



Health Care Reform **Bulletin**

Proposed Regulations Issued on Summary of Benefits and Coverage

Provided by Sullivan Benefits

- Quick Facts**
- A proposed rule issued on Dec. 22, 2014, would amend final regulations on the SBC requirement and would revise the template, instruction guides, uniform glossary and other supporting compliance materials.
 - The SBC template would be shortened from four double-sided pages to two and a half double-sided pages.
 - The proposed changes would apply to coverage that begins on or after Sept. 1, 2015.

The U.S. Departments of Health and Human Services, Labor and the Treasury issued a proposed rule regarding changes to the SBC and uniform glossary.

On Dec. 22, 2014, the U.S. Departments of Health and Human Services, Labor and the Treasury (Departments) released [proposed regulations](#) regarding the summary of benefits and coverage (SBC) and uniform glossary. The proposed regulations would amend the [final SBC regulations](#) from Feb. 14, 2012 (2012 regulations), and would revise the SBC template, instructions guides and uniform glossary.

According to the Departments, the proposed changes are designed to improve consumers' access to important health plan information, as well as to provide clarifications that will make it easier for group health plans and health insurance issuers to comply with the SBC requirement.

If the proposed regulations are finalized, the Departments expect that the new requirements for the SBC and uniform glossary would apply to coverage that begins on or after **Sept. 1, 2015**.

SBC and Uniform Glossary Requirements

The Affordable Care Act (ACA) expanded ERISA's disclosure requirements by requiring group health plans and issuers to provide an SBC to applicants and enrollees at certain

times, including before enrollment and re-enrollment. The SBC requirement became effective for plan coverage that began on or after Sept. 23, 2012.

In addition, plans and issuers must make a uniform glossary of health coverage-related terms and medical terms available to participants. Plans and issuers must provide the uniform glossary upon request, in either paper or electronic form, within seven business days after receipt of the request.

The 2012 regulations require plans and issuers to provide the SBC and uniform glossary in a standardized format. The Departments provided a template for the SBC and related materials, including a uniform glossary, for plans and issuers to use. The template and related materials are available on the Department of Labor's (DOL) [website](#).

After the 2012 regulations were issued, the Departments released a [series of Frequently Asked Questions](#) (FAQs) regarding the SBC requirement. FAQs Parts VII, VIII, IX, X, XIV and XIX addressed questions related to compliance with the 2012 regulations, implemented additional safe harbors and released updated SBC materials.



The ACA establishes a penalty of up to **\$1,000** for each willful failure to provide the SBC. Failing to provide the SBC may also trigger an excise tax of \$100 per day per individual for each day of noncompliance. However, the Departments have stated that their approach to implementation is marked by an emphasis on assisting (rather than imposing penalties on) plans, issuers and others that are working diligently and in good faith to understand and come into compliance with the SBC requirement.

Proposed Regulations – Overview

The Departments released the proposed regulations, as well as a proposed SBC template, instructions, uniform glossary and other materials, to incorporate some of the feedback the Departments have received and to make some improvements to the SBC template and related materials. Overall, the proposed modifications would:

- Clarify when and how a plan or issuer must provide an SBC;
- Streamline and shorten the SBC template;
- Add certain elements to the SBC template that the Departments believe will be useful to consumers.

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)."

In addition, the proposed regulations would make some of the SBC enforcement safe harbors and transitions permanent, with several modifications.

The Departments invite interested parties to submit comments on the proposed regulations and documents required for compliance (including the template, instructions, sample language, guide for coverage example calculations and the uniform glossary).

Providing the SBC

The proposed regulations would provide additional guidance on when a plan or issuer must provide the SBC to participants and beneficiaries. For example, the proposed regulations would explain how to satisfy the requirement to provide an SBC when the terms of coverage are not finalized. Under the proposed rule, if the plan sponsor is negotiating coverage terms after an application has been filed and the information that is required to be in the SBC changes, the plan or issuer is not required to provide an updated SBC (unless an updated SBC is requested) until the first day of coverage. The updated SBC should reflect the final coverage terms under the contract, certificate or policy of insurance that was purchased.

Reducing Duplication

The 2012 regulations provide three special rules to avoid unnecessary duplication when providing the SBC. For example, the 2012 regulations provide that if either the plan or the issuer provides the SBC to a participant or beneficiary in accordance with the timing and content requirements, both will have satisfied their SBC obligations. The proposed regulations would retain these rules, and would add rules to prevent unnecessary duplication where:

- A group health plan utilizes a binding contractual arrangement where another party assumes responsibility to provide the SBC;
- A group health plan uses two or more insurance products provided by separate issuers to insure benefits with respect to a single group health plan; and
- The SBC for student health insurance coverage is provided by another party (such as an institution of higher education).

Formatting and Content Changes

The ACA limits the length of the SBC to four pages. The 2012 regulations interpret this requirement to be four double-sided pages. The Departments propose to shorten the



template by removing information that is not required by the ACA. Under the proposed guidance, the sample completed template for a standard group health plan has been shortened from four double-sided pages to two and a half double-sided pages.

The Departments also propose to make a number of changes to the content of the SBC and uniform glossary to reflect the ACA's insurance market reforms. For example, references to annual limits for essential health benefits and preexisting condition exclusions would be removed. In addition, the disclosures relating to continuation of coverage, minimum essential coverage and minimum value would be revised to provide more useful information to consumers, including those shopping in the individual market. Similarly, in the uniform glossary, the Departments propose to revise a few of the existing definitions and add new definitions reflecting important insurance or medical concepts (such as "claim," "screening," "referral" and "specialty drug"), as well as key terms that are relevant in the context of the ACA (such as "individual responsibility requirement," "minimum value" and "cost-sharing reductions").

Coverage Examples

The Departments are authorized to develop up to six coverage examples for the SBC, and have taken a phased approach to implementing the coverage examples. The proposed regulations would retain the two current coverage examples of "having a baby (normal delivery)" and "managing diabetes type 2 (for a well-controlled condition)" and add a third example regarding a simple foot fracture with emergency room visit. The Departments also propose to permit plans and issuers to continue using the HHS-provided coverage examples calculator as an alternative means of completing the coverage examples.

Source: U.S. Departments of Labor, Health and Human Services and the Treasury

