



MILLENNIUM UPDATE

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As you are probably aware, the United States Supreme Court spent an unprecedented amount of time hearing arguments over the health care reform law the week of March 26. Their decision is expected to be handed down in June. While their ruling will impact the future of the law and the implications to the health care delivery system in the United States, other factors like the elections in November will also have impact.

We have pulled together two resources and articles for your review regarding this matter. Click the links to view the documents.

- [Constitutional Issues surrounding Patient Protection and Affordable Care Act \(PPACA\)](#)
- [Summary of the Supreme Court Hearings](#)

Update: Summary of Benefits and Coverage (SBC) Rule

On February 9, 2012, the Department of Health and Human Services' Center for Consumer Information and Insurance Oversight (CCIIO) issued final regulations for the Summary of Benefits and Coverage (SBC) and Uniform Glossary. The following is an overview of the final regulations and how you must comply with them. There are many details within this regulation, and what is provided here is simply a big-picture look. Links to more information and the complete regulations can be found at the end of the article.

WHEN does the new SBC rule take effect?

The recently released final regulations changed the original effective date of March 23, 2012 to September 23, 2012. Specifically, the effective date is:

- (1) On the first day of the first annual enrollment period beginning on or after September 23, 2012.
- (2) For participants and beneficiaries enrolling other than during an annual open enrollment period (such as new hires or special enrollees) the rule is effective for such enrollments that occur on or after the first day of the plan year beginning on or after September 23, 2012.

CONSIDER THIS: For some calendar-year benefit plans, the SBC rules may first apply to those enrolling outside of the Open Enrollment period, meaning compliance may be before January 1, 2013.

WHAT do the guidelines require?

These rules require employers sponsoring group health plans and, if applicable, the health insurance issuer offering coverage in connection with a group health plan, to distribute an SBC to all applicants at the required times. The SBC must be completed by following the template provided within the regulations. The instructions to the template are very specific and rigid and generally require certain language and formatting.

WHO should receive a Summary of Benefits and Coverage?

The SBC must be provided to a "participant" and "beneficiary" as defined by ERISA, which includes: individuals and dependents enrolled in the plan(s) and also employees and dependents that are eligible to enroll or who are enrolled in the group health plan(s).

WHEN must an SBC be issued?

The SBC must be provided by the plan or an insurer to participants or beneficiaries in the following required times or "triggers":

- Upon application for coverage
- Upon renewal
- Following a request for special enrollment (as defined by HIPAA)
- Upon request by a participant or beneficiary, and
- Following a material modification in the information contained in the SBC.

HOW should SBCs be provided?

A single paper copy of the SBC provided to participants and beneficiaries at the last known address satisfies the current regulations. The SBC may be provided electronically, but only if the distribution meets the requirements of ERISA's electronic disclosure safe harbor. This regulation generally allows electronic distribution to employees who have routine access to the electronic medium as a part of their job function. If this is not the case, then employers must get consent from the individual prior to distributing electronically.

WHO must comply with the SBC rule?

All self-insured and fully-insured group health plans who must comply with the health insurance reforms under Sections 1001 and 1201 of the ACA, must comply with the SBC rule. This requirement does include grandfathered plans. The SBC rules do not apply to benefits that fall under the "excepted benefits" category under HIPAA's portability rules (e.g. non-integrated dental and vision coverage, Health FSAs funded solely with employee's pre-tax salary deductions, certain specified coverage plans).

WHAT action must I take now?

As you approach your next benefit renewal period, we encourage you to review these new regulations and prepare for compliance. We will certainly work with you to determine the specific steps you must take between now and September 24. For more information on the final regulations and to view a template, see below.

[Click here](#) to view the final template for the summary of benefits and coverage.

[Click here](#) for the final regulations.

[Click here](#) for the fact sheet.

[Click here](#) to view a summary of the regulations in a Q&A format.

Update: Regulations for Military and Airline Employees Under Family Medical Leave Act (FMLA)

The U.S. Department of Labor's Wage and Hour Division has published a Notice of Proposed Rule Making (NPRM) to implement and interpret statutory amendments to expand family medical leave for the military and incorporate a special eligibility provision for airline flight crew employees along with some additional regulatory changes.

When is the effective date?

The current action is a "proposal" with a period of time to receive comments on the potential language. The changes haven't been officially adopted and therefore there is no change to current regulations and no effective date at this time. Should the proposed regulations be accepted, they would include an effective date for implementation.

What do the guidelines require?

Military Caregiver

The proposed language would extend the entitlement of military caregiver leave to family members of veterans for up to five years after leaving the military. Currently, the law only covers family members of "currently serving" service members. The proposal also expands the military family leave provisions of the FMLA by extending qualifying exigency leave to employees whose family members serve in the regular armed forces. Currently, the law only covers families of National Guard members and reservists.

Airline Flight Crew

The proposed revision makes the benefits of the FMLA more accessible for airline flight crew employees. It would add a special hours of service eligibility requirement for them and specific provisions for calculating the amount of FMLA leave used. The goal of these regulations is to better take into account the unique - and often difficult to track - hours worked by airline flight crew members.

What action must I take now?

Review the proposed language and consider the impact to you and your employees. If you're interested in submitting a written comment to the Department of Labor, follow these instructions. Comments must be received by April 16, 2012:

- Go to <http://www.dol.gov/whd/fmla>
- Under "Key News," the first bullet describes this proposed change. Click on the link within the bullet that reads www.regulations.gov.
- You'll be notified that you are exiting the Department of Labor's Web server. Click on www.regulations.gov to continue.
- Click on the "Submit a Comment" box on the right-hand side of the screen.

GET A CLOSER LOOK

For additional information on the Family Medical Leave Act, including info and fact sheets on the proposed revisions, visit <http://www.dol.gov/whd/fmla>.

Best Regards,

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at Millennium Benefits Consulting