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Summary of Benefits and Coverage and Uniform Glossary

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WA

Submitter Information

Name: Mark Wilkerson
Address:
Spokane, WA, 99201
Organization: VEBA Service Group, LLC

General Comment

Dear Ladies and Gentlemen:

VEBA Service Group, LLC (VSG), on behalf of its clients, appreciates the opportunity to submit comments on the implementation of provisions of the Affordable Care Act, which concern the new mandated Summary of Benefits and Coverage (SBC) to help consumers better understand and compare benefits and coverage. We hope that our recommendations will assist you in allowing health reimbursement arrangements (HRAs) offered through IRC §§ 115 and 501(c)(9) trusts to continue providing valuable benefits to their participants and minimize undue cost and burden.

VSG is the plan consultant for multiple stand-alone, funded HRA plans nationwide. Collectively, these plans cover approximately 385,000 participants and dependents from over 1,000 governmental employers.

We understand the need to provide consumers with clear, consistent and comparable information about their health plan benefits and coverage. Further, we understand that the proposed regulations would ensure consumers have access to two forms to help them understand and evaluate their health insurance choices, and determine the best health insurance options for themselves and their families.
In order to assist the three Departments with the development of the proposed regulations, we

make the following recommendation, which reflect the suggestions and concerns of our clients:

Exclude stand-alone HRA plans from the definition of group health plan so they will be exempt from the SBC and uniform glossary of terms requirements. Or, as a secondary option, delay the effective date of the two forms requirement for stand-alone HRA plans and develop an HRA-specific SBC model for such plans.

Please see the attached file which outlines our reasoning for this recommendation.

Attachments

Comments on SBC and Glossary Requirements Submitted 10-20-11

Dear Ladies and Gentlemen:

VEBA Service Group, LLC (VSG), on behalf of its clients, appreciates the opportunity to submit comments on the implementation of provisions of the Affordable Care Act, which concern the new mandated Summary of Benefits and Coverage (SBC) to help consumers better understand and compare benefits and coverage. We hope that our recommendations will assist you in allowing health reimbursement arrangements (HRAs) offered through IRC §§ 115 and 501(c)(9) trusts to continue providing valuable benefits to their participants and minimize undue cost and burden.

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We understand the need to provide consumers with clear, consistent and comparable information about their health plan benefits and coverage. Further, we understand that the proposed regulations would ensure consumers have access to two forms to help them understand and evaluate their health insurance choices, and determine the best health insurance options for themselves and their families.

Our position is that stand-alone HRA plans, such as those we represent, should be exempt from the SBC and uniform glossary of terms regulations for the following reasons:

1. **Stand-alone HRAs are neither insurance nor self-insured** (as in the traditional self-insurance model). Rather, they are supplemental, account-based health plans that offer a source of funds to reimburse out-of-pocket medical expenses not covered by insurance.
2. **HRA plans are not intended to be a primary source of health insurance coverage.** They do not provide health benefits in the form of coverage, nor do they charge a premium, impose a deductible, co-payments, or coinsurance.
3. **Because no insurance coverage is provided, imposing the SBC and uniform glossary of terms on such plans is misleading** for consumers who will utilize these forms to understand and evaluate their primary health insurance choices. Employers that contribute to funded HRAs nearly always provide other group health insurance to employees. Employers provide stand-alone HRA plans as a supplement to their core group health plan coverage; coverage that will be subject to meeting the new SBC and uniform glossary of terms requirements. A major difference between health insurance policies and stand-alone HRAs is discussed below.
4. **Stand-alone HRAs, such as those we represent, are funded by employers on a mandatory basis** for all employees defined as eligible. HRA plans cannot be offered under a cafeteria plan nor purchased on the individual insurance market. As such, imposing the SBC and uniform glossary of terms on HRA plans is an undue cost and burden because individuals are not able to elect or choose to participate in such plans, rendering the two forms ineffectual.

In order to assist the three Departments with the development of the proposed regulations, we make the following recommendation, which reflect the suggestions and concerns of our clients:

> **Exclude stand-alone HRA plans from the definition of group health plan so they will be exempt from the SBC and uniform glossary of terms requirements. Or, as a secondary option, delay the effective date of the two forms requirement for stand-alone HRA plans and develop an HRA-specific SBC model for such plans.**

It is important to note a major difference between health insurance policies and stand-alone HRA plans:

- A **health insurance policy** is an arrangement under which fixed payments or premiums are received in exchange for the insurer's promise or guarantee to provide specific health coverage or benefits. In such an arrangement, the payments or premiums collected are pooled for purposes of sharing risk, and the insurer promises or guarantees certain coverage or specified benefits to each participant from that pool. This promised coverage and specified benefits are those that are to be compared on the Summary of Benefits and Coverage.

- An **HRA plan** does not provide health benefits in the form of insured or guaranteed coverage, but rather provides a specified dollar amount available (i.e. the participant's available account balance) to reimburse qualified medical expenses (including premiums, co-pays, and expenses subject to deductibles) that are not covered or paid by another health insurance policy or health plan, such as the participant's employer-sponsored health plan.

Because HRA benefits do not provide insurance (or guaranteed) coverage, actively employed HRA participants are generally also covered by their employer's group health plan or that of a spouse. Retired individuals are generally covered by Medicare or some other type of retiree health insurance policy. It is from one of these sources that an individual buys coverage for which the summary form and glossary are applicable. Imposing the summary form and glossary requirements on both HRA coverage, as well as health insurance policy coverage, would result in delivery of misleading information to consumers and an undue cost and burden on HRA plans which do not provide equivalent coverage to a health insurance policy. For these reasons, it is not appropriate to compare health insurance policies and HRAs.

Based on the reasoning above, we believe funded, stand-alone HRA plans should be excluded from the proposed SBC and uniform glossary of terms regulations. As a secondary option, the effective date for the summary form and glossary should be delayed for stand-alone HRA plans to allow the Departments to develop an HRA-specific SBC model.

VSG appreciates this opportunity to comment and would be happy to discuss any of these issues with you. Please do not hesitate to contact me at 509-838-5571 or at mark@veba.org if you have questions or would like to discuss our comments in more detail.

Sincerely,
Mark Wilkerson, CFP®
VEBA Service Group, LLC