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Via Regular Mail (to Address Below) and E-mail (to E-OHPSCA2715.EBSA@dol.gov)

October 14, 2011

Office of Health Plan Standards and Compliance Assistance
Employee Benefits Security Administration
Room N-5653
United State Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210
Attention: RIN 1210-AB52

Re: RIN 1210-AB52
Summary of Benefits and Coverage and the Uniform Glossary
Summary of Benefits and Coverage and the Uniform Glossary – Templates, Instructions, and Related Materials Under the Public Health Services Act

Dear Secretary Solis:

We write to comment on the captioned proposed regulations, and make recommendations for their revision when promulgated in final form, as outlined below.

Medical Benefits Mutual Life Insurance Co. and Medical Benefits Administrators, Inc. ("MedBen") administer group health plans for employers of all sizes and industry types. In business for over seventy (70) years, Medical Benefits Mutual Life Insurance Co. is one of the oldest health insurance firms in the United States. We insure or administer health benefits for approximately 120,000 employees and dependents in numerous states and are committed to the group health plan market and to providing our clients with comprehensive compliance services. Truly inspiring is the dedication with which these employers protect their employees and provide them with meaningful benefit offerings. Despite the unparalleled administrative burden that the Patient Protection and Affordable Care Act (the "Act") has placed on our clients' plans, MedBen remains committed to making certain that our clients have the knowledge, tools and sufficient time to implement the requirements mandated by the Act.

Implementation Time Frame

The greatest concern expressed by our clients is the expedited implementation time frame mandated by the proposed regulations. Our clients, and MedBen as the entity tasked with assisting them with the preparation of the SBC Template, respectfully request the opportunity to appropriately comply with the requirements of the proposed regulations by being allowed more time for preparation, implementation and distribution. As you know, the SBC Template is a complicated document – even for plans with benefit packages that easily match the categories set out in the document. Given that the Template's purpose is to provide a summary of benefits to employees which can be matched, category by category, with other employer or insurance offerings, it seems that sufficient time should be allowed to make certain that all employers are entering data consistently. This is especially important for self-funded employers with complicated benefit structures not anticipated by the SBC Template. For instance, MedBen manages benefit packages for two separate employer groups each with a five-tiered plan structure. The SBC Template only accommodates three-tiered plan structures. In addition, it

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is apparent that the SBC Template is designed for insurance company offerings, not the more complex benefit structures frequently associated with self-funded employee health benefit plans.

We strongly recommend that the implementation date for the initial distribution of the SBC Template be at least one year from the date final regulations are released, but no earlier than January 1, 2014, and tied directly to a health plan's plan or policy year subsequent to such date. While we understand the use of the March 23, 2012 effective date, any random date of distribution which is not linked to a specific health plan will result in more consumer confusion. Employers who provide the required SBC Template to their employees at a time when those employees are not eligible to change plans or modify their benefits (due to open enrollment or other plan restrictions) will only cause their employees aggravation. Since Exchange plan offerings will presumably be available to consumers daily, and since employers will have to make substantive plan changes in 2014 resulting from other requirements of the Act, it makes more sense to accommodate employer group health plans and associate the SBC Template distribution with the employer's plan or policy year.

Additionally, while the requirement that the SBC Template be provided as a stand-alone document is workable for those individuals seeking information about new coverage options, providing the employee with a stand-alone SBC Template for such individual's existing coverage is counter-intuitive to the purpose of the document. Wouldn't employees be better served if they were provided the Template, for comparison purposes, as a part of the summary plan description employers are already providing their employees? In this way, the employee is provided with both comparison data and all of the other information necessary for a complete understanding of the benefits being offered.

SBC Template Format

It is evident that the SBC Template was created from the fully-insured point of view and that it does not accommodate the complex benefit structures offered by self-funded plans – which represent the vast majority of health plans in the United States. The proposed regulations which mandate the use of a specific font, color and format, along with prohibitions to altering or deleting text, are onerous and overly burdensome.

MedBen has attempted to create sample SBC Templates using client plan benefit data. First, it should be noted that the mandated font and pitch size leads to severe overcrowding of words in each data cell. We have noticed that the 'Word' version of the Template provided as a reference at www.dol.gov/ebsa/healthreform uses a different font, **specifically Garamond, which, at the same size pitch, is a significantly smaller font than the required Times New Roman**. In addition, the instructions provided in the proposed regulations require us to include in the Template misleading information or information which is easily misconstrued. In particular are the sections which describe what is covered and what is excluded under the plan. The SBC Template anticipates that any listing of covered services or exclusions is easily described when, in practice, there is no way to adequately describe the full extent of either services which will be covered or those that are excluded – particularly when exceptions to each are critical to understanding coverage. Again, if this is to be used by the consumer to compare coverage and cost, the specifics of the exceptions to what is covered and what is excluded by a plan become significant.

