

Medicare Part D – Updated Guidance on Disclosure Notices

In February 2007, the Centers for Medicare & Medicaid Services (CMS) posted updated guidance related to disclosure notices for Part D eligible individuals, including revised model creditable, non-creditable, and personalized disclosure notices. The update incorporates most of the September 2006 proposed changes to the guidance and model notices that were published in May 2006. The February 2007 guidance supersedes that of May 2006 and is intended for use after February 15, 2007.

The new guidance incorporates few substantive changes to earlier proposed guidance. CMS did, however, expand its discussion of the form and manner in which entities must provide disclosure notices to Part D eligible individuals. Specifically, the September 2006 guidance had indicated that an entity could provide a disclosure notice electronically only if the Part D eligible individual had indicated that he or she had adequate access to electronic information. Under the new guidance, CMS now states that group health plan sponsors can also use the electronic disclosure provisions under Department of Labor (DOL) Reg. Section 2520.104b-1(c). According to CMS, these requirements allow group health plan sponsors to provide a creditable coverage disclosure notice electronically 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. CMS has cautioned that if a plan sponsor gives the notice under the DOL provisions, the plan sponsor must also inform plan participants that the participants are responsible for providing a copy of the electronic disclosure to their Medicare eligible dependents who are covered under the group health plan.

The new February 2007 guidelines will require that many employers using model disclosures to replace them with updated versions. Employers who use customized disclosures should review the new required content and update forms accordingly.

If you would like further information about creditable coverage, including model/sample disclosure notices, please visit the CMS Web site:

http://www.cms.hhs.gov/CreditableCoverage/10_CCafterFeb15.asp#TopOfPage

For a list of preferred terminology, visit:

<http://cms/hhs.gov/partnerships/downloads/preferredterms.pdf>.

Sources: *Employee Benefits Institute of America, Inc. (EBIA)*
Centers for Medicare & Medicaid Services (CMS)

This article is intended as an overview and should not be viewed as legal advice. Please consult with your attorney if you have any questions regarding the legislation.

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