



Medicare Part D - Creditable Coverage Disclosure Notice to Individuals

This Legislative Brief discusses the requirement for employers to send Creditable Coverage Disclosure Notices to individuals each year by October 14th and at additional specified times during the plan year.

All employers that provide prescription drug coverage to individuals who are eligible for Medicare Part D are required to notify those individuals whether or not the coverage that is provided is creditable, as part of the Medicare Part D creditable coverage requirements. Notices must be provided to Medicare-eligible active working individuals and their dependents, Medicare-eligible COBRA individuals and their dependents, Medicare-eligible disabled individuals covered under the prescription drug plan, and any retirees and their dependents who are covered under the plan. Employer groups required to supply the notices to their participants include, but are not limited to, private employers, federal, state, county, and local governments, collectively bargained plans, and church plans.

When Are the Notices Due?

These notices must be provided:

- annually by October 14th, prior to the October 15th to December 7th election period for Medicare Part D;
- prior to an individual's initial enrollment period for Medicare Part D (the employer is considered compliant if a notice is sent to all plan participants annually);
- prior to the effective date of coverage for any Medicare Part D eligible individual who enrolls in the employer's prescription drug coverage;
- if the employer no longer offers prescription drug coverage or changes it so it is no longer or becomes creditable; and
- upon request by any Medicare Part D-eligible individual.

What is Creditable Coverage?

Creditable means the coverage is expected to pay on average as much as the standard Medicare prescription drug coverage. Medicare-eligible individuals need to know if their employer plan is creditable so they can decide whether to enroll in a Medicare Part D prescription drug plan.

Any employer that does not qualify for the safe harbor benefit design must determine whether their plan is at least as good as the Medicare prescription drug plan. Employers may want to have an actuary make this determination to ensure that it is accurate.

CMS has not issued guidance on how this earlier disclosure requirement should be applied if the employer has not yet determined what prescription drug coverage it will offer in 2013. Brown & Brown Consulting recommends that employers use their current prescription drug coverage for the credibility test and then issue a new notice if the creditability changes for the new plan year. Brown & Brown Consulting will provide additional information when guidance is issued.

Model Notices

The two notices used for Medicare Part D disclosure to individuals are the:

- Creditable Coverage Disclosure Notice; and
- Non-Creditable Coverage Disclosure Notice.

Model language for these notices is available at the Centers for Medicare & Medicaid Services (CMS) website at

<http://www.cms.gov/Medicare/Prescription-Drug-Coverage/CreditableCoverage/Model-Notice-Letters.html> .

Each notice has a space for the employer to explain the plan's prescription coverage provisions and the options available to the individual when they become eligible for Medicare Part D (will the plan coordinate with Medicare Part D or will it end if they elect Medicare Part D).

How Must the Notices be Delivered?

Delivery of the notice can be made on a stand-alone basis or combined with other documents. However, if combined, the notice must be prominent and conspicuous in at least 14-point font and placed in a separate box. A single notice can be mailed to the employee and dependents unless the employer is aware that the spouse or dependent is Medicare Part D eligible and resides at a different address. First class mail is preferable and the employer should document when the notice is mailed, where it is mailed, and to whom it is mailed. Electronic mailings can be made only to plan participants who have the ability to access the plan sponsor's electronic information system on a daily basis as part of their work duties. If sent electronically, the employer must inform plan participants that they are responsible for providing a copy to their Medicare-eligible dependents covered under the group health plan. The employer also must post a copy on the company's website.

Reminder: Employers must file a Creditable Coverage Disclosure Notice with the Department of Health and Human Services within 60 days of the beginning date of the Plan Year, or within 30 days of a change or termination of the Prescription Drug Plan.

If you have any questions about the Creditable Coverage Disclosure Notice requirements or how they apply to your health plans, please contact your Account Manager.

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