

Benefit Brief



SUBJECT: Medicare Part D - Creditable Coverage Disclosure Notice to Individuals

DATE: October 20, 2009

This Benefit Brief discusses the requirement for employers to send Creditable Coverage Disclosure Notices to individuals annually prior to November 15th 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. Eligible individuals include those entitled to Medicare Part A or enrolled in Medicare Part B and could be an active employee, disabled employee, COBRA beneficiary, retiree, or covered spouse or dependent. Employer groups required to supply the notices to their participants include, but are not limited to, federal, state, county, and local government, collectively bargained plans, and church plans.

When Are the Notices Due?

These notices must be provided:

- annually, prior to the November 15th to December 31st 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 that 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 actuarial value of the coverage equals or exceeds that of standard Medicare Part D. A prescription drug plan is creditable if it:

- provides coverage for brand and generic prescriptions;
- provides reasonable access to retail providers;
- is designed to pay on average at least 60% of participants' prescription drug expenses; and
- satisfies at least one of the following:
 - the prescription drug coverage has no annual benefit maximum or a maximum annual benefit payable by the plan of at least \$25,000;
 - the prescription drug coverage has an actuarial expectation that the amount payable by the plan will be at least \$2,000 annually per Medicare-eligible individual; or
 - for employers with integrated health coverage, the plan has a deductible of no more than \$250 per year, has no annual benefit maximum or a maximum annual benefit payable of at least \$25,000, and has no less than a \$1,000,000 lifetime combined benefit maximum.

Sample 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 www.cms.hhs.gov/CreditableCoverage/08_CAfterJanuary1.asp#TopOfPage. The Personalized Disclosure Notice was eliminated this year. An optional insert is included at the bottom of the Creditable and Non-Creditable Coverage Disclosure Notices for this information, if an individual needs proof of coverage for Medicare.

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. For example, 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. More information on this filing will be provided in our January 2010 Benefit Brief.

If you have any questions about the Creditable Coverage Disclosure Notice requirements or how they apply to your health plans, please contact Danielle Omans at The Benecon Group at domans@benecon.com or the number shown below.

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