



## **HEALTH CARE REFORM – SPECIAL EDITION**

### **Counties in Which SBCs and Claim Appeal Notices Must Be Provided in Non-English Languages in 2012**

#### **LEGISLATIVE BRIEF**

**April 18, 2012**

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Group health plans and health insurance issuers must provide plan participants certain documents in specified non-English languages, as well as in English. The documents that must be provided are the Summary of Benefits and Coverage (SBC) and ERISA notices of claims and appeals rights (when a plan makes an adverse benefit determination). The requirement to provide these documents in a language other than English is part of the requirement to provide documents in a “culturally and linguistically appropriate” manner.

#### **What exactly is required?**

Specifically, the non-English language requirement is that in counties in which 10% or more of the population is literate only in the same non-English language, plan notices that are sent to addresses in those counties must include a statement in the applicable non-English language clearly indicating how to obtain the SBC or the claims appeal notice in that non-English language, at no additional cost. If requested, the plan must also provide the SBC or the claims appeal notice in the non-English language. Additionally, affected plans must provide oral language services (e.g., a customer hotline) in the non-English language, and plan notices must clearly indicate how participants can access the plan's language services.

The four relevant non-English languages are: Spanish, Chinese, Tagalog and Navajo.

#### **How does a plan or issuer know which counties meet the 10% threshold?**

The Department of Health and Human Services, through the HHS Center for Consumer Information and Insurance Oversight (CCIIO), publishes this information. On March 9, 2012, CCIIO released the [2012 County Data for Culturally and Linguistically Appropriate Services](#). This report identifies counties meeting the 10% threshold in Alaska, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Iowa, Kansas, Minnesota, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, Texas, Utah, Virginia, Washington, and Puerto Rico.

Some of the western states with counties that meet the 10% threshold for the four languages include:

- **Spanish:**
  - » Arizona - Santa Cruz and Yuma Counties
  - » California - 24 counties, including Napa, San Benito, San Joaquin, Santa Cruz, and Stanislaus
  - » Colorado -- 7 counties, including Denver and Lake Counties
  - » Idaho - 4 counties, including Clark County
  - » New Mexico - 6 counties
  - » Washington - 5 counties
- **Chinese:** California - San Francisco County
- **Tagalog:** Alaska -- 2 counties
- **Navajo:**
  - » Arizona -- Apache County
  - » New Mexico -- McKinley County
  - » Utah -- San Juan County

#### **Additional details**

- **SBCs:** SBCs are a new requirement under the Affordable Care Act (ACA) and the initial date by which they must be provided is the first day of the first open enrollment period that begins on or after September 23, 2012. SBCs (including the Uniform Glossary) that are sent to addresses within the listed counties must include a statement in the applicable non-English language indicating how the SBC can be obtained in that non-English language. If requested, the plan or issuer also must provide the SBC and Uniform Glossary in the non-English language. This requirement applies to both grandfathered and non-grandfathered health plans.
- **Claims Appeal Notice:** ERISA has long required that ERISA plans provide participants with specified notices of their claims and appeals rights. The ACA expanded some of these requirements, and the guidance issued in June 2011 replaced the prior “10%-of-plan-participants” threshold with the “10%-of-county-population” requirement. Affected plans must make claims appeals notices available in the appropriate non-English language and must provide oral language services in the non-English language. Plan notices that are sent to addresses within the listed counties must include a one-sentence statement in the applicable non-English language clearly indicating how to access the plan's language services and how to obtain a free copy of the notice in the applicable non-English language. This requirement applies only to non-grandfathered health plans. The U.S. Department of Labor (DOL) website provides a sample statement for each of the four languages, in the Appendices at the end of DOL [Technical Release 2011-02](#). The four sample statements from the Model Notice of Adverse Benefit Determination are:
  - » **SPANISH** (Español): Para obtener asistencia en Español, llame al [insert telephone number].
  - » **TAGALOG** (Tagalog): Kung kailangan ninyo ang tulong sa Tagalog tumawag sa [insert telephone number].
  - » **CHINESE** (中文): 如果需要中文的帮助, 请拨打这个号码 [insert telephone number].

» **NAVAJO** (Dine): Dinek'ehgo shika at'ohwol ninisingo, kwijjigo holne' [insert telephone number]

### **Next Steps for Employers**

- If your plans are insured, your carriers probably will notify you of the affected counties in which they will be including statements in the applicable non-English languages, and also providing oral services and copies of required notices as well, if requested.
- If your plans are self-insured, confirm with your third-party administrator(s) that they have the 2012 list of counties that meet the 10% language thresholds.
- If you as plan sponsor provide any of the affected notices or respond to requests for them, be sure you comply with these requirements as well.

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