

CLIENT ALERT

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NEW GUIDANCE IS RELEASED FOR CONTENT AND DELIVERY DATE FOR THE UNIFORM SUMMARY OF BENEFITS AND COVERAGE FORM (SBC)

The final rule and compliance guide for content and delivery of the SBC have been finalized and are set to be released in the Federal Register. The effective date for providing the SBC has been moved from March 12, 2012 to September 23, 2012. The goal of the SBC is to provide healthcare consumers with a uniform document that explains in “plain” language what the major benefits and exclusions are for each plan that is available to them. The document must also include examples of the cost and coverage for two healthcare issues, maternity and diabetes. The information and model documents are designed for the first year only. It is anticipated that updated material will be provided for subsequent years.

This requirement is applicable to every group health plan regardless as to the number of employees who are covered.

Effective date of the SBC: THE SBC MUST BE SUPPLIED AT THE *OPEN ENROLLMENT* PERIOD FOR GROUP HEALTH PLANS WITH OPEN ENROLLMENTS BEGINNING ON OR AFTER SEPTEMBER 23, 2012.

THE SBC MUST BE SUPPLIED FOR INDIVIDUALS ENROLLING AT TIMES OTHER THAN OPEN ENROLLMENT STARTING ON THE FIRST PLAN YEAR THAT BEGINS ON OR AFTER SEPTEMBER 23, 2012.

All forms underlined in RED are available on our website, www.chb-group.com, under Client Alerts or at <http://cciio.cms.gov/>)

CONTENT – the content of the document as well as font are provided as part of the final rules. A blank template has been provided as well as a sample completed Model SBC. The SBC may be provided in color or in grayscale and must be provided in a culturally and linguistically appropriate manner. This means that if 10% or more of the population residing in a participant’s county are literate only in the same non-English language (1) the SBC must be provided in that language. Translated sample language, template and Uniform Glossary will be made available. The Glossary of Health Coverage and Medical Terms is a standalone document that cannot be changed and includes many standard terms and their definitions. The Glossary must be provided to a participant upon request. Premiums or the cost of coverage no longer needs to be included in the SBC.

DELIVERY – the SBC may be provided as a standalone document or in combination with other summary materials, as long as the SBC is provided intact and prominently displayed at the beginning of the materials. The SBC may be provided in paper form or electronic delivery. The Final Rules have different requirements for electronic delivery based on whether the individual is already enrolled or is a newly eligible individual. Eligible dependents that are known to live at a different address from the employee must be provided with a SBC.

PREPARATION OF THE SBC – the insurer must prepare the SBC for fully insured group health plans. Self Insured plans are responsible for the completion of the SBC, although we would expect assistance from the TPA. Just because the carrier will be preparing the SBC, does not alleviate all the responsibility from the group health plan. Meeting the distribution requirements will require coordination between the insurer and the employer. Carriers have yet to provide much with regard to how they expect to handle this. For the small group market, we may see a greater consolidation of fixed plans that are offered due to the additional paperwork that is necessary for the preparation of the SBC.

TIMING OF THE NOTICE – There are three times that the SBC must be provided:

- Ø Upon an individual’s request
- Ø At any enrollment (new or renewal)
- Ø When there is a material modification to the plan

(1) Determined based on American Community Survey data published by the United States Census Bureau. At the time of publication of this guidance document, 255 U.S. counties (78 of which are in Puerto Rico) meet this threshold. The overwhelming majority of these are Spanish; however, Chinese, Tagalog, and Navajo are present in a few counties, affecting five states (specifically, Alaska, Arizona, California, New Mexico, and Utah) There will be guidance on the DOL website with a list of counties that meet this threshold.

TIMING OF THE NOTICE - Continued

AT INITIAL ENROLLMENT

- Ø NEW HIRES – A newly eligible employee and dependents must receive an SBC for each benefit option that they are eligible for.
- Ø HIPAA Eligible – The Final Rules state that a SBC must be provided no later than when a summary plan description is required under ERISA. (Interestingly – the scenarios provided in the Federal Register, refer to individuals already covered, who have additional coverage options due to a HIPAA special enrollment, but do not mention those individuals who currently do not participate, but due to a HIPAA special enrollment opportunity – have a new enrollment right. Under those circumstances, commonsense would seem to dictate that those individuals would receive an SBC prior to enrollment). However, nothing in this section precludes an individual from exercising their right to request an SBC. (see below for more)

AT RENEWAL/OPEN ENROLLMENT

SBC's must be provided with Open Enrollment Material.

- Ø FOR EMPLOYEES ALREADY ENROLLED – The employer is only required to supply the SBC for the plan that the employee is enrolled in at that time. If the employee or dependent requests additional SBC's for other available plans, then those SBCs must be provided no later than 7 business days from the request.
- Ø FOR EMPLOYEES NOT YET ENROLLED BUT ELIGIBLE – An SBC for each benefit option that they are eligible for must be provided

WHEN A MATERIAL MODIFICATION IS MADE MID YEAR TO THE PLAN

- Ø A new SBC must be provided at least 60 days in advance of a mid-year material change.

UPON REQUEST FOR AN SBC FROM AN EMPLOYEE OR DEPENDENT

- Ø An SBC must be provided no later than 7 business days from the date the SBC is requested.

This Client Alert provides you with a brief summary of the Final Rules regarding the SBC. Our self-insured clients may rest assured that we will work with their TPA to prepare the SBC on their behalf.

DISCLAIMER - This information is provided as an informational service and is not considered insurance, legal or tax advice. If you would like more information, please do not hesitate to contact our office.

DOCUMENTS AVAILABLE AT www.chb-group.com, under Client Alerts or at the government's website, www.dol.gov/ebsa/healthreform or <http://cciio/cms/gov>

- Ø SBC Template. The document is available in MS Word
- Ø Sample Completed SBC. This document was completed using information for sample health coverage and provides a general illustration of a completed SBC.
- Ø Instructions. For assistance in completing the SBC template, separate instructions are available for group health coverage and for individual health insurance coverage.
- Ø Why This Matters language. The SBC instructions include language that must be used when completing the "Why This Matters" column on the first page of the SBC template. Two language options are provided depending on whether the answer in the applicable row is "yes" or "no", according to the terms of the plan or coverage.
- Ø Coverage Examples. This guidance document, together with information provided in Microsoft Excel format by HHS at <http://cciio.cms.gov> and accessible via hyperlink from www.dol.gov/ebsa/healthreform), provides all the information necessary to perform the coverage example calculations.
- Ø Uniform Glossary. The uniform glossary of health coverage and medical terms may not be modified by plans or issuers.