



Things to Know About the ACA's Summary of Benefits and Coverage (SBC)

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Welcome to the 5 Things to Know About the ACA's Summary of Benefits and Coverage webinar.

Introduction



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Jenni Aldred, Senior Project Manager, HighRoads

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We welcome the following speakers.

Thomas Barker joined Foley Hoag in March 2009. Thomas splits his time between the firm's Washington, DC and Boston offices and focuses his practice on complex federal and state health care legal and regulatory matters. Prior to joining the firm, he was acting General Counsel at the United States Department of Health and Human Services (HHS).

Maia Larsson is an Associate in the firm's life sciences and government strategies practice, focuses her practice on statutory and regulatory issues involving the Centers for Medicare & Medicaid Services (CMS), as well as general health policy matters. Maia's work includes advice to clients including pharmaceutical, biotechnology, and medical device companies on Medicare coverage, reimbursement and compliance.

Kim Buckey is the national lead for the HighRoads Compliance & Communications practice focused on delivering high value strategic and practical solutions for clients in an efficient manner leveraging the HighRoads technology platform.

Jenni Aldred is a senior project manager on the compliance and communications team at HighRoads.

What Will We Be Discussing Today?



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- What does the Affordable Care Act (ACA) say about the Summary of Benefits and Coverage (SBC)?
- What is the status of these proposed changes and when can we expect the changes to be finalized?
- We'll be reviewing what we don't know.
- And what companies should be doing in anticipation of the changes?
- As well as how technology plays a role.

Let's Start From the Beginning



- HHS must develop standards for the SBC
- The standards must comply with 9 requirements
- “prior to any enrollment restriction” ...
- Federal law pre-empts State laws that would require the provision of *less* information.
- \$1,000 penalty for each failure to provide SBC for each enrollee

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There are 5 basic points we'd like to review about the SBC requirements put in place by Congress.

First, the Health and Human Services Department must develop standards with respect to the SBC requirements

Second, these standards must comply with 9 requirements, or 9 elements that the SBC must include and that are meant to help ensure that the SBC accurately describes the plan's coverage options in an easy to understand way. (We will discuss these elements on the following slide);

Third, “prior to any enrollment restriction,” a SBC that meets the standards developed by the agencies must be provided.

Fourth, these federal standards and requirements will preempt state laws that would require the provision of less information.

Fifth, there will be a penalty of up to \$1,000 for entities that “willfully fail[] to provide” the SBC at the time required -- for *each* failure to provide it for each enrollee. In addition, there may be a separate fine imposed by the Secretary of up to \$100 per day for each affected individual or entity for whom there is a failure to provide.

Standards of an SBC

- What must be included in the SBC?
- Who must provide an SBC, and to whom?
- When must it be provided, and how?

Summary of Coverage: What this Plan Covers & What it Costs

This is not a policy. You can get the policy at [www.issur.com](#). A policy has more detail about how to use the plan and what you can expect.

Important Questions	Answers	Why this information is important
What is the premium?	\$	The premium is the amount you pay for the plan.
What is the overall deductible?	\$	The deductible is the amount you pay out of pocket before the plan starts to pay.
Are there other deductibles for specific services?	\$	Some services, like dental or vision, may have their own deductibles.
Is there an out-of-pocket limit on my expenses?	\$	The out-of-pocket limit is the most you will have to pay for covered services in a year.
What is not included in the out-of-pocket limit?		Some services, like dental or vision, may not be included in the out-of-pocket limit.
Is there an overall annual limit on what the insurer pays?		The annual limit is the maximum amount the insurer will pay for covered services in a year.
Does this plan use a network of providers?		A network of providers means you must see a provider in the network to get the most from the plan.
Do I need a referral to see a specialist?		A referral is a recommendation from your primary care provider to see a specialist.
Are there services this plan doesn't cover?		Some services, like experimental treatments, may not be covered by the plan.

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Last August, the Departments of HHS, Treasury, and Labor published the **SBC proposed rule**.

What will the SBC have to include? Statutory elements: (1) uniform definitions of insurance and medical terms, (2) description of the coverage, including cost sharing for each category of benefits identified by HHS, (3) exceptions, reductions and limitations on coverage; (4) cost-sharing provisions of the coverage; (5) renewability and continuation of coverage; (6) coverage examples which illustrate common benefits scenarios and related cost sharing based on recognized clinical practice guidelines; (7) minimum essential coverage statement (2014 and beyond); (8) SBC is only a summary; (9) contact number. And the proposed elements: (10) for plans and issuers that offer one or more network of providers, contact information for obtaining the list of providers; (11) for plans and issuers maintaining a prescription drug formulary, drug coverage information; (12) an internet address where an individual may obtain the uniform glossary; and (13) premiums.

