

October 21, 2011

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, DC 20210,

**Attention: RIN 1210-AB52, Proposed Regulations relating to Summary of Benefits and Coverage and Uniform Glossary**

Dear Department of Labor,

First Choice Health Network, Inc. appreciates the opportunity to comment on the proposed regulations for the Summary of Benefits and Coverage and Uniform Glossary requirements under the PPACA. First Choice Health Network, Inc. (First Choice Health) is the largest independent PPO network in the Pacific Northwest and serves nearly 1 million members. First Choice Health also provides third party administration (TPA) services to self-funded plans, and our book of TPA business includes over 68,000 members.

We wish to express some concerns with the recently released proposed rules. First and foremost, **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. PPACA requirements are putting a significant strain on the benefits industry and the current March 23, 2012 deadline does not give a reasonable opportunity to review and implement the complex and detailed requirements for preparing and distributing the proposed summary. 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. FCH proposes changes in the template that are more consistent with self-funded groups and terminology used for ERISA/DOL plans. 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/plan sponsors. 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. Keeping this clarification has been a priority of NAIC for years, so proceeding with the template would be a step backward. There should be a separate template provided for use by self-funded plans that incorporates the use of terminology common in self-funded programs.

4. FCH also proposes that the length of the document not be limited. The plans used by self-funded employers are often very customized, and all the information required to be included in the current template will not fit in the limited number of pages for many plans. Plans should be allowed to let the template extend onto as many pages as are necessary to accommodate all the required information. This does not negate the goal of providing standardized summaries to consumers in order to make an apples-to-apples comparison of coverage options. Rather, it allows the information to be presented in a neat and organized manner and, most importantly, allows highly customized plans to include *all* information that is both required under the proposed rules and relevant to consumers when making decisions about coverage.
5. There should be a place on the template to include an effective date of the SBC. If a plan decides to make a material change mid-year (which would trigger the requirement to send an updated SBC), there is nowhere on the template to indicate the date of revision. This will confuse plan participants as to which is the most current version.
6. There should be a place on the template to include the required statement in any of the 4 languages identified in the amendment to the Interim Final Rule for Internal Claims and Appeals and External Review. This statement is not included in the current template.
7. Finally, 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.

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