

To: PBMS Clients and Friends

From: Richard A. Szczebak, Esq.

Date: August 24, 2011

Re: Summary of Benefits and Coverage (SBC) Guidance

On Monday, August 22nd, HHS, DOL and IRS issued a proposed SBC regulation intended to give consumers straightforward, standardized information on their health plan choices in order to help them understand the key features of a health insurance policy or group health plan and help them to make a more informed decision. Health plans and issuers must also provide notice at least 60 days before any significant modification is made in the plan or coverage during the plan or policy year that affects any content of the SBC. The requirement to provide SBCs is effective March 23, 2012.

THE SBC REQUIREMENT

In general a group health plan (GHP) and its plan administrator, and a health insurance carrier offering group health insurance coverage, is required to provide to entities and individuals the following beginning March 23, 2012:

- A written, stand-alone SBC document in a standardized form authorized in guidance
- No longer than 4 double sided pages using at least 12 point font (including 3 and possibly up to 6 coverage examples)
- For each benefit package offered by the GHP or insurance carrier
- Provided without charge in paper form (or electronically if provided in accordance with applicable DOL electronic disclosure requirements)
- Provided in a culturally and linguistically appropriate manner and
- Including an internet address for a separate Uniform Glossary of health-coverage-related terms and medical terms.

FROM A GROUP HEALTH INSURANCE ISSUER TO A GHP

A health insurance issuer offering group health insurance coverage must provide the SBC to a GHP (or its sponsor) as follows:

- Within 7 days of application or request for information regarding the health coverage
- At least 30 days prior to the first day of the renewal policy year in the case of automatic renewal or reissuance
- No later than the date renewal materials are distributed in the event a written application is required for renewal
- Within 7 days of the GHP/sponsor's request for an SBC

FROM A GROUP HEALTH INSURANCE ISSUER AND A GHP TO PLAN PARTICIPANTS AND BENEFICIARIES

A GHP (including its plan administrator) AND a health insurance issuer offering group health insurance coverage must provide an SBC to a participant or beneficiary with respect to each benefit package offered by the GHP or issuer for which the participant or beneficiary is eligible:

- As part of any enrollment materials distributed by the GHP or issuer for enrollment
- Within 7 days of a special enrollment right request
- At least 30 days prior to the first date of coverage upon renewal of coverage for a new plan year
- No later than the date renewal materials are distributed in the event a written application is required for renewal
- Within 7 days of the participant/beneficiary's request for an SBC

In order to prevent unnecessary duplication of efforts in the provision of SBCs for group health coverage:

- The GHP or health insurance issuer will have satisfied its SBC requirement if the other party provides the SBC to the extent the SBC is timely, complete and otherwise complies with the rules in the guidance
- If a participant and any beneficiaries are known to reside at the same address, the GHP or issuer will satisfy the SBC requirement for all individuals residing at that address if a single SBC is mailed to that address
- For GHPs with multiple benefit package options, the GHP or issuer is required to provide a new SBC automatically upon renewal only for the benefit package in which the participant/beneficiary is enrolled (unless the participant/beneficiary requests an SBC for another benefit package for which the participant/beneficiary is eligible, which must be provided within 7 days of the request)

60 DAY PRIOR NOTICE OF MATERIAL PLAN MODIFICATIONS AFFECTING SBC CONTENT

A GHP and a health insurance issuer offering group health insurance coverage must provide notice to enrollees of any material modification in any of the plan terms or coverage not later than 60 days prior to the date the modification will become effective IF the modification:

- Would affect the content of the SBC
- Is not reflected in the most recently provided SBC
- Occurs during the plan year and is NOT in connection with an annual renewal or reissuance of coverage

UNIFORM GLOSSARY

A GHP and a health insurance issuer offering group health insurance coverage must make available to participants/beneficiaries the Uniform Glossary of health-coverage-related terms and medical terms:

- Upon the participant/beneficiary's request, in either paper or electronic form (as requested) within 7 days of the request
- The authorized SBC form will disclose to participants/beneficiaries their rights to request a copy of the Uniform Glossary

PENALTY FOR FAILURE TO PROVIDE AN SBC

In general, the penalty for willfully failing to provide an SBC as required by the guidance is a fine of not more than \$1,000 for each willful failure. A failure with respect to each participant or beneficiary is considered a separate offense for purposes of the penalty.

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Richard A. Szczebak, Esq. | Of Counsel | Parker Brown Macaulay & Sheerin, P.C.

100 Foxborough Blvd, Suite 160, Foxborough MA 02035 | 617-399-0441 | Fax 617-350-7744
rszczebak@parkerbrown.com | www.parkerbrown.com

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