Who must provide an SBC? Both a health insurance issuer (including a group health plan that is not a self-insured plan) offering health insurance in the US; and in the case of a self-insured plan, the plan sponsor or the designated plan administrator.

The SBC must be provided to: All applicants (including an individual or plan comparing coverage options), enrollees, and policyholders or certificate holders.

When and how? part of any written application materials distributed suer for enrollment (if no distribution of written application materials, no later than the first date the participant is eligible to enroll in coverage for the participant and any beneficiaries). SBC must also be provided upon request, within 7 days of the request. SBC must be provided when coverage is renewed. And, if the information changes between the time of the application, when the coverage is offered, and when a policy is issued. Note, the statute requires the SBC to be max. 4-pages in length. The proposed rule interpreted this to mean 4-pages double sided.

Are You Duplicating Efforts?

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The first thing to note is that you will be duplicating effort: This is something that commenters, including HighRoads, raised with the Departments in response to the Proposed Rule. While the agencies addressed duplication of effort *WITHIN* SBCs, they did not specifically rule out duplication of content among SBCs and other communications. So, one suggestion with respect to this is to identify content that is reusable.

The Departments proposed the following 3 rules to address concerns about duplication:

- (1) First, as long as the SBC is provided by any entity (health insurance issuer or group health plan), requirement is considered met for all entities (e.g. if a health insurance issuer offering group health insurance coverage provides a complete, timely SBC to the plan's participants and beneficiaries, the plan's requirement to provide the SBC will be satisfied);
- (2) Second, for multiple plan beneficiaries residing together, provision of one SBC is sufficient; and
- (3) Third, with respect to a group health plan offering multiple benefit packages: the only SBC that must be provided upon renewal is the SBC of the plan in which the employee is actually enrolled. (If employee requests an SBC for a different plan, it must be provided within seven days.)

The Departments acknowledged the burden of requiring the SBC *as well as* the Summary Plan Description, and invited comments on whether to permit the SBC to be included **within** the SPD.

What About Electronic Distribution?



The Proposed Rule describes circumstances under which distribution of a paper *or* electronic form of the SBC by an insurer in the individual market would be permissible.

Separately, for ERISA plans, the Departments proposed permitting the distribution of SBCs electronically if the Department of Labor electronic distribution safe harbor requirements are met.

- We would note that the Department of Labor requested comments on electronic distribution last year, and may be making changes to these requirements.
- The Departments note that any change that is made to the electronic distribution safe harbor in the future will apply to electronic distribution of the SBC, as well.

What If I Make Changes?



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The Departments proposed that if a plan or insurer makes a material modification in any of the terms or coverage that is not reflected in the most recently-provided SBC, the change must be communicated not later than 60 days before the change will take effect.

“Material modification” means a change in coverage offered under a plan or policy that the average person would consider an important change in covered benefits or other terms of coverage under the plan or policy.

- E.g. enhancement of covered benefits or services or other more generous plan or policy terms, or a material reduction in covered services or benefits.

The notice requirement could be satisfied either by a separate notice describing the material modification or an updated SBC.

The Departments invited comment on the notice requirements and whether the 60-day time frame is realistic.

What Does It Mean?



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The statute requires plans to use a uniform definition of some terms that appear in insurance plans and benefit documents, including

- Insurance related terms, such as co-insurance, co-payment, deductible;
- Medical terms, such as durable medical equipment, emergency medical transportation, hospitalization, physician services; and
- Other terms, proposed by the NAIC, such as allowed amount, balance billing, health insurance, in-network coinsurance.

The ACA requires the Departments to develop standards for at least these definitions.

The Departments solicited comments on the content of these definitions and whether to add additional terms, such as claim, external review, preexisting condition.

The NPRM proposes to require plans or issuers to make the uniform glossary available upon request within 7 days (providing an Internet address is permissible).

So, When Does It Happen?



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In November 2011, DOL responded to the following question on its health reform implementation FAQs page:

Q: When will a group health plan and health insurance issuer be required to comply with the new SBC provision (§ 2715 of PHSA?):

- Under the statute, compliance is required by March 23, 2012 (two years after enactment of ACA).
- DOL FAQ Response:
 - We intend to finalize regulation “as soon as possible.”
 - Until those regulations are issued, plans and issuers are not required to comply with PHS Act section 2715.
 - It is anticipated that the final regulations will give an applicability date that gives parties time to comply.

