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FINANCIAL SERVICES

Health Reform

New FAQs on SBC

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Additional FAQs & New Template Released on SBC Requirement

Under health care reform, plan participants and beneficiaries must be provided a 4-page summary of benefits and coverage ("SBC") and uniform glossary. This requirement is effective for open enrollment periods that begin on or after September 23, 2012. For participants and beneficiaries who enroll in group health plan coverage outside of open enrollment (e.g., newly eligible individuals 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. This requirement is an ongoing one and, as open enrollment season approaches, the Departments of Labor, Health and Human Services, and Treasury have issued updated guidance and a revised SBC template that includes some important changes.

Original SBC Template

The first SBC did not address whether a plan provides minimum essential coverage and whether the plan's share of the total allowed costs of benefits provided under the plan meets applicable minimum value requirements (that is, the plan's share of the total allowed costs of benefits provided under the plan is not less than 60% of such costs). Beginning in 2014, minimum essential coverage and minimum value are important for the following reasons:

- individuals need to be enrolled in minimum essential coverage to avoid the individual mandate tax;
- individuals may be eligible for a subsidy to purchase coverage in an Exchange marketplace if they are not offered minimum essential coverage or are offered minimum essential coverage that is unaffordable or does not meet minimum value; and
- large employers will pay a penalty when they do not offer minimum essential coverage to their full-time employees and their dependents or, with respect to their full-time employees, they offer employee-only coverage that is unaffordable or does not meet minimum value and a full-time employee within 100-400% of the Federal Poverty Level receives a subsidy to enroll in the Exchange.

Updated SBC Template

An updated SBC template and sample completed SBC was issued by the Departments and is available for all group health plans with respect to coverage beginning on or after January 1, 2014, and before January 1, 2015 (the second year of applicability). The only change to the SBC template and sample completed SBC is the addition of statements of whether the plan provides minimum essential coverage and whether the plan meets the minimum value requirements. On page 4 of the SBC template (and illustrated on page 6 of the sample completed SBC), a plan should indicate in the designated entry on the SBC template that the plan or coverage "does" or "does not" provide minimum essential coverage and whether the plan or coverage "does" or "does not" meet applicable minimum value requirements.

The guidance also states that for the Important Questions chart on page 1 of the SBC, in the Answers column, the plan should respond "No" where the template asks "Is there an overall limit on what the plan pays?" as plans are generally prohibited from imposing annual dollar limits on essential benefits for the first plan year that begins on or after January 1, 2014. Further, in the Why This Matters column, the plan must show the following language: "The chart starting on page 2 describes any limits on what the plan will pay for specific covered services, such as office visits." Plans should continue to include information regarding annual or lifetime dollar limits on specific covered benefits as required in the chart starting on page 2 of the SBC (in the Limitations & Exceptions column), as described in the Instructions for Completing the SBC (for either group or individual health coverage, as applicable).

There are no changes to the uniform glossary or the Instructions for Completing the SBC. There are also no additional coverage examples for 2014.

What if it's an Administrative Burden to Add to the SBC at this Point?

If a plan or insurance carrier is already working on its SBC for the second year of applicability and is unable to modify the SBC template for disclosures required to be provided with respect to the second year of applicability, the Departments will not take any enforcement action against a plan or carrier for using the template authorized for the first year of applicability, provided that the SBC is furnished with a cover letter or similar disclosure stating whether the plan does or does not provide minimum essential coverage and whether the plan does or does not meet the minimum value requirement. The following language can be used for these statements:

Does this Coverage Provide Minimum Essential Coverage?

The Affordable Care Act requires most people to have health care coverage that qualifies as "minimum essential coverage." This plan or policy [does/does not] provide minimum essential coverage.

Does this Coverage Meet the Minimum Value Standard?

The Affordable Care Act establishes a minimum value standard of benefits of a health plan. The minimum value standard is 60% (actuarial value). This health coverage [does/does not] meet the minimum value standard for the benefits it provides.

Safe Harbors

In prior FAQs, the Departments provided safe harbors and other enforcement relief for the first year of applicability. In the new FAQs, the Departments clarify that their approach is to assist plans who are working diligently and in good faith to understand and come into compliance with the new law, rather than to impose penalties. Accordingly, these safe harbors and relief are extended through the end of the second year of applicability.

Templates

The updated SBC template (authorized for the second year of applicability) can be found at: www.dol.gov/ebsa/pdf/correctedsbctemplate2.pdf. For a sample completed SBC (authorized fro second year of applicability), visit: www.dol.gov/ebsa/pdf/CorrectedSampleCompletedSBC2.pdf.