

eBenefits Alert: Open Enrollment is Coming - Is Your Health Plan's Summary of Benefits and Coverage Ready?

September 19, 2012

The Affordable Care Act requires health plans to give participants and beneficiaries a Summary of Benefits and Coverage (SBC.) All plans that are not "excepted benefits" under HIPAA must provide the SBC. Vision plans, dental plans, HSAs, and health flexible spending accounts are often excepted benefits. High-deductible health plans are not. Please note that grandfathered plans are required to provide an SBC.

Here are the basic requirements:

Who must provide it? If the plan is insured, the SBC is a shared responsibility of the plan administrator and the insurer. Duplicate SBCs are not needed, so employers sponsoring plans should coordinate with their insurers. If the plan is self-insured, the plan administrator is responsible for the SBC.

Who should receive it? All participants and beneficiaries, including COBRA qualified beneficiaries.

What is it? It is NOT the same thing as the Summary Plan Description (SPD.) This is a new disclosure. There are strict requirements regarding appearance (including font size), length (no more than 4 pages front and back), and content (specific requirements, such as definitions of standard insurance and medical terms, description of coverage, description of cost-sharing, etc.) The regulations include a template.

When? The SBC must be given during the first open enrollment period that begins on or after September 23, 2012. For calendar year plans, that means this fall's fast-approaching open enrollment season.

What's the risk if you don't comply? The penalty for willful failure to provide an SBC is a maximum of \$1,000 per failure. Keep in mind that for each participant or beneficiary who doesn't get the SBC, a separate failure is counted. The penalty can't be paid from plan assets. An Internal Revenue Code excise tax of up to \$100 per day may also apply.

If you have any questions about the SBC requirement, or about what you need to do to comply, please call Kathi Wright or Monica Kelley in the Gray Plant Mooty Employee Benefits & Executive Compensation practice group.

This article is provided for general informational purposes only and should not be construed as legal advice or legal opinion on any specific facts or circumstances. You are urged to consult a lawyer concerning any specific legal questions you may have.

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