The draft final rule was received for OMB review on January 13, 2012.

After OMB clearance, the White House must give approval before it is issued.

Technically, once a rule is formally received by OMB, it must be published within 90 days.

Thus, we should anticipate a final rule by April 13, 2012 (which is also a Friday the 13th).

* * *

Note, on the constitutionality of the ACA:

- The Supreme Court will hear oral arguments on the constitutionality of the ACA for 5 ½ hours March 26-28, 2012.
- There are 4 issues on review: (1) the Anti-Injunction Act; (2) the constitutionality of the individual mandate (this is the central issue); (3) Medicaid expansion; and (4) severability.
- All nine Supreme Court justices will hear oral arguments and a decision is expected in late June 2012.

What We Don't Know?



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So, we've heard the latest about what we KNOW about SBCs. But there's a lot we still DON'T know.

We still don't know whether the initial required distribution will be based on eligibility, or on enrollment.

We don't know whether the agencies will still insist that the SBCs remain standalone documents—or if employers will be able to combine them with other SBCs, enrollment materials and/or SPDs.

We don't know whether separate SBCs will be required for each coverage tiers, or if we will be able to combine tiers within one document.

We don't know how the agencies have chosen to handle account based plans—since the current structure does not accommodate High Deductible plans combined with HSAs or HRAs, particularly on the Coverage Examples.

We don't know how the agencies plan to accommodate build your own plans, where employees can select the vendor, type of plan, and even deductible and coinsurance level. The sheer number of possible permutations of SBCs could represent a tremendous cost.

And, of course—we don't know yet when the new deadline is!

But...Let's Not Lose Sight



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As frustrating as this is, it's important not to lose sight of the IDEA behind the SBCs.

Assuming Health Care Reform survives the Supreme Court's review of its legality this spring, in 2014, individuals will be able to buy insurance on Affordable Insurance Exchanges run by each state.

SBCs are part of the process of moving consumers to the marketplace of Exchanges, by providing them with a tool to compare the coverage offerings they currently have.

By mandating a consistent format and content now, in two years individuals should be familiar with the concept of comparison shopping, key terminology and the key components of plans.

This is an important part of the education process—one you can be taking advantage of.

If you're already providing your employees with this type of information, but in a different format, TELL THEM.

Your employees are looking to YOU for information about ACA and what it means to them—this is YOUR opportunity to set the context for the SBCs (before they receive them) and address the benefits of YOUR plan.

Are You Prepared?

Less than $\frac{1}{2}$ are ready for health care reform required notices

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Each year, HighRoads surveys companies about their current and future compliance communication plans and processes, focusing on Summary Plan Description (SPDs). This year, HighRoads invited mid- to large-sized organizations throughout the United States to share their thoughts on electronic communications, ACA and other required, time-sensitive communications and their processes for timely production and distribution of their SPDs.

Less than half of respondents said they expected to be ready to distribute Summaries of Benefits Coverage (SBCs) by the March 23 deadline.

What Should You Be Doing Now?



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Employers should familiarize themselves with the proposed SBC requirements of the NPRM to prepare for the potential changes to their communications and distribution processes.

Think about whether it's time to look at the nuances of your plans to see if there are opportunities to make changes that will reduce the number of SBCs you'll need to produce.

As the standards have not yet been finalized, employers should watch for any further updates on the final rule and its issuance.

Once finalized, it will be important to understand the new requirements and how they affect existing processes within the company and require new procedures.

- Address differences in deadlines for SPDs vs. SBCs
- Do you have a process in place for addressing triggers (e.g., new hires, participant requests, enrollment)—have you thought about how you can streamline this?

It will be important to stay informed and stay vigilant to the new requirements.



SO what can you be doing now?

Get familiar with the type of information that must be provided

- Under the “Why this Matters” column—you have some latitude here
- Under Limitations and Exceptions column
- The 13 benefits that must be designated as covered, limited or excluded

Analyze your inventory

- Number of plans and options
- Number of coverage tiers
- Number of carriers
- Impact of prescription drug plans
- Unusual designs (build your own/buy up/buy down)

Line up your data sources

- Where is the content (plan designs vs. body of the text vs. an outside source)
- Eligibility vendors
- Benefits data

- Contributions (if not including in SBC, where are you directing them)

Build A Plan



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Employees receive a lot of information about their benefits, and it's important that you integrate communication ABOUT SBCs, as well as the SBCs themselves—into your overall communications strategy.

