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Department of Health and Human Services
Centers for Medicare & Medicaid Services

Re: CMS-9982-NC
Summary of Benefits and Coverage and Uniform Glossary – Templates, Instructions, and Related Materials under the Public Health Service Act

I am writing to offer comment on the templates and related materials published by the Internal Revenue Service, the Department of Labor, and the Department of Health and Human Services in connection with the disclosure requirements of the Patient Protection and Affordable Care Act (PPACA).

Merrill Corporation is a service provider to the health care industry, and relevant to this letter, the services provided by Merrill include print and delivery of communications to health plan participants and enrollees. The comments herein are based on Merrill's market leadership and experience in these areas and pertain to the form and content of the Summary of Benefits and Coverage (SBC), the language of preference of the consumer and the timing of the proposed implementation.

Coverage Examples

The proposal provides for three generic coverage examples (dates of service, billing codes, etc.) to be included in the SBC as a way to simulate covered benefits. While this is a good concept, helping the consumer become acquainted with the terminology and layout of comparison data, it does not go far enough. By limiting the coverage examples to three pre-determined health condition scenarios that HHS will set annually (currently Breast Cancer, Maternity Coverage and Diabetes), the SBC misses an opportunity to further encourage understanding by targeting the specific needs and interests of each covered individual. For example, a 55-year-old female would likely derive a better understanding of coverage from a scenario focused on osteoporosis or heart disease. Similarly, a 60-year-old covered male would be more interested in a prostate cancer scenario than in a breast cancer example.

Our Proposal

We propose that coverage examples should be both gender-based and age-based. We suggest three health condition scenarios for each gender, across three age ranges: 20–40 years old, 40–60 years old, and over 60. This would require a maximum of 18 examples to be created or approved by HHS at the outset; fewer than 18 would likely be sufficient, because some examples could be created to cover both genders in a given age group. For example, colon cancer screening or treatment would be applicable to both males and females in the 40–60 age grouping. Creating more scenarios up front seems like a small additional burden when compared to the additional clarity and understanding potential for covered individuals.

Can this be done?

Making the coverage examples more targeted and relevant is simply a matter of aggregating and using the pertinent demographic data that is already accessible to the health insurance issuers. Each health plan can pull age and gender data from their membership administrative system. In populating the coverage examples section of the SBC, all that will be required is combining these two demographics from the membership data with the approved coverage examples. All of the service providers that a plan would turn to in creating the plan's SBCs can handle this simple form of data and content manipulation via their intelligent print-on-demand technology.

Language of Preference

As stated in the proposal document, "format choices [of the SBC template] reflect, in part, the NAIC's efforts to address the statutory requirements that the form be 'culturally and linguistically appropriate.'" Again, the actual requirements of the proposal do not go far enough. Full realization of this goal would mean that covered individuals would receive the mandated materials in his or her language of preference without first having to receive it in English, request a copy in their native language, and then wait until they receive the translated version. In addition, whether they are entitled to receive an SBC in their preferred language should not be determined by whether they live in a county meeting the 10% by county rule.

Our Proposal

We propose requiring in the initial mailing (not only on request) delivery of the SBC in the language preference of the covered individual regardless of where they live. The languages that must be offered by the plan to the recipients entitled to receive them would be determined by a slight modification to the current 10% by county rule. We propose that if any county covered by the plan has a population exceeding 10% of a given language, the plan would be required to deliver the SBC to covered individuals with that language preference regardless of where they live. The modification we are proposing is this: the 10% by county rule would be used to determine the languages a plan must offer; it would not be used to determine what recipients are entitled to receive an SBC in a given language. Covered individuals (not only within counties meeting the 10% by county rule) would receive the SBC in their preferred language in the initial mailing (without having to request it), provided their preferred language meets the 10% by county rule in any of the counties served by the plan. Additionally, the preferred language mandate could follow the new CMS language ruling of 5%, whereby a greater number of counties and individuals would receive the SBC initially in their native language.

Can this be done?

As above, service providers can use their intelligent print-on-demand technology to accomplish this further specification. Along with other demographic data contained in the issuer's administrative system, the covered individual's language preference can be given to the service provider for incorporation into the production process. Thus, in addition to coverage examples that are tailored to the needs and interests of the consumer, the entire packet of materials – the SBC and Uniform Glossary – can be provided in the covered individual's language of preference to maximize the cultural and linguistic appropriateness of these disclosures. This option will also expedite educational knowledge.

Implementation Timeline

Using a customized approach to production and delivery of the SBC and Uniform Glossary would not impede the March 23, 2012, compliance deadline. This approach would not require change or re-tooling of existing processes or capabilities of the issuers and their service providers. The data and the technology are already in place to make this happen. As noted above, this process would require the development of more than three benefit scenarios by HHS. It is hoped that this could be done rather easily, given that the coverage examples are just that, samples of already-established encounter data, billing codes and cost estimates.

Conclusion

The goals of the proposed regulations in prescribing a standardized SBC format – to enhance consumer education, understanding and usability – can be more fully realized by requiring the health plans and health insurance issuers to target the consumer's needs, interests and language preferences. Using data and production technology already in place, the issuers and their service providers can deliver meaningful and relevant disclosure materials and can do so within the proposed time parameters.

We appreciate the opportunity to respond to these important issues. Please feel free to contact me if you have any questions or if you would like any additional information on the comments provided.

Sincerely,

Boyd Johnson
Senior Vice President and Chief Legal Officer