Likewise the Template instructions do not allow for the inclusion of any additional information that would help the consumer understand the full breadth of the coverage available in order to make an informed decision. MedBen, and our clients, support the idea of providing information to employees about the benefit options available to them. However, the inflexibility of the SBC Template and its instructions do more to create

confusion than clarity. MedBen recommends that group health plans be allowed to include additional information in a free-text "Other Important Information" field at the end of the Template.

Inclusion of Premium Amounts

The inclusion of "premium" amounts in the SBC Template has caused significant frustration and is simply incompatible with a self-funded plan. It is frustration which should have been avoided, since the Act itself never required the inclusion of premium or contribution amounts. The inclusion of these amounts means that two Template documents must be created for every one coverage offering (one to show the employer's premium amount and one to show the employee's contribution amount). Although the regulations anticipate that each is used for a separate purpose, the sheer volume of Templates that will flood the marketplace promotes an increased likelihood that an employee will end up with an employer's Template – or the other way around. The instructions already seem to support removal of the premium amount from the document – by allowing language in the Template which directs the consumer to the employer for the employee's share of the premium, rather than including a dollar amount. Given that employers must already create multiple versions of the Template for each set of cost-sharing variables under a single plan, MedBen strongly recommends removing the premium amount requirement.

Current Disclosure Requirements

Both public and private self-funded employers responsible for group health plans provide substantive documentation and information to their employees about their health benefit plans and plan options. In addition to ERISA required disclosure documents, it has been our experience that employers already provide information to their employees about their coverage options as well as the cost of that coverage. We recommend that employers who meet the ERISA required health plan disclosure requirements, even those not subject to ERISA, including public employers, be exempt from the Act's SBC Template requirements.

Even more difficult for employers is the requirement that the SBC Template be provided to both enrolled employees and their dependents, as well as eligible employees and their dependents. This means that if multiple plan options are available, the SBC Template for each option must be provided not only to all enrolled employees (and their dependents not residing with them) but also to all employees who aren't enrolled in the plan but are otherwise eligible (and their dependents not residing with them). Add to this the requirement that this multitude of Templates be distributed at least three times each year (at any enrollment, upon request, and at the time of any material modification) and you see how this mandate adds extraordinarily burdensome cost to the employer in time and resources.

SBC Template Coverage Examples

MedBen has grave concerns about the Coverage Examples included in the SBC Template and the problems they will cause employees and their families. As the regulations currently stand, group health plans are required to complete the Template using Health and Human Services supplied data, including specific claims amounts and clinical procedures, to produce claimant cost information for hypothetical treatment scenarios. Unfortunately, the use of the HHS supplied data will not accurately illustrate the benefits covered under a specific plan and will not produce estimates that reflect the true consumer costs under such plan.

It is misguided to think that the assumptions provided for the required scenarios (breast cancer, normal delivery and type-II diabetes) will result in claims payment estimates that will be close to what the claimant will actually

be asked to pay. Even with these three relatively straight-forward scenarios, the variations in care prescribed by a physician and the discounts allowed by providers – even within the same PPO network – will give employees using the Template for comparison purposes an inaccurate idea of what they will be asked to pay towards their care. Employees with the same plan coverage and identical cost-sharing requirements do not end up paying the same amount for treatment of the same medical condition. The Coverage Examples mislead employees into thinking that they do.

In addition, by providing one set of assumptions for each of these treatment scenarios, HHS may inadvertently be creating an expectation that the claim amounts and treatment protocols provided are "standards" in the health care marketplace. Since health care costs are absolutely a by-product of geography and demographics, these "standards" will do nothing more than cause anger and frustration when the health care plan does not actually cover the amounts shown on the Template. Not even the disclaimer required to be shown on the SBC Template will satisfy the individual who, in accordance with his plan document, ends up paying more for one of the "standard" treatment protocols than he thought he should pay based on the "Total" shown in the Coverage Example. MedBen recommends removal of the Coverage Examples from the SBC Template.

Non-Excepted and Non-Medical Plans

While the SBC Template is complicated to produce for even the simplest medical benefit plans, it is extremely difficult to produce for other types of health plans are required under the regulations to distribute SBC Templates, including non-excepted dental, vision, flexible spending arrangements, health reimbursement arrangements, wellness programs and employee assistance plans. Since these types of plans are far less complicated than medical plans, the required SBC Template should either be modified for these plan designs or waived altogether.

We are happy to discuss these concerns and suggestions in more detail. We trust that the final rule will incorporate the recommendations we have set forth here.

Respectfully submitted,
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Medical Benefits Administrators, Inc.

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