If you don't already have one—or if you just need to factor SBCs into the equation—you need to think carefully about:

- The who, what, where, when and how
- Set the context
 - What are these documents
 - How should employees use them
 - Why are you producing them (preparation for Exchanges)
- Pick your poison
 - SBCs vs. enrollment comparison charts vs. both
- Decide on your distribution plan
 - Paper
 - Portal

How We Can Help

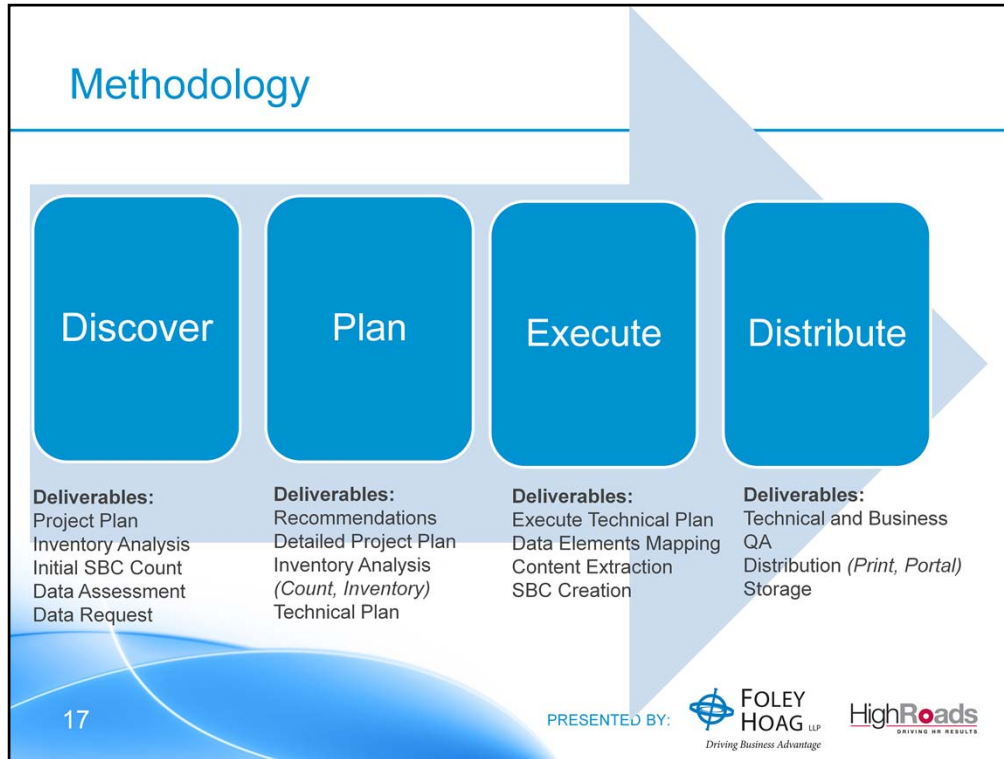


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Whenever the departments issue the final regulations, HighRoads is uniquely positioned to help you deliver SBCs to your employees:

- We have data management capabilities that enable us to analyze and integrate disparate data sources to populate the SBC template
- We have expertise in creating and implementing communications strategies
- We can assist with distribution, either through our print partner or our unique employee portal



- Our team has been hard at work since last summer developing a thorough methodology to create, maintain and distribute SBCs—regardless of their final form and the distribution deadlines.
- And of course, we'd be happy to talk with you to help you get your arms around your inventory, your data sources, and your process, so you're one of companies PREPARED for the deadline.

6th Annual HighRoads Customer Summit



April 30 – May 2, 2012

www.HighRoadsCustomerSummit.com

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Before we open things up for your questions, I'd like to remind you that HighRoads' 6th Annual Customer Summit is scheduled for April 30 – May 2, 2012 in Miami, FL at The Palms Resort & Spa.

You can find more information on our Website:
www.HighRoadsCustomerSummit.com

Space is limited so register early

Questions



I'd like to open it up at this time to questions.

Please dial *6 to unmute your phone.

Thank you!

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Copies of the presentation will be sent to attendees shortly after the webinar.
If you have any questions for the speakers, please feel free to contact
spdexperts@highroads.com.
Thank you and have a great day!