

COMPLIANCE CHRONICLES

Revised Guidance from the DOL is here! Updates on Summary of Benefits and Coverage, *Requirements Delayed Until Final Regulations Issued*

Thursday, November 17, 2011

If you read our [September 2011 Compliance Chronicle](#), then you learned that as part of the Affordable Care Act's multi-year implementation timeline, beginning March 23, 2012 carriers, employers and plan sponsors would have to begin distributing standardized SBCs (Summary of Benefits and Coverage) to new hires, special enrollees (status changers) and to any plan participants that requested them. The DOL (Department of Labor) published those regulations on [August 17, 2011](#), but left the comment period open until October 21, 2011. Well, they listened to concerned plan sponsors, carriers and employers and have tabled these requirements until they are able to issue final regulations.

You can access, directly, the DOL's Frequent Asked Questions, Part VII here:

<http://www.dol.gov/ebsa/faqs/faq-aca7.html>

The portion relevant to SBCs is recopied below.

Introduction from the DOL: In [August 2011](#), the Departments (DOL/HHS/IRS) issued proposed regulations and proposed templates in connection with implementation of the Summary of Benefits and Coverage and Uniform Glossary requirements of PHS Act § 2715. An applicability date "beginning March 23, 2012" was proposed. At the same time, the Departments invited comments generally, as well as on a range of discrete issues, including the timing of the application of the SBC requirement.

Question 1: My plan anticipates that preparation of the Summary of Benefits and Coverage will take several months and require significant resources. In light of the March 23, 2012 proposed applicability date, we are considering moving forward with implementation of the Summary of Benefits and Coverage requirements, using the proposed rules and templates, but are concerned that the final rules and

templates will differ from the proposed rules and templates, which would prompt additional implementation costs. What is the timeline for the issuance of future guidance on the Summary of Benefits and Coverage? What actions should my plan be taking now, if any?

DOL Response: The Departments 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.

PHS Act section 2715 provides that group health plans and health insurance issuers shall provide the Summary of Benefits and Coverage and Uniform Glossary pursuant to standards developed by the Departments. Accordingly, until final regulations are issued and applicable, plans and issuers are not required to comply with PHS Act section 2715.

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.

In short, we'll all have additional time to comply.

Carriers, employers and plan sponsors will still need to work together to gather the medical and prescription drug information (for each plan and each tier) and develop concise, compliant SBCs to be part of future open enrollment processes, be ready to deliver them to new hires and special enrollees, and to any plan participant that requests them--we'll just have additional time to prepare while the DOL (and HHS/IRS) develop final regulations.