



## Summary of Benefits and Coverage [SBC] FAQ and Matrix

### Update from VEHI

April 2016

**As part of health care reform, group health plans must provide a summary of benefits and coverage explanation (SBC) that accurately describes benefits and coverage under the group health plan to participants prior to enrollment.** The purpose of an SBC is to give employees straightforward information about a health plan's benefits, so employees may compare plans and make appropriate enrollment and coverage decisions.

The following FAQ and Matrix provide an overview of the SBC requirements. Information from this memo was taken from the final regulations at:

<http://webapps.dol.gov/federalregister/PdfDisplay.aspx?DocId=25818>

<http://www.dol.gov/ebsa/faqs/faq-aca8.html>,

<http://www.dol.gov/ebsa/faqs/faq-aca9.html>,

<http://www.dol.gov/ebsa/pdf/faq-aca10.pdf> and

<http://www.dol.gov/ebsa/faqs/faq-aca14.html>.

**This memo is for general guidance purposes only—it is NOT legal advice. This memo is only intended for VEHI medical/health plans. If you offer other plans, you need to investigate further.**

If you have questions about the information in this document, please contact Laura Soares and Mark Hage, your VEHI Trust Administrators: [laura@vsbit.org](mailto:laura@vsbit.org), 223-5040 (ex. 208) & [mhage@vtnea.org](mailto:mhage@vtnea.org), 223-6375 (ex. 2420).

Thank you.

## Frequently Asked Questions

### 1. Who is responsible for sending the SBC?

Employers are responsible for sending an SBC.

### 2. Who receives an SBC?

Participants and beneficiaries and other individuals when they become eligible to enroll. Rules differentiate certain responsibilities depending on whether the SBC is being provided to ‘covered’ participants and beneficiaries, including COBRA qualified beneficiaries , or individuals ‘eligible’ to enroll in coverage.

Only a single SBC need be provided to participants and beneficiaries residing at the same address. If the plan is aware that one or more beneficiaries reside at another address, an SBC must be sent to that address.

### 3. How can SBCs be provided?

SBCs may be provided in either paper or electronic form. [See separate VEHI document with more specifics.] If an SBC is provided electronically, it must meet DOL's specific electronic disclosure requirements. If a participant or beneficiary is already enrolled in coverage, the SBC can be provided electronically if the participant may access electronic documents at any location where they are expected to perform the duties of their job.

### 4. When is it necessary to provide an SBC?

- **Open enrollment.** If a participant must actively elect to maintain coverage, or has the opportunity to change coverage options during an annual open enrollment period, an SBC must be distributed as part of the open enrollment materials. The time period for open enrollment will depend upon the school’s cafeteria plan year.
- **Upon new hire application for coverage.** SBCs must be provided to eligible enrollees, including new hires, at the time application (written or electronic) materials for enrollment are distributed.
- **Mid-year Change.** If there is a material change or modification to coverage during the plan year, which would impact the content of the SBC, other than a change made during the renewal

process, notice of the change must be provided no later than 60 days prior to the date the change becomes effective.

- **By the first day of coverage if there are any changes.** If there is any change in the information required to be in the SBC that was provided upon application and before the first day of coverage, the plan must update and provide a current SBC no later than the first day of coverage.
- **Special enrollees.** The SBC must be provided to special enrollees no later than the date on which a summary plan description is required to be provided (90 days from enrollment). A special enrollee is generally an individual who enrolls mid-year upon the occurrence of a special enrollment event, such as marriage, birth of a child, or loss of other coverage.
- **Upon request.** Within 7 business days after receipt of request by the participant or beneficiary.

## 5. What plans are subject to the SBC requirements?

The SBC requirement applies to all group health plans regardless of plan size or grandfathered status.

## 6. What are the penalties for failing to comply?

Violations of the SBC rule incur the following penalties:

- A civil penalty of up to \$110 per day per affected individual (ERISA 502(c));
- An excise tax of \$100 per day per affected individual (tax code § 4980D); and
- For violations of **content**, fines of up to \$1,000 per affected individual for willful violations of the SBC rule.

The excise tax is self-reported on IRS Form 8928. **The agencies will generally not impose the applicable penalties in the first and second year if there is good faith compliance.**

## Matrix

### SBC Distribution Requirements and Timing updated May 2014

Why?	What?	Who?	When?	Examples
<b>Open Enrollment [OE]</b>				
<b>Plan distributes materials (written or electronic) as part of annual or open enrollment.</b>	An updated SBC for the benefit option in which the participant or beneficiary is enrolled. It is not necessary to provide an SBC for all options.	Participants & beneficiaries	Must be provided with the materials distributed for use by the participant to re-enroll.	<ul style="list-style-type: none"> <li>Section 125 Plan year begins 7/1/14</li> <li>OE occurs 6/1/14 – 6/15/14</li> <li>SBC must be sent with OE materials by 6/1/14.</li> </ul>
<b>Plan DOES NOT distribute materials (written or electronic) as part of annual/open enrollment.</b>	An updated SBC for the benefit option in which the participant or beneficiary is enrolled. It is not necessary to provide an SBC for all options.	Participants & beneficiaries	By the first day the participant is eligible to enroll.	<ul style="list-style-type: none"> <li>Section 125 Plan year begins 7/1/14</li> <li>OE occurs 6/1/14 – 6/15/14</li> <li>SBC must be sent by 6/1/14</li> </ul>

