



BENEFIT NEWS BRIEF

New FAQs on Summary of Benefits and Coverage (SBC) and Nonquantitative Treatment Limitations Under the MHPAEA Implementation of Four-Page SBC Delayed!!!

The Departments of Health and Human Services (HHS), Labor and the Treasury (the Departments) recently issued some [Frequently Asked Questions \(FAQs\)](#) about the *Affordable Care Act (ACA) (Part VII)* and the *Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA)*. The new FAQs are available at: <http://www.dol.gov/ebsa/pdf/faq-aca.pdf>. Previously issued FAQs on these subjects are available at: <http://www.dol.gov/ebsa/healthreform/> (about half way down the page). A specially prepared copy of the new FAQs, which includes a table of contents, is available by "[clicking here.](#)"

Affordable Care Act

The one FAQ on the ACA addressed a fast-approaching Summary of Benefits and Coverage (SBC) deadline. In light of the current applicability date of March 23, 2012 and with no final regulations available yet, many plan sponsors were understandably concerned that they might not have time to comply with the March 23, 2012 deadline.

The ACA FAQ on SBCs concludes by asking, "*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?*" The following answer notes that ***SBC compliance is not required until final regulations are issued*** and indicates the ***final regulations will have a delayed implementation date:***

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**. (emphasis added)

While this FAQ takes some pressure off of plan sponsors, the SBC deadline will eventually come. Plans may still wish to do the initial review of the plan document, SPD and draft SBC template in preparation of the final regulations. We will report on the final regulations once issued.

Mental Health Parity and Addiction Equity Act of 2008

The *MHPAEA* FAQs address nonquantitative treatment limitations such as prior authorization requirements, concurrent review and copayments.

Nonquantitative treatment limitations include:

- Medical management standards limiting or excluding benefits based on medical necessity or medical appropriateness, or based on whether a treatment is experimental or investigative;
- Formulary design for prescription drugs;
- Standards for provider admission to participate in a network, including reimbursement rates;
- Plan methods used to determine usual, customary, and reasonable fee charges;
- Refusal to pay for higher-cost therapies until it can be shown that a lower-cost therapy is not effective (also known as fail-first policies or step therapy protocols); and
- Exclusions based on failure to complete a course of treatment.

The FAQs stated the Departments anticipate issuing further responses to questions and issuing other guidance in the future. Plans wrestling with the application of nonquantitative treatment limitations will find the FAQs a helpful guide.