Justification for Non-material/Non-substantive Change

Public Health Service (PHS) Act section 2715, as added by the Affordable Care Act, directs the Departments to develop standards for use by a group health plan and a health insurance issuer offering group or individual health insurance coverage in compiling and providing a summary of benefits and coverage (SBC) that "accurately describes the benefits and coverage under the applicable plan or coverage." On February 14, 2012, the Departments published final regulations regarding the SBC.[1]

At the same time, the Departments published a notice announcing the availability of templates, instructions, and related materials authorized for implementing the disclosure provisions under PHS Act section 2715 for the first year of applicability (for SBCs and uniform glossaries provided with respect to coverage beginning before January 1, 2014).[2] The documents authorized for the first year of applicability do not include language for the statement in the SBC about whether a plan or coverage provides minimum essential coverage (MEC) and whether the plan's or coverage's share of the total allowed costs of benefits provided under the plan or coverage meets applicable minimum value (MV) requirements.

The Departments will be issuing a modified SBC template and sample completed SBC with respect to coverage beginning on or after January 1, 2014, and before January 1, 2015, to include statements regarding whether the plan or coverage provides "MEC" as defined under section 5000A(f) of the Internal Revenue Code 1986) and that the plan or coverage meets the Minimum Value requirements (("MV") meaning that plan or coverage share of the total allowed costs of benefits provided under the plan or coverage is not less than 60 percent of such costs). On page 4 of the SBC template (and illustrated on page 6 of the sample completed SBC), a plan or issuer should indicate in the designated entry on the SBC template that the plan or coverage "does" or "does not" provide MEC and whether the plan or coverage "does" or does not" meet applicable MV requirements.

The Department is hereby submitting a non-material, non-substantive change request for the modification to the SBC template and sample completed SBC, because the primary reason plans need to determine whether they provide MEC or meet the MV requirements is for purposes of the excise tax that is imposed under Internal Revenue Code section 4980H and the premium assistance credit under Internal Revenue Code section 36B. Therefore, no additional burden will be imposed on respondents to designate on the SBC whether the plan provides MEC and whether it meets the MV requirements, because they are required to determine this information for purposes unrelated to the SBC.

This non-material change request also substitutes blank copies of deliberative materials needed for the initial clearance of the ICR with the actual documents.

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1 See 26 CFR 54.9815-2715, 29 CFR 2590.715-2715, and 45 CFR 147.200, published at 77 FR 8668 (February 14, 2012).

2 See 77 FR 8706 (February 14, 2012).