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Office of Management and Budget (OMB)

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Centers for Medicare and Medicaid Services (CMS)

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Subject: Non-Substantive Change Request – Summary of Benefits and Coverage and Uniform Glossary (OMB control number 0938-1146/CMS-10407)

This memo requests approval of a non-substantive change to the approved information collection under Summary of Benefits and Coverage and Uniform Glossary.

BACKGROUND

Sections 2715 and 2719 of the Public Health Service (PHS) Act requires group health plans and health insurance issuers offering group or individual health insurance coverage (plans and issuers) to provide the summary of benefits and coverage (SBC) and internal claims and appeals and external review notices, in a culturally and linguistically appropriate manner. To meet this requirement, regulations implementing section 2715 and 2719 of the PHS Act specify that plans and issuers must provide the following in any applicable non-English language: (1) oral language services; (2) translated notices and SBCs upon request; and (3) taglines on notices and SBCs indicating how to access the language services provided by the plan or issuer.¹ These regulations specify that a non-English language is an applicable non-English language, with respect to an address in any United States county to which a notice is sent, if ten percent or more of the population residing in the county is literate only in the same non-English language, as determined in guidance published by the Secretary of Health and Human Services.

The Departments of Labor, Health and Human Services, and the Treasury (the Departments) previously published guidance identifying Spanish, Chinese, Tagalog, and Navajo as applicable non-English languages in which plans and issuers must provide oral language services, translated notices upon request, and taglines on notices, if sent to certain U.S. counties.² To help plans and issuers meet this requirement, CMS previously included instruments translated into each of these languages. For consumer-facing instruments, CMS also included taglines in each of these languages in the SBC PRA package.

¹ 26 CFR 54.9815-2715(a)(5), 29 CFR 2590.715-2715(a)(5), and 45 CFR 147.200(a)(5); 26 CFR 54.9815-2719(e), 29 CFR 2590.715-2719(e), and 45 CFR 147.136(e).

² CLAS County Data (January 2016), available at https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/CLAS-County-Data_Jan-2016-update-FINAL.pdf.

In November 2023, the Departments published updated guidance identifying four additional languages (Pennsylvania Dutch, Samoan, Carolinian, and Chamorro) that meet the ten percent threshold based on recent U.S. Census data.³ As such, plans and issuers must provide oral language services, translated SBCs upon request, and taglines on SBCs in those four additional languages, if sent to certain U.S. counties. This guidance is applicable beginning with plan years (in the individual market, policy years) beginning on or after January 1, 2025.⁴

OVERVIEW OF REQUESTED CHANGES

CMS is requesting to make the following non-substantive changes to the SBC PRA package to align the translations and taglines in the package with the Departments' recent guidance and to replace the bracketed instructions for plans and issuers with English text:

1. Incorporate four additional taglines in Pennsylvania Dutch, Samoan, Carolinian, and Chamorro into the following existing instruments:
 - SBC Template in English, Spanish, Chinese, Tagalog, and Navajo
 - Sample Completed SBC in English
 - Sample Completed AI/AN Limited Cost Sharing SBC in English
 - Sample Completed AI/AN Zero Cost Sharing SBC in English
2. Add Pennsylvania Dutch, Samoan, Carolinian, and Chamorro translations of the following existing instruments:
 - SBC Template
 - Why This Matters YES Answers
 - Why This Matters NO Answers
 - Uniform Glossary
3. Replace bracketed instructions for plans and issuers with English text in the following translated templates, as these instructions are not intended for consumers:
 - SBC Template
 - Why This Matters YES Answers
 - Why This Matters NO Answers

³ See FAQs about Affordable Care Act and Consolidated Appropriations Act, 2021 Implementation Part 63 (November 28, 2023), available at <https://www.cms.gov/files/document/faqs-part-63.pdf>.

⁴ County Data for Culturally and Linguistically Appropriate Services (CLAS County Data), November 2023, available at <https://www.cms.gov/files/document/clas-county-data-2023.pdf>

4. Replace the phrase "Insurance Company 1: Plan Option 1," which was translated in the following templates, with English text, as this phrase is intended for plans and issuers, not consumers:

- Why This Matters YES Answers
- Why This Matters NO Answers

These changes do not affect any of the burden descriptions or estimates in the current SBC PRA package because the calculations in the current package assume plan and issuer compliance with the requirement to provide oral language services, translated notices, and taglines on notices in accordance with regulations implementing section 2715 of the ACA. Additionally, we expect any cost incurred by plans and issuers to comply with those requirements with respect to four additional languages would be de minimis because CMS is providing the necessary translations.

We believe these non-substantive changes will help ensure that individuals with limited English proficiency (LEP) can access essential information about their coverage and benefits so they can compare benefits across products and make informed decisions about their care. We expect this will improve health outcomes and promote health equity.

Time Sensitivities

Plans and issuers must begin providing revised SBC notices for plan years (in the individual market, policy years) beginning on or after January 1, 2025. Therefore, we request that OMB approve this change as soon as possible to allow sufficient time for plans and issuers to update their notices in accordance with updated guidance.