



UBA  
ACA Advisor

## What you need to know about the Affordable Care Act



### Highlights of the Summary of Benefits and Coverage Requirement

Updated January 2020

- Plan administrators of group health plans must provide a Summary of Benefits and Coverage (SBC) to eligible individuals
  - Insurer is responsible for creating the SBC for fully insured plans, and the insurer and plan administrator are both responsible for distributing to participants in insured plans
  - Plan administrator (which is usually the employer) is responsible for creating and distributing the SBC for self-funded plans
- Requirement applies to all employers, regardless of size or type (private, government, not-for-profit), including grandfathered plans
- Requirement primarily applies to medical (PPO, HDHP, HMO, etc.) coverage
  - Applies to HRAs – may include HRA information in the medical SBC if the plans are integrated
  - Applies to EAPs and wellness only if the program provides medical services, such as direct counseling – may include the EAP or wellness information in the medical SBC if they are linked
- An SBC is not needed for:
  - Stand-alone dental and vision benefits (stand-alone means these benefits are elected separately from medical)
  - Health FSAs unless the employer makes a significant contribution or group medical is not offered
  - Health savings accounts (HSAs), although the high-deductible health plan will need an SBC; the HSA can be mentioned as a source of funds to meet deductibles, coinsurance, etc., if desired
  - Hospital indemnity or specified illness coverage
  - Long-term care, disability or accident coverage
  - Retiree only plans



- Must use the standard format prescribed by the regulatory agencies
  - The 2016 SBC template, for use in plans and policies beginning on or after April 1, 2017, can be found at <https://www.dol.gov/sites/default/files/ebsa/laws-and-regulations/laws/affordable-care-act/for-employers-and-advisers/sbc-template-final.pdf>. The 2021 SBC template, for use in plans and policies beginning on or after January 1, 2021, can be found at <https://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/Downloads/SBC-Template-Accessible-Format-11-2019.pdf>.
  - The April 2017 instructions can be found at <https://www.dol.gov/sites/default/files/ebsa/laws-and-regulations/laws/affordable-care-act/for-employers-and-advisers/sbc-instructions-for-completing-the-group-health-plan-coverage-final.pdf>. The January 2021 instructions can be found at <https://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/Downloads/Group-Instructions-11-2019.pdf>.
- May show multiple benefit options (such as coverage tiers or different deductibles and out-of-pocket maximums) on one SBC if can do that clearly
- Do not need to include premium/contribution information
- Must include a coverage example that is based on cost assumptions provided by the regulatory agencies and the plan's actual cost sharing design (deductible, copays, coinsurance, exclusions)
- Must provide a standard glossary, which may not be modified
  - Plan may either distribute the glossary or provide a link to where it is posted
  - The April 2017 glossary can be found at <https://www.dol.gov/sites/default/files/ebsa/laws-and-regulations/laws/affordable-care-act/for-employers-and-advisers/sbc-uniform-glossary-of-coverage-and-medical-terms-final.pdf>. The January 2021 Glossary can be found at <https://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/Downloads/Uniform-Glossary-11-2019.pdf>.
- May include the SBC in the SPD, as long as the prescribed format is followed, the SBC information is prominently displayed, and the timing requirements are met
- Must provide in an alternate language (Chinese, Navajo, Spanish, or Tagalog) if the SBC is being delivered in a county in which 10 percent or more of the population is literate only in that language
- Must be given with open enrollment materials (annual and to new hires)
  - If the individual is currently enrolled, only need to provide an SBC for the plan the employee/retiree is currently enrolled in
  - If the employee is not yet enrolled, the employer must provide an SBC for every available option
- Electronic delivery of the SBC is allowed if:
  - Enrollment is online, or
  - The employee receives a paper or email notice explaining the SBC has been posted on the internet; the notice must include the posting address, state that a paper copy will be provided at no charge upon request, and include contact information to request a paper copy, or



- For an employee who is already enrolled and who regularly uses a computer in his or her job, the SBC is either emailed to the employee or the employee is notified that the SBC has been posted, the location of the posting, why the SBC is important and how to obtain a free paper copy
- The SBC must state whether the coverage is minimum essential coverage and whether it provides minimum value.

There is a penalty of up to \$1,000 per employee for willful (deliberate) failures to provide the SBC for violations that occurred on or before November 2, 2015 (regardless of when the penalty is imposed), and for penalties imposed on or before August 1, 2016. The penalty amount is \$1,087 for penalties imposed after August 1, 2016 and on or before January 13, 2017. The penalty amount is \$1,105 for penalties imposed after January 13, 2017 and on or before January 2, 2018. The penalty amount is \$1,128 for penalties imposed after January 2, 2018 and on or before January 23, 2019. The penalty amount is \$1,156 for penalties imposed after January 23, 2019. The penalty amount is \$1,176 for penalties imposed after January 15, 2020. In addition, a \$100 per participant per day excise tax may apply to each individual to whom such failure relates.

6/15/2015

Updated 9/10/2018

Updated 11/11/2019

Updated 1/14/2020

---

This information is general and is provided for educational purposes only. It is not intended to provide legal advice. You should not act on this information without consulting legal counsel or other knowledgeable advisors.