



March 2, 2015

Office of Health Plan Standards and Compliance Assistance
Employee Benefits Security Administration
Room N-5653
U.S. Department of Labor
200 Constitution Avenue NW
Washington, D.C. 20210

Attention: Summary of Benefits and Coverage

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RE: Notice of Proposed Rulemaking for Summary of Benefits and Coverage and Uniform Glossary, Docket ID: EBSA-2014-0028

The American Civil Liberties Union (ACLU) submits the following comments to the Departments of Health and Human Services, Labor, and Treasury (the Departments) in response to the Notice of Proposed Rulemaking published December 30, 2014, regarding the summary of benefits and coverage (SBC) and the uniform glossary for group health plans and health insurance coverage in the group and individual markets under the Patient Protection and Affordable Care Act (ACA). The SBC should enable consumers to make informed decisions when shopping for health care coverage by ensuring that the information they receive about plan benefits is accurate, clear, and consistent. This comment addresses the Departments' proposal on including abortion coverage information in the SBC.

For nearly 100 years, the ACLU has been our nation's guardian of liberty, working in courts, legislatures, and communities to defend and preserve the individual rights and liberties that the Constitution and the laws of the United States guarantee everyone in this country. With more than a million members, activists, and supporters, the ACLU is a nationwide organization that fights tirelessly in all 50 states, Puerto Rico, and Washington, D.C., for the principle that every individual's rights must be protected equally, regardless of race, religion, gender, sexual orientation, or national origin.

We appreciate the Departments' commitment to making the SBC an accurate, helpful resource for consumers. While we continue to oppose the provisions in the ACA that treat abortion differently from all other health care services, we urge the Departments to implement those provisions carefully in a way that minimizes administrative complexity for plan issuers by creating consistent requirements across plans and also facilitates consumer decision-making and enrollment by ensuring access to clear information about plans. Specifically, the SBC should include whether abortion is covered, the cost-sharing amounts, and any limitations on coverage.

To that end, we recommend the following:

- Require *all* plans to include information about coverage of abortion services in the SBC, not just qualified health plans (QHPs). The SBC is intended to allow consumers to compare benefits easily in order to choose the plan that will best meet their needs. A consumer comparing a QHP to a non-QHP could be misled if only QHPs include abortion coverage information in the SBC. For example, a consumer who sees that a QHP excludes coverage of abortion could incorrectly assume that a non-QHP that has no information about abortion coverage in the SBC covers abortion, when it does not.
- List information about abortion coverage under the “Common Medical Events” section of the SBC instead of the “Excluded Services & Other Covered Services” section. Abortion is a common medical procedure, obtained by more than one million U.S. women every year.¹ Abortion should be included in the “If you are pregnant” row or in a separate row immediately below it. This is the place where a woman with questions about abortion coverage would look, as opposed to the “Excluded Services & Other Covered Services” section. Listing abortion under “Common Medical Events” will also enable plans to disclose important cost-sharing information that is not included in “Excluded Services & Other Covered Services.”
- For all plans, include a link to the plan documents where consumers can find more information about coverage details. Plans that do not cover abortion at all should indicate the exclusion of coverage both in the “Limitations and Exceptions” column as well as in the row for “Services Your Plan Does NOT Cover” in the “Excluded Services & Other Covered Services” section of the SBC.
- When detailing abortion coverage, plans should use clear, non-subjective, and plain-language terms which accurately reflect the exceptions. For example, the draft instructions should change “life of the mother” to “life of the woman.”

Women must have accurate, clear, and consistent information about abortion coverage in order to make informed decisions about their health care. Thank you for this opportunity to comment on abortion coverage in the SBC. Please contact Georgeanne Usova at gusova@aclu.org or (202) 675-2338 with any questions.

Sincerely,



Michael W. Macleod-Ball
Acting Director



Georgeanne M. Usova
Legislative Counsel

¹ Guttmacher Institute, Induced Abortion in the United States (July 2014), http://www.guttmacher.org/pubs/fb_induced_abortion.html.

