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To: [E-OHPSCA2715.EBSA](#)
Subject: RIN1210-AB52
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Attachments: [DEPT OF LABOR SUMMARY OF BENEFITS.10.20.11.pdf](#)

Dept. of Labor,

Attached are comments provided in response to the DOL's request for response to the Summary of Benefits and Coverage.

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October 20, 2011

SENT VIA EMAIL

U. S. Dept. of Labor
Office of Health Plan Std. & Comp.
EBSA
200 Constitution Ave. NW
Washington, DC 20210

Dear Department of Labor:

RIN 1210-AB52
UNIFORM SUMMARY OF BENEFITS AND COVERAGE

We are a third party administrator representing over 200 self-funded employer clients. PPACA requirements are putting a significant strain on the benefits industry and the current March 23, 2012 deadline is fast approaching. With several key issues unresolved, we are requesting a delay in the effective date of the Summary of Benefits requirement for at least a year, and then have it applicable only at renewal of the group. Below are some of the key issues outstanding.

1. It appears that the proposed Summary of Benefits template was created from the fully-insured point of view, but the vast majority of US health plans are self-funded. The error is understandable since NAIC works with state insurance departments in their management of the fully-insured health marketplace, so its approach envisions fully-insured plans. Under ERISA's preemption provisions, state insurance departments generally do not have authority over self-funded welfare benefit plans.
2. The terminology used in self-funded programs does not usually coincide with that used by insurance carriers in their fully-insured policies of insurance.
3. The template is not user friendly for the self-funded plan sponsor nor for third party administrators that will be managing the process for their employer clients. Using the template in the suggested version from the NAIC, with persons who will be covered by a self-funded program, could lead them to believe that the program they are looking at is a fully-insured program, which it would not be. Providing a self-funded version of the Summary will help dissuade them of such a belief. Keeping this clarification has been a priority of NAIC for years, so proceeding with the template would be a step backward.

4. A lot of employee time will be required to create these Summaries. In the self-funded market each plan has customized features. They are not the standard plans used by many insurance carriers. Each summary will have to be individually crafted at a significant expense to the self-funded employer. If an employer has an indemnity plan, PPO plan, and a High Deductible HSA compatible plan, with 4 tiers of coverage each (single, single and spouse, single and children, and family) the number of separate Summaries multiplies quickly.
5. The Summary of Benefits will create an enormous mass of paper that must be distributed to many people. Although it appears that an employer can meet the distribution by electronic means, when using the federal guidelines for electronic distribution, many of our employer clients are manufacturing and agriculture industries that cannot successfully use this technology method for workforce delivery.
6. The proposed description for benefit reimbursement of a specific condition is especially troubling for several reasons. The self-funded customized benefits do not fit well into the outline proposed. The outline mixes different benefit categories (e.g. mother's charges, baby's charges, radiology, and a broad vaccine category), and each of these types of charges should be considered on its own merit and not lumped under "Having a Baby". Anytime a description uses words like "might cover" or a warning label, it creates **more** confusion for the participant and not less. Regardless of intent, the description does not deliver a clear and concise point.

We thank you for your consideration of our comments and the opportunity to improve compliance with the changes that fit self-funded benefit plans and we look forward to a positive response to our suggestions.