



## Maine Municipal Employees Health Trust

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To: Health Trust Participating Employers  
From: Anne Wright, Assistant Director, MMEHT  
Date: August 12, 2013  
Re: The Affordable Care Act and Health Care Reform –  
Summaries of Benefits and Coverage – FOLLOW UP

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This e-mail will serve as a follow up to the memo dated Friday, August 9, with regard to the Summaries of Benefits and Coverage. Several people have questioned whether the SBCs may be provided electronically to employees, in order to save on the cost of photocopying and printing.

As long as an employee is able to access documents electronically at work, at a location where the employee is **reasonably expected to perform his/her work duties**, and as long as access to the employer's electronic information system (e-mail, internet, etc.), is an **integral part of the employee's work duties**, the notice may be provided electronically. However, if there are employees who do not have access to computers at work, and for whom electronic access is not a regular integral part of their work responsibilities, notice must be provided in hard copy (paper) form, unless the employee requests otherwise.

The Department of Labor addressed this issue in several FAQs that may be found on the DOL website ([www.dol.gov/ebsa](http://www.dol.gov/ebsa)). Please refer to the following:

From February 2012, <http://www.dol.gov/ebsa/faqs/faq-aca8.html>:

### ***Q10: What are the circumstances in which an SBC may be provided electronically?***

*With respect to group health plan coverage, an SBC may be provided electronically: (1) by an issuer to a plan, and (2) by a plan or issuer to participants and beneficiaries who are eligible but not enrolled for coverage, if:*

*The format is readily accessible (such as in an html, MS Word, or pdf format);*

*The SBC is provided in paper form free of charge upon request; and*

*If the SBC is provided via an Internet posting (including on the HHS web portal), the issuer timely advises the plan (or the plan or issuer timely advises the participants and beneficiaries) that the SBC is available on the Internet and provides the Internet address. Plans and issuers may make this disclosure (sometimes referred to as the "e-card" or "postcard" requirement) by email.*

*An SBC may also be provided electronically by a plan or issuer to a participant or beneficiary who is covered under a plan in accordance with the Department of Labor's disclosure regulations at 29 CFR 2520.104b-1. Those regulations include a safe harbor for disclosure through electronic media to participants who have the ability to effectively access documents furnished in electronic form at any*

location where the participant is reasonably expected to perform duties as an employee and with respect to whom access to the employer's or plan sponsor's electronic information system is an integral part of those duties. Under the safe harbor, other individuals may also opt into electronic delivery.

From May 2012, <http://www.dol.gov/ebsa/faqs/faq-aca9.html> :

**Q1: A previous FAQ outlined the circumstances in which an SBC may be provided electronically. The FAQ discussed a safe harbor for providing the SBC to participants or beneficiaries covered under the plan who are able to effectively access documents provided in electronic form at the worksite. Are there any additional safe harbors for electronic delivery of SBCs?**

Yes. The Departments have adopted the following additional safe harbor. SBCs may be provided electronically to participants and beneficiaries in connection with their online enrollment or online renewal of coverage under the plan. SBCs also may be provided electronically to participants and beneficiaries who request an SBC online. In either case, the individual must have the option to receive a paper copy upon request. (In addition, for individual market issuers that offer online enrollment or renewal, the SBC may be provided electronically, at all issuances, to consumers who enroll or renew online, consistent with the regulations.)

And, from April 2013, <http://www.dol.gov/ebsa/faqs/faq-aca14.html>:

**Q5: Safe harbors and other enforcement relief were provided by the Departments related to the requirement to provide an SBC and a uniform glossary for the first year of applicability. Will this relief be extended?**

Yes. As stated in previous FAQs, the Departments' basic approach to ACA implementation is: "[to work] together with employers, issuers, States, providers and other stakeholders to help them come into compliance with the new law and [to work] with families and individuals to help them understand the new law and benefit from it, as intended. Compliance assistance is a high priority for the Departments. Our approach to implementation is, and will continue to be, marked by an emphasis on assisting (rather than imposing penalties on) plans, issuers and others that are working diligently and in good faith to understand and come into compliance with the new law." In recognition of and to ensure a smooth transition to new market changes in 2014, the Departments believe it is prudent to extend the following enforcement relief to apply through the end the second year of applicability:

*Affordable Care Act Implementation FAQs Part IX, Q1 (regarding the circumstances in which an SBC may be provided electronically);*

If you have any questions regarding methods for providing the Health Trust Summaries of Benefits and Coverage, please feel free to contact the Health Trust.

Please note that the Maine Municipal Association and the Maine Municipal Employees Health Trust are sharing this information to assist you with your compliance planning. We recommend that you contact your legal counsel with specific questions relating to this law.