

Back to the Future: New Plan Administrator Requirements Under Health Care Reform

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The Patient Protection and Affordable Care Act (“PPACA”) has created new obligations regarding the information a Plan must provide to its enrollees, timing of notices to Plan Participants of changes, and plan changes cannot be retroactive. One new obligation enacted as part of PPACA, is the Summary of Benefits and Coverage (“SBCs”) document that Plans must provide to help educate their participants on the benefits available to them. Plans are expected to provide a SBC(s) to all Plan Participants at specific times in the enrollment cycle and also annually with Plan renewal beginning with open enrollment periods that start on or after September 23, 2012.

The SBC is intended to provide a standardized, easy to understand document that consumers can utilize to compare the benefits and coverage available under a Plan, and to provide them with generalized illustrations of the out of pocket costs that they might expect to pay under their Plan coverage. While the SBC is intended to help employees make the most informed decision on which plan is right for

them and their families as possible, the behind the scenes work and additional lead-time required for the Plan to prepare these documents is substantial.

In theory, all a Plan needs to do is fill in the pertinent plan coverage and limitations “slots” on the SBC template provided by the Department of Labor, determine how their plan cost sharing requirements would be applied to the two specified coverage examples, and provide the SBC to Plan participants when required by law. However, in reality Plans will find that significant lead-time is now required for Plan design decisions and substantial Plan document management is now necessary. First, the regulations have a variety of timeframe requirements for distribution of the SBCs –i.e. initial eligibility, special enrollments, open enrollment, at the start of a new plan year, and at any time upon request. Each one of the required distribution points has its own unique timeframe for providing the SBC. Plan Administrators will need to review and update their processes to ensure that the Plan can issue an accurate SBC within the required timeframe. Tracking which version of a SBC each participant receives is critical as there will be

times when an SBC may need to be re-issued due to a Plan change.

Additionally, for employers who are located in areas with a high percentage of non-English speaking residents, the Plan will have to maintain SBCs in languages other than English, requiring additional time and expense for document translation. Comprehensive tracking mechanisms and document management processes are essential to maintaining compliance with the distribution requirements.

Included in this new law is perhaps the biggest impact item of all - the new requirement that Plan Participants be provided sixty day advance notice of any material modifications to the Plan before the change can take effect. A material modification is defined as a benefit enhancement, a benefit reduction, or a more stringent requirement for receipt of benefits, such as imposing a pre-authorization requirement; anything that is deemed to be a material modification must be implemented prospectively sixty days from the date notification was provided to Plan Participants.

Furthermore, Plans are prohibited from implementing a benefit change

that is retroactive under this law. Corrections to Plan provisions must be implemented prospectively with sixty days advance notice, and cannot be retroactively applied. This means that proactive planning is critical, as is ensuring that all Plan changes or modifications are made and finalized well in advance of the sixty day notice requirement. Accordingly, Plan administrators will need to be diligent in reviewing their Plan designs for accuracy and ensuring that all changes are fully and accurately addressed in the Plan documents as well as making sure that

the SBCs are updated accordingly.

If Plan Administrators embrace a proactive approach to plan design modifications, and ensure that they have robust plan document management processes in place that will now include the maintenance of the SBC(s), compliance with this part of the law will be easy. Many TPAs are offering preparation of SBCs as a service to their clients, and Plan Administrators will want to work closely with their Plan consultants or TPA to ensure successful implementation and maintenance of the

new required documents. Meeting the timing and notice requirements for material modifications may be more of a challenge. The days of reactionary Plan management are becoming a thing of the past, and dynamic proactive Plan management is the future. The time to plan is now!

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