

Legislative Update

Employee Benefits



Services offered through Mesirow Insurance Services, Inc.

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Medicare Part D Notice to Employees Due November 15 Annually

Are You Ready?

The Medicare Prescription Drug Improvement and Modernization Act of 2003 (MMA) requires that all group health plans providing prescription drug coverage to Medicare Part D eligible individuals must notify those individuals of the creditable/non-creditable status of its prescription drug plan(s). Disclosure of this status provides Medicare beneficiaries with important information that could have a lasting impact on their Medicare Part D enrollment: beneficiaries who are not covered by a creditable prescription drug plan and who choose not to enroll before the end of their initial enrollment period for Part D may end up *paying a higher premium on a permanent basis* if they subsequently enroll in a Part D drug plan.

When Must a Disclosure Notice Be Provided?

Disclosure of creditable/non-creditable status must be made at least at the times described below:

1. Prior to the Medicare Part D Annual Coordinated Election Period (ACEP) – **beginning November 15 through December 31 of each year**
2. Prior to an individual's Initial Enrollment Period (IEP) for Medicare Part D
3. Prior to the effective date of coverage for any Medicare eligible individual who joins the plan
4. Whenever the entity no longer offers prescription drug coverage, or changes

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the coverage offered so that it either is no longer creditable or becomes creditable

5. Upon request by the individual

Who Must Receive a Disclosure Notice?

The Disclosure Notice must be provided to Medicare beneficiaries who are active employees, disabled, on COBRA, and are retired, as well as Medicare beneficiaries who are covered as spouses or dependents (including those spouses or dependents who may be disabled or on COBRA) under active employee coverage and retiree coverage. Since it may not be possible to determine which individuals on your plan are Medicare Part D eligible, you may wish to consider providing notice to all participants on these plans.

Although the plan sponsor is ultimately responsible for providing the Disclosure Notice, nothing in the regulation would prevent it being provided by a third party.

Sample notices meeting MMA requirements are available through the Centers for Medicare and Medicaid Services (CMS) at:
<http://tinyurl.com/33nbgys>

Complete the appropriate form and

distribute it to employees.

For creditable plans, choose "Model Individual Creditable Coverage Disclosure Notice." For non-creditable plans, choose "Model Individual Non-Creditable Coverage Disclosure Notice."

Is Your Plan Creditable?

On September 15, 2006, CMS released the Creditable Coverage Simplified Determination. For most drug card/copyay prescription plans, the plan is creditable if:

- it covers BOTH brand and generic prescriptions;
- it provides reasonable access to retail providers (mail order is optional);
- on average, the plan pays at least 60% of the covered person's prescription drug expenses; and
- satisfies at least one of the following:
 - a. The prescription drug coverage has no annual benefit maximum or a maximum annual benefit payable by the plan of at least \$25,000

- b. 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
- c. For entities that have integrated health coverage, the integrated health plan has no more than a \$250 deductible per year, has no annual benefit maximum or a maximum annual benefit payable by the plan of at least \$25,000, and has no less than a \$1,000,000 lifetime combined benefit maximum.

Do You Have An Integrated Plan?

However, if your prescription drug plan is bundled with medical coverage such that medical and prescription benefits share:

- a. a combined plan year deductible, and
- b. a combined annual benefit maximum, and
- c. a combined lifetime benefit maximum, then your plan is an "integrated plan."

Please note that the plan must meet ALL criteria a, b and c to be considered integrated (many plans may not have criteria "b", in which case the plan is NOT considered integrated).

If your prescription drug plan meets the criteria of an integrated plan, then it must satisfy ALL of the following criteria to be considered creditable:

1. It covers both brand and generic prescriptions
2. It provides reasonable access to retail providers (mail order is optional)
3. On average, the plan pays at least 60% of the covered person's prescription drug expenses, and
- 4a. The health plan does not have an annual deductible of more than \$250, and
- 4b. There is no annual maximum OR the annual payable maximum is at least \$25,000, and
- 4c. The combined lifetime maximum is not less than \$1,000,000

Other Notice Requirements

Group health plans providing prescription drug coverage to Medicare Part D eligible individuals must also provide notice of creditable/non-creditable status to CMS.

Employers must provide notice within 60 days of their plan anniversary date (this requirement is in addition to the annual employee notification).

For more information on this notice requirement, see our Legislative Update: Medicare Part D Notice of Creditable Coverage Requirements, dated October 27, 2010, visit the Centers for Medicare and Medicaid Services at: <https://www.cms.gov/CreditableCoverage> or contact your Mesirow Financial representative.

This article is intended as an overview and should not be viewed as comprehensive or as legal or tax advice. Please contact the CMS and/or consult with your legal or tax professional if you have any questions.