FAQs Regarding Summary Of Benefits And Coverage

Insights
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In response to the February 14, 2012 final rules and regulations issued by the Labor Department regarding the summary of benefits and coverage (SBC) provisions of Health Care Reform, the DOL, in conjunction with Health and Human Services and the Treasury Department issued a new set of 24 Frequently Asked Questions to address some of the pertinent questions raised to date and to help consumers, employers and individuals understand the new law.

Although a more detailed description is provided at the DOL website, the following provides a brief summary of the highlights within the FAQs.

Issue	Comments/FAQ Response
Effective Date (when to comply with the new rules)	No extension of the generally applicable September 23 effective date was provided, i.e., the SBC must be provided beginning on the first day of the first open enrollment period that begins on or after September 23, 2012; with any other enrollment, the SBC must be provided beginning on the first day of the first plan year that begins on or after September 23, 2012.
Enforcement vs. Assistance	The Departments will continue to take an "assistance" framework (as opposed to imposing penalties) during the transition as long as employers are making good faith efforts.
Coverage Tiers – Separate SBCs?	Plans and issuers are not 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. This includes arrangements where the participant is able to select the levels of deductible, copayments, and co-insurance for a particular benefit package (these can be presented as options and a model sample is provided by the Departments).
Carve-Out Arrangements	A plan or issuer with a carve-out arrangement with a Pharmacy Benefit Manager or other organization can delegate to that organization the duty to provide the SBC, but the plan or issuer remains responsible if the plan or issuer knows the SBC hasn't been done properly.
How are FSA, HRA, HSA,	FSA, HSA, HRA, Wellness and other similar benefit add-ons can be

and Wellness "Add-Ons" handled?	described in the same SBC document used for the health plan.
Seven "Business Day" Rule (mailbox rule)	The final regulation that require the SBC to be provided in certain circumstances within seven business days means that the SBC be "sent" within seven business days, not "received" within seven business days.
COBRA Qualified Beneficiary Implication	While a qualifying event does not itself trigger an SBC, during an open enrollment period any COBRA qualified beneficiary who is receiving COBRA coverage has the same rights to receive an SBC as a similarly situated non-COBRA beneficiary.
What "triggers" the SBC Requirement?	The Department sets forth guidance on providing an SBC particularly 1) upon application; 2) by first day of coverage (if there are any changes); 3) to special enrollees; 4) upon renewal; and 5) upon request.
Electronic Delivery	With respect to group health plan coverage, an SBC may be provided electronically: 1. by an issuer to a plan 2. by a plan or issuer to participants and beneficiaries who are eligible but not enrolled for coverage (if the format is readily accessible, it's provided in paper form free of charge upon request and, if via an Internet posting, the issuer timely advises the plan (or the plan or issuer timely advises the participants and beneficiaries) that it's available on the Internet and provides the Internet address), and 3. by a plan or issuer to participants and beneficiaries who are covered under a plan in accordance with the DOL's disclosure regulations.
Evergreen Website Postings (e-card/postcard)	Model language is provided for postcards or emails about evergreen website postings.
Culturally/Linguistically Appropriate Manner	SBCs must include a sentence on the availability of language assistance services (similar to claims appeal requirements). Written SBC translations in Spanish, Chinese, Tagalog and Navajo are available at cciio.cms.gov.
SPD Cross-Reference?	The SBC cannot simply cross-reference the terms of a Summary Plan Description.
Grandfathered Notice	The SBC is not required to indicate the plan's grandfathered status. However, a plan may voluntarily add such information if desired.

For more information contact any member of the Fisher Phillips Employee Benefits Practice Group.