### SBC Distribution Requirements and Timing updated May 2014

Why?	What?	Who?	When?	Examples
<b>All Other - New Hires, Newly Eligible, Special Enrollment</b>				
<b>New hires, newly eligible</b>	An SBC for all benefit options for which the individual is eligible.	New hires, newly eligible	First date individual is <b>eligible to enroll</b> for coverage.	<ol style="list-style-type: none"> <li>1. Section 125 Plan year begins 1/1/14</li> <li>2. Employee hired 5/1/14</li> <li>3. Employees are eligible first day of month after hire</li> <li>4. SBC must be provided (presumably) at date of hire</li> </ol>
<b>Special Enrollment (life event)</b>	The SBC reflecting the participant's coverage.	Participants & beneficiaries	Within 90 days after special enrollment.	<ul style="list-style-type: none"> <li>Section 125 Plan year begins 1/1/14</li> <li>Employee marries on 5/1/14</li> <li>Employee notifies plan on 5/20/14</li> <li>Spouse enrolls on 6/1/14</li> <li>SBC must be sent by 8/30/14</li> </ul>

## Matrix

### SBC Distribution Requirements and Timing updated May 2014

Why?	What?	Who?	When?	Examples
<b>Special Enrollment (life event)</b>	<p>Not currently participating, treat as newly eligible.</p> <p>An SBC for all benefit options for which the individual is eligible.</p>	Individuals previously waiving coverage & newly eligible dependents	First date individual is (again) <b>eligible to enroll</b> for coverage based on the special enrollment.	<ul style="list-style-type: none"> <li>• <i>Employee not participating in plan</i></li> <li>• <i>Section 125 Plan year begins 1/1/14</i></li> <li>• <i>Employee marries on 5/1/14</i></li> <li>• <i>Employee notifies plan on 5/20/14</i></li> <li>• <i>SBC must be sent with enrollment materials (if provided) or within 7 days of being notified of marriage.</i></li> </ul>
<b>Mid-year material* change to plan terms reflected in the SBC</b>	An updated SBC for the benefit option in which the participant or beneficiary is enrolled.	Participants & beneficiaries	60 days prior effective date of material change.	<ul style="list-style-type: none"> <li>• <i>Section 125 Plan year begins 1/1/14</i></li> <li>• <i>Material change to be effective 7/1/14</i></li> <li>• <i>SBC must be sent by 5/2/14</i></li> <li>• <i>Section 125 Plan year begins 7/1/14</i></li> <li>• <i>Material change to be effective 1/1/15</i></li> <li>• <i>SBC must be sent 1/1/15</i></li> </ul>
<b>Upon request</b>	All SBCs requested.	Participants & beneficiaries, Newly eligible individuals	Within 7 business days of request. For initial application of SBC rules.	<ul style="list-style-type: none"> <li>• <i>Section 125 Plan year begins 1/1/14</i></li> <li>• <i>Request made 5/15/14</i></li> <li>• <i>SBC must be sent by 5/22/14</i></li> </ul>

\* The Agencies define a material modification as any change to coverage that an average participant would consider important and that would affect the content of the SBC, whether a reduction or an enhancement of covered services or benefits.

A material modification could be an enhancement of covered benefits or services or other more generous plan terms.

It includes, for example, coverage of previously excluded benefits or reduced cost-sharing. A material modification could also be a material reduction in covered services or benefits (as defined in DOL Reg. § 2520.104b-3(d)(3)), or more stringent requirements for receipt of benefits. As a result, it also includes changes or modifications that reduce or eliminate benefits, increase premiums and cost-sharing, or impose a new referral requirement.

A rate change **alone** would not trigger this.

### *About the Matrix*

The SBC Distribution Requirements and Timing Matrix cannot directly address all ‘real world’ events. The intent in creating this matrix is to provide the most comprehensive guidance possible. Therefore, two of the entries reflect our application of published guidance, considering the stated purpose of the SBC and the participant, beneficiary or eligible individual’s need for information.

Specifically:

#### **1. New hires, newly eligible**

Guidance requires the employee be provided the SBC(s) by the first date the employee is eligible to enroll. In our example, because coverage begins the first day of the month following the date of hire, the example reflects the date of hire as the date the SBC must be provided. Under different circumstances, such as a coverage effective date of first of the month following 90 days, the plan sponsor may have (or want to consider establishing) a specific “enrollment date” when the employee is provided the materials or opportunity to enroll. In that case, the first day the employee may enroll is the date the SBC(s) is required.

#### **2. Special Enrollment – Employee not currently participating in the plan**

The guidance provided in the rules appears to address Special Enrollments that occur for employees already covered by a plan option (SBC must be provided within 90 days after special enrollment). However, this guidance does not appear to take into account employees who waived coverage and who will be enrolling for coverage. In these situations, an employer may wish to consider applying the guidance applicable to ‘Newly Eligible’ individuals.