Deadline for Summary of Benefits and Coverage Approaching

by Nancy Farnam

In addition to requiring expanded health coverage, the Patient Protection and Affordable Care Act imposes new reporting and disclosure requirements on employers and their group health plans. Some of these requirements become effective this year. In particular, group health plans and insurers are required to provide a new summary of benefits and coverage to plan participants and beneficiaries ("SBC"). The purpose of the SBC is to provide clear, understandable information on what health plans will cover, making it easier for the consumer to compare different coverage options.

The SBC requirements become effective for participants who enroll or re-enroll during open enrollment as of the first day of the first annual enrollment period that begins on or after September 23, 2012. For participants or beneficiaries who enroll in the plan outside of open enrollment (for example, newly eligible employees or special enrollees), the effective date is the first day of the first plan year that begins on or after September 23, 2012. The SBC must be provided as follows:

- The insurance issuer must provide the SBC to the plan or the employer at the following times:
  - Within seven business days of receipt of an application for coverage. If coverage changes between the time of application and the effective date of coverage, a new SBC must be provided prior to the first day of coverage.
  - If coverage is renewed and a written application is required, when the application materials are distributed. If renewal is automatic, the SBC must be provided no later than 30 days prior to the first day of the new plan or policy year (however, if the contract is not renewed before this 30 day period, no later than seven business days after the issuance of the new policy or receipt of written confirmation of intent to renew, whichever is earlier).
  - Within seven business days of a request by the employer.

- The insurance issuer and group health plan must provide the SBC to plan participants and beneficiaries with respect to each benefit package offered by the plan for which the participant or beneficiary is eligible at the following times:
  - When a participant is initially eligible for coverage, the SBC must be provided with other enrollment materials. If the employer doesn't provide written enrollment materials, the SBC must be provided no later than the first date the participant is eligible to enroll in coverage. If coverage changes occur between the time of enrollment and the effective date of coverage, a new SBC must be provided prior to the first day of coverage.
  - During open enrollment periods, if a written election/application is required, when the enrollment materials are distributed. If no election/application is required, no later than 30 days prior to the first day of the new plan year. If the coverage is not renewed before this 30 day period, the SBC must be provided as soon as practicable but in no event later

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than seven business days after the renewal date. If a plan offers multiple benefit options, only the SBC relating to the coverage option in which the participant and beneficiaries were enrolled must be provided during open enrollment (however, if a participant requests an SBC for other options, it must be provided).

- For special enrollees, within 90 days from the date of enrollment.
- Within seven business days of a request by the participant or beneficiary.

For a fully insured plan, the insurance carrier will create the SBC. The employer and insurer share the responsibility for distributing the SBC to plan participants and beneficiaries. For a self insured plan, the employer sponsoring the plan is responsible for creating the SBC; however, a third party administrator may provide assistance. The employer is also responsible for distributing the SBC.

The regulations specify the content and format requirements for the SBC. The SBC must include, among other things, uniform definitions, coverage examples and a description of coverage, cost sharing and limitations of coverage. The SBC may not exceed four double sided pages and must be in at least 12 point font. The SBC may have to be available in non-English language if a participant lives in a county where at least 10% of the population is literate only in the same non-English language. Model documents have been issued and can be found at: www.dol.gov/ebsa/pdf/SBCtemplate.pdf.

In addition to the new SBC requirement, group health plans are required to provide advance notice of modification in any of the terms of the plan or coverage that would affect the content of the most recently provided SBC, and that occurs other than in connection with a renewal or reissuance of coverage. The notice must be provided no later than 60 days prior to the date on which such change will become effective. The notice could be required, for example, if benefits or services are enhanced or if changes reduce or eliminate benefits, increase cost-sharing, or impose a new referral requirement. Typically, these types of changes occur during renewal/open enrollment, so this notice will rarely be required.

Group health plans and insurance issuers are also required to provide a uniform glossary of terms to participants and beneficiaries within seven days of request. A model document has been issued for this purpose and can be found at: www.dol.gov/ebsa/pdf/SBCUniformGlossary.pdf.

Members of Varnum's employee benefits group are prepared to answer questions and to provide assistance in creating the SBC.