COMPARISON CHART
Comments on Summary of Benefits and Coverage Template

OVERARCHING COMMENTS:

Consumer Representatives:

First, more consumers would use the SBC if it were professionally designed to be more appealing and easy to use. We recommend that the NAIC, drawing on its experience with designing consumer disclosures, consider commissioning a redesign, or, failing that, urge the relevant federal agencies (the Centers for Medicare & Medicaid Services and the Department of Labor) to take on this task. Approximately 190 million consumers with private insurance coverage could potentially benefit from this form, so a modest investment in usability is surely merited. A professional redesign will be most successful if the key informational elements are retained but the designers are given significant latitude to rearrange them.

We also recommend consumer testing of the proposed changes to ensure both the content and the design are effective and helpful to the people who will use the SBCs. Testing should also examine the impact of modifications that were made to the template after the last round of consumer testing (such as the removal of a premium row on page 1 and the removal of the breast cancer coverage example). The testing should be done early enough that it does not delay needed revisions to the form. Further, it should be done by an experienced, independent third party. We recommend that the NAIC commission the testing itself, or, failing that, we urge that CMS and DOL take on this task.
We also recommend that a schedule be created for SBC revisions over time so that all stakeholders know what to expect. For example, we could plan to reconvene to revise every 2 or 3 years, using evidence to drive revisions.

We want to be clear that a number of improvements should be made to the SBC in time for the 2017 plan year, even if, for some reason, there is a delay in consumer testing or a limit to the elements of the template that can be tested. Similarly, we do not think changes to the SBC should be delayed if the professional redesign we recommend cannot be done in the near term. The breadth of experience and variety of perspectives found among the members of this Subgroup will generate important improvements to the SBC, even if it turns out that not every element can be formally tested or cannot be tested in the short timeframe that is available.

America's Health Insurance Plans—AHIP

The Subgroup should establish and announce the criteria by which it will adopt its recommendations. There are diverse, and sometimes conflicting, interests and views represented by the Subgroup's members; this is also one of its great strengths. Given the requirements of the federal SBC law and current regulations, and in light of the previous work of the Subgroup, we would suggest that the Subgroup discuss how it will adopt its recommendations. We are not suggesting one method of decision making be adopted over another method, nor are we advocating

for a specific decision making technique, only that the Subgroup discuss the nature of the work they are undertaking and the need agree upon a method for making decisions.

The Subgroup should reference its work against the proposed rules and not against the current SBC and Uniform Glossary templates. Inasmuch as the Departments have already published their intent to amend the current federal SBC and Uniform Glossary templates, which amendments will take effect unless altered by the Departments through their rulemaking process, AHIP believes it is incumbent upon the Subgroup to focus its review and comments first upon the proposed rules, including their templates, and only thereafter focus upon the current templates. The Departments have proposed significant changes to the current rules and their templates and the Subgroup should focus its work on those changes and the Departments' reasoning for those changes. In addition, by focusing on the proposed changes, the Subgroup will also address non-template specific changes that may impact the templates and their use.

The Subgroup should endeavor to elicit information on how consumers use or don't use the current SBC forms, so the Subgroup can base its decisions on evidence and not on opinions, however well intentioned, and regardless of the source - regulator, industry, consumer or other vested party. While we recognize that the current templates have been the subject of consumer testing, including testing done as part of the initial Subgroup's work, and that such testing has shown that some consumers found the templates useful; we believe the Subgroup should learn how consumers actually shop for coverage and how consumers select one coverage option over another. If, as some research indicates, they do so based upon coverage examples as indications of what a particular coverage will pay or reimburse for a medical condition, this too should be learned as consumers may be making uniformed selections. While it appears that the Subgroup will not have time to do consumer surveys and interviews, there may be other avenues to gain this knowledge.

The Subgroup should conduct a review of the SBC template to determine if the template is too product focused thereby limiting its ability to provide simple and clear information to consumers. The SBC is not designed to be a comprehensive outline of coverage, but rather a summary to assist consumers, particularly when consumers are comparing policies in anticipation of direct purchase or other election through employment. We would encourage the Subgroup to focus on the information that consumers need to undertake those tasks to ensure that and new SBC templates achieve those ends. For example, the SBC template is designed to portray a two tiered Preferred Provider Product. While currently a commonplace product, that format presents considerable challenges to the presentation of three tiered Point of Service Products, to multiple tiered Preferred Provider Products, not to mention products with medical homes. Complexity of product presentation is an important issue for consideration, especially in light of the proposed withdrawal of the enforcement safe harbor for SBCs that exceed eight (8) sides in length.

The Subgroup needs to be an advocate for innovation and improvement. The Subgroup should champion innovation and competition and not champion straightjacket disclosures in the name of consumerism. Innovation and competition are essential foundational elements of the Accountable Care Act and the Subgroup should champion SBC and Uniform Glossary rules templates that support these principles and can accommodate these principles either directly or through permanent safe harbors.

The Subgroup needs to be an advocate for reasonable regulatory processes. A significant part of the Departments' proposed rules address processes and procedures that the Subgroup, as insurance experts and as state regulators should review and expound upon. The history of past and present Department regulatory proposals evidences this need for the sharing of state expertise.

Blue Cross Blue Shield Association—BCBSA

Now, with the Federal Agencies providing an opportunity for the NAIC to review and comment on changes to the SBC, BCBSA believes it is appropriate for the Subgroup to focus on the template contemplated by the Federal Agencies in the Proposed Rule (79 Fed. Reg. 78578, Dec. 30, 2014). This should be the starting point for discussion, for comments, and perhaps for consumer testing. We do not advocate a return to the original SBC, as the Federal Agencies appear inclined to move to a new template.

The Subgroup may want to begin a preliminary discussion aimed at seeking possible agreement on changes to the revised template as suggested in the Proposed Rule. Stakeholders, in their most recent comment letters to the Federal Agencies, addressed the Proposed Rule. We believe the contents of both the SBC template and Glossary should better reflect the actual needs of the consumer, so we encourage the Subgroup to work on and make recommendations on the revised template and Glossary.

Once the Subgroup has agreed upon changes to the new proposed template, we believe the revised version should undergo consumer testing (it is probably not going to be possible to test several versions of the SBC because of time and cost factors). We would also encourage consumer testing of the coverage examples included now in the SBC. As there are time pressures on both health insurers to produce revised documents and state insurance departments to review revised documents, we believe the NAIC should strive to send final recommendations to the Federal Agencies by late summer.

BCBSA submitted a detailed comment letter on the proposed Federal Rule, as well as a comment letter addressing the Paperwork Reduction Act (PRA) and the continued use of the current SBC and Glossary. We have attached copies. We welcome an opportunity to discuss with the Subgroup our detailed recommendations to the Federal Agencies, which we also hope will assist with the Subgroup's work.

In addition, we note that over the past several years, BCBSA and Blue Plans have expressed concerns to the Federal Agencies that the initial SBC was too long, frequently was incomplete as to exclusions and limitations, and, in the interest of providing a standard product, offered little or no flexibility for health insurance issuers/health plans. We remain concerned that consumers do not understand the inherent limitations of the SBC or the purpose behind it.