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HEALTH CARE REFORM

Eye on Washington

ACA: SUMMARY OF BENEFITS AND COVERAGE (SBC) AND UNIFORM GLOSSARY OF TERMS

THE LAW, THE PROPOSED RULES AND THE FREQUENTLY ASKED QUESTIONS (FAQ)

The Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 (together known as "Health Care Reform" or "ACA") includes a provision requiring health plans to issue specific documents to applicants and enrollees describing the plans' coverage in a uniform format, no more than 4 double-sided pages, no less than 12 point font, understandable to the average reader and presented in a culturally and linguistically appropriate manner. In addition to the SBC, a uniform glossary of terms must be issued. ACA required the relevant federal departments (Treasury, Labor, and Health and Human Services) to consult with the National Association of Insurance Commissioners (NAIC) in the development of SBC standards and rules. The original effective date for compliance was March 23, 2012. As discussed below, this effective date has been delayed until further notice.

On August 22, 2011, these federal departments published proposed regulations that provide guidance on how to comply with these requirements.¹ The various departments took notice of the collaborative work done with NAIC and published rules outlining, among other items, the estimated effort for the industry to comply. Public comments on the rules were due on or before October 21, 2011. Many industry advisors suggested their customers should begin preparing to comply with the SBC and uniform glossary of terms requirements.

These requirements apply to a wide swath of plans including insured, self-insured ERISA group health plans, including "grandfathered" plans as well as non-ERISA group health plans and individual health coverage. Only retiree standalone and HIPAA-excepted benefit plans which are not subject to certain ACA requirements are also exempt from the SBC and uniform of glossary of terms requirements.

On November 17, 2011, the U.S. Department of Labor (DOL) published Frequently Asked Questions (FAQ)² indicating that they received many comments on the proposed regulations

and templates and intend to issue, as soon as possible, final regulations that take into account these comments and other stakeholder feedback.

Furthermore, the DOL noted that "until final regulations are issued and applicable, plans and issuers are not required to comply with PHS Act section 2715." Lastly, they noted, "It is anticipated that the Departments' final regulations, once issued, will include an applicability date that gives group health plans and health insurance issuers sufficient time to comply."

As of February 1, 2012, regulatory guidance on these requirements is under final review and is expected to be issued in the near future. In the meantime, plans and plan sponsors may want to begin gathering the information required to comply with these requirements.

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¹ <http://www.gpo.gov/fdsys/pkg/FR-2011-08-22/pdf/2011-21193.pdf>

² <http://www.dol.gov/ebsa/pdf/faq-aca7.pdf>