



## Health Care Reform **Bulletin**

# Agencies Plan to Issue Summary of Benefits and Coverage Final Rules

Provided by Sullivan Benefits

### Quick Facts

- The Agencies announced on March 31 that they plan to issue final SBC rules soon.
- An updated template and related documents will not be issued until January 2016.
- Final rules are expected to apply for plan years beginning on or after Jan. 1, 2016.
- The updated template will apply for plan years beginning on or after Jan. 1, 2017.

The Departments intend to issue final regulations on the SBC requirement in the near future, which are expected to apply for plan years beginning on or after Jan. 1, 2016.

The Affordable Care Act (ACA) created new disclosure tools—the summary of benefits and coverage (SBC) and uniform glossary—to help consumers compare coverage options available to them. Generally, group health plans and health insurance issuers are required to provide the SBC and uniform glossary free of charge. This disclosure requirement applies to both grandfathered and non-grandfathered plans.

On March 31, 2015, the Departments of Labor (DOL), Health and Human Services (HHS) and the Treasury (Departments) issued a [Frequently Asked Question](#) (FAQ) announcing their intention to issue final regulations on the SBC requirement in the near future. The final regulations are expected to apply for plan years beginning on or after Jan. 1, 2016 (including open enrollment periods in fall of 2015 for coverage beginning on or after Jan. 1, 2016).

However, according to this FAQ, the new template, instructions and uniform glossary will not be finalized until January 2016, and will apply for plan years beginning on or after Jan. 1, 2017 (including open enrollment periods in fall of 2016 for coverage beginning on or after Jan. 1, 2017).

### Overview of the SBC Requirement

The ACA requires health plans and health insurance issuers to provide an SBC to applicants and enrollees, free of charge. The SBC is a concise document that provides simple and consistent information about health plan benefits and coverage.

The SBC requirement became effective for participants and beneficiaries who enroll or re-enroll through an open enrollment period beginning with **the first open enrollment period starting on or after Sept. 23, 2012**. For participants and beneficiaries who enroll other than through an open enrollment period (such as newly eligible or special enrollees), SBCs were required to be provided beginning with **the first plan year starting on or after Sept. 23, 2012**.

The DOL has provided a template for the SBC and Uniform Glossary documents along with instructions and sample language for completing the template, available on the [DOL's website](#). On April 23, 2013, the SBC template was updated for the second year of applicability to incorporate ACA changes that become effective in later years. **Until further guidance is issued, these documents continue to be authorized.**



On Dec. 22, 2014, the Departments released [proposed regulations](#) on the SBC requirement, which would revise the SBC template, instruction guides and uniform glossary. At that time, the Departments expected that the new requirements for the SBC and uniform glossary would apply to coverage that begins on or after **Sept. 1, 2015**. The draft-updated template, instructions and supplementary materials are available on the [DOL's website](#) under the heading "Templates, Instructions, and Related Materials—Proposed (SBCs On or after 9/15/15)."

The SBC and Uniform Glossary must be provided in a culturally and linguistically appropriate manner. Translated versions of the template and glossary are available through the Centers for Consumer Information and Insurance Oversight (CCIIO) [website](#).

To the extent a plan's terms do not reasonably correspond to the template and instructions, the template should be completed in a manner that is as consistent with the instructions as reasonably as possible, while still accurately reflecting the plan's terms. In addition, the DOL notes that ACA implementation will be marked by an emphasis on assisting (rather than imposing penalties on) plans and issuers that are working diligently and in good faith to understand and comply with the new law.

Thus, during the first and second years of applicability, penalties will not be imposed on plans and issuers that are working diligently and in good faith to comply with the new requirements. **This enforcement relief will continue to apply until further guidance is issued.**

#### **Overview of the FAQ Guidance**

In the FAQ issued on March 31, 2015, the Departments stated that they intend to issue final regulations in the near future. These regulations would finalize proposed changes in the proposed regulations from Dec. 22, 2014, which were proposed to apply beginning Sept. 1, 2015.

However, the FAQ notes that the final rules are expected to apply in connection with:

- Coverage that would renew or begin on the first day of the first plan year (or policy year, in the individual market) that begins on or after Jan. 1, 2016; or
- Open enrollment periods that occur in the fall of 2015 for coverage beginning on or after Jan. 1, 2016.

Despite this effective date, the new template, instructions and uniform glossary are not expected to be finalized until January 2016. According to the Departments, this delay is necessary to allow for consumer testing and offer an opportunity for the public to provide further input before finalizing revisions to the SBC template and associated documents.

The revised template and associated documents will apply to:

- Coverage that would renew or begin on the first day of the first plan year (or policy year, in the individual market) that begins on or after Jan. 1, 2017; or
- Open enrollment periods that occur in the fall of 2016 for coverage beginning on or after Jan. 1, 2017.

#### **Impact on Employers**

This FAQ guidance leaves a lot of uncertainty for employers with regard to their SBC documents. The changes included in the final regulations may require health plans to update their SBC documents before the new template is released.

The forthcoming final regulations may address this issue. In some cases, the Departments have provided temporary enforcement safe harbors when guidance is not issued sufficiently in advance of an effective date. However, at this time, no safe harbors or other relief has been provided on this issue.

