

March 28, 2016

Howard Shelanski
Administrator
Office of Information and Regulatory Affairs
Attn: OMB Desk Officer for DOL-EBSA
Office of Management and Budget
Room 10235
725 17th Street NW
Washington, DC 20503

**RE: Summary of Benefits and Coverage and Uniform Glossary Required Under
the Affordable Care Act**

Dear Administrator Shelanski:

The American Occupational Therapy Association (AOTA) is the national professional association representing the interests of more than 213,000 occupational therapists, students of occupational therapy, and occupational therapy assistants. The practice of occupational therapy is science-driven, evidence-based, and enables people of all ages to live life to its fullest by promoting health and minimizing the functional effects of illness, injury, and disability. We appreciate the opportunity to comment on the Summary of Benefits and Coverage and Uniform Glossary published by the Internal Revenue Service at the Department of the Treasury (IRS), the Employee Benefits Security Administration at the Department of Labor (EBSA), and the Centers for Medicare and Medicaid Services at the Department of Health and Human Services (CMS) (collectively, the Departments). The Summary of Benefits and Coverage (SBC) is a short, plain-language health plan summary meant to help consumers understand and compare plans. We appreciate the efforts of the Departments to improve these documents, and to allow for public input, consumer testing, and consultation with the National Association of Insurance Commissioners (NAIC).

Summary of Benefits and Coverage (SBC) Template and Instructions

The revised SBC improves the clarity and consistency of the information presented about rehabilitative and habilitative services and devices, one of the 10 categories of Essential Health Benefits (EHBs) under Section 1302 of the Affordable Care Act. In 2014 AOTA analyzed coverage of this EHB in 266 health plans offered in state-based and federally-facilitated Marketplaces (aota.org/ehb-report). Many of the SBCs AOTA analyzed presented incomplete or inadequate information about the kinds of therapies covered, with half of the plans not listing any of the services they covered under their habilitation and rehabilitation benefits. Only 33% of the SBCs AOTA surveyed in 2014 made it clear

if a consumer would need to meet the deductible before coverage for rehabilitative and habilitative services would take effect. The revised SBC and instructions improve on the currently-applicable version in the following ways:

- The revised instructions for completing the SBC now require that physical therapy, occupational therapy and speech therapy – the therapies listed in the Uniform Glossary definitions of habilitation and rehabilitation services – must always be listed in the *Limitations, Exceptions, & Other Important Information* column for “Habilitation services” and “Rehabilitation services.”
- If there is a quantitative limit (e.g. number, of days, hours, or visits covered) on physical therapy, occupational therapy, and speech therapy, the revised instructions require that those limits must always be specified under *Limitations, Exclusions, & Other Important Information*. The sample completed SBC appears to have a joint limitation of habilitation and rehabilitation. The *2016 Notice of Benefit and Payment Parameters*¹ prohibited combined limits for habilitation and rehabilitation in 2017 and beyond. We recommend that the filled-out template be modified to convey these separate limits by listing them in separate rows.
- If a plan does not cover habilitative services, that information must be shown in the *Services Your Plan Generally Does Not Cover* box as well as in the Common Medical Events chart. Further, the revised instructions clarify that if a plan makes a participant or beneficiary pay 100 percent of a service like habilitation in network, then it should be considered an “excluded service” and listed under *Services Your Plan Generally Does Not Cover*.
- The revised SBC template has features that help clarify the applicability of the deductible: the new *Important Question*: “Are there services covered before you meet your deductible?,” and the text bar above the Common Medical Events chart stating that all cost sharing amounts in the chart are after the deductible has been met.

We recommend that “Habilitation services” and “Rehabilitation services” in the Common Medical Events chart should be renamed “Habilitative services and devices” and “Rehabilitative services and devices.” This would be consistent with the words describing the EHB category in Section 1302 of the Affordable Care Act, and with the definition of habilitative services and devices in the *2016 Notice of Benefit and Payment Parameters* final rule.

Uniform Glossary of Coverage and Medical Terms

AOTA supports the inclusion of the NAIC-developed definitions of “Habilitation Services” and “Rehabilitation Services,” which are unchanged from the currently

¹ 80 Fed. Reg. 10871 (February 27, 2015) (45 CFR §156.115(a)(5)).

applicable version of the glossary. However, we recommend changing these terms to “Habilitative Services and Devices” and “Rehabilitative Services and Devices” and adding “and devices” after “Health care services” in each definition to be consistent with the statutory language in the Affordable Care Act and the definition of habilitation in the *2016 Notice of Benefit and Payment Parameters*.

The new Uniform Glossary makes a small change to the definition of “Medically Necessary” to include mention of habilitation. We support this addition because it will signal to consumers and issuers that habilitation is a recognized category of health care services.

We recommend the addition of a few words to the definition of “Home Health Care” to avoid patient and caregiver confusion about the kinds of services covered (underlined text is proposed new text): “Home health care usually does not include help with non-medical tasks, such as cooking, cleaning or driving for you.” Occupational therapists deliver skilled, medically necessary services to assist patients to develop, enhance or maintain activities of daily living like learning how to cook a warm meal, bathe for themselves, or drive independently.

Intended Implementation Date for the New Template and Associated Documents

The Departments’ March 11, 2016 “FAQ About Affordable Care Act Implementation (Part 30)” states that plans and issuers that do not use an open enrollment period will not have to use the new SBC until the first day of the new plan or policy year that begins after April 1, 2017 – meaning that most consumers wouldn’t have access to the improved SBC and glossary until 2018. AOTA urges the Departments to reconsider this timeline and work with issuers so that consumers can realize the benefits of this important document earlier.

Thank you for considering AOTA’s comments. Should you have any questions, please contact Laura Hooper at lhooper@aota.org or (240) 752-1168.

Sincerely,

A handwritten signature in cursive script that reads "Laura Hooper".

Laura Hooper
Manager, Health Policy

Cc: U.S. Department of Labor – OASAM, Office of the Chief Information Officer,
Attn: Departmental Information Compliance Management Program