See Segal Consulting's May 18, 2012 *Capital Checkup*, "[Plan Sponsors Working Diligently and in Good Faith on the Summary of Benefits and Coverage Will Not Face Penalties During the First Year.](#)" SBCs were also discussed in Segal's August 2, 2013 *Capital Checkup*, "[Affordable Care Act's Summary of Benefits and Coverage Must be Completed for 2014 Plan Year.](#)"

⁴ That guidance was summarized in Segal's May 18, 2012 *Capital Checkup* referenced in footnote 3.

⁵ The [proposed template](#) is available on Department of Labor's website.

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