

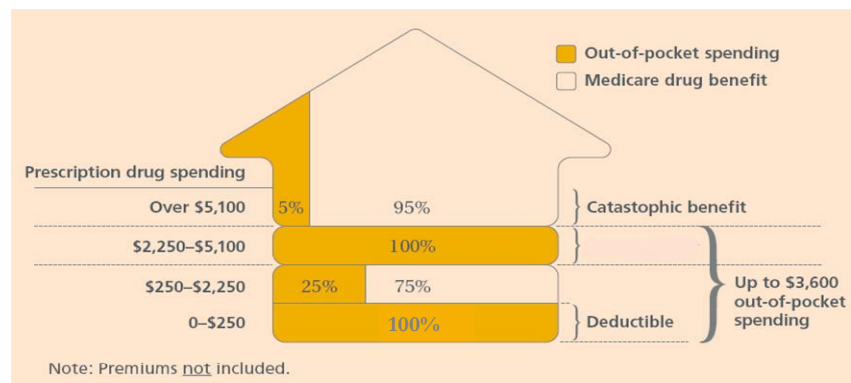
As compliance deadlines are fast approaching for Medicare Part D, Kibble & Prentice prepared this follow-up to our earlier article on Medicare Part D included in the summer 2005 K&P Benefits Insider. The information below provides an overview of Medicare Part D, as well as detailed information regarding employer/ plan sponsor obligations under the regulations.

Medicare Part D - Overview

Medicare Part D, as created by the Medicare Prescription Drug Improvement and Modernization Act of 2003, establishes a prescription drug program for Medicare eligible individuals effective January 1, 2006. These plans are voluntary. Insurance companies and Pharmacy Benefit Managers (PBM) are developing Part D plans, which will be marketed to eligible individuals beginning October 1, 2005.

Open enrollment for Medicare Part D begins November 15, 2005. This year the open enrollment period extends from November 15 through May 15, 2006. Late enrollees are subject to a higher premium penalty. Eligible individuals choosing to enroll in the plan pay a monthly premium to access coverage. Once covered, and after satisfaction of applicable deductibles, the plan allows participants to pay a percentage of the cost for prescription drugs. The basic plan design is illustrated below:

The “Standard” Plan in 2006



Medicare Prescription Drug Coverage



The above plan design sets the minimum standard for coverage that will be deemed “credible” to satisfy Medicare Part D obligations. See the Determination of Creditability section below for further details.

Plan Sponsor Obligations

Plan sponsors of both Active Employee and Retiree plans must disclose (prior to November 15th) whether the prescription drug coverage is credible or not credible to all Medicare eligible employees, spouses, dependents and retirees (if applicable). Most insurance companies and PBM's will be providing disclosure notices directly to the participants under the plan. However, plan sponsors should also send a disclosure notification to all eligible participants under the group benefit plans to ensure proper notification and compliance with the regulations. The purpose of sending the notification to all participants (and not just the Medicare eligible participants) is to limit the potential for missing any unknown Medicare eligible individuals. A plan sponsor may send a single disclosure notice to cover all participants in the same household (i.e. employee, spouse, dependents). However, if the plan sponsor knows an eligible participant other than the subscriber (i.e. a spouse or dependent) resides at a different address than the covered party, then the plan sponsor should send the disclosure notification to the alternative address. CMS provides a "safe harbor" letter that will meet the disclosure requirements. A link to this letter is included below.

The disclosure notification may be included in open enrollment information with other annual notifications (provided it coincides with the below timing requirements). However, the disclosure notification must be prominent and conspicuous.

Timing Requirements

Creditable coverage disclosure must be made at a minimum, at the following times:

1. Prior to the Medicare Part D Annual Coordinated Election Period (ACEP) beginning November 15th through December 31st of each year;
2. Prior to an individual's Initial Enrollment Period (IEP) for Part D;
3. Prior to the effective date of coverage for any Medicare eligible individual that joins the plan;
4. Whenever prescription drug coverage ends or changes so that it is no longer creditable or becomes creditable; and
5. Upon a beneficiary's request.

Plan sponsors are also required to provide the Center for Medicare and Medicaid Services (CMS) with an annual notice regarding the creditability of their coverage.

Determination of Creditability

A prescription drug plan is deemed credible if it:

1. Provides prescription drug coverage equal to or greater than the Federal government's plan. (An actuary attestation is not required to make this determination.)
2. Provides coverage for both brand name and generic prescription drugs;
3. Provides reasonable access to retail providers, and, if applicable, mail order coverage;

4. The plan is designed to pay on average at least 60% of the participants prescription drug expense; and
5. It 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, or
 - b. The prescription drug coverage has an actuarial expectation that the amount payable by the plan will be at least \$2,000 per Medicare eligible individual in 2006, or
 - c. For entities with integrated health coverage, the integrated plan has no more than a \$250 a year deductible has no annual benefit maximum or a maximum annual benefit payable by the plan of at least \$25,000 and has no less than \$1,000,000 lifetime combined benefit maximum.

If coverage is not credible (it does not meet the above guidelines), then a plan sponsor is obligated to disclose non-credibility of the plan to the Medicare eligible participants.

Retiree Benefits Subsidy

To encourage employer sponsored retiree coverage, the Federal government is offering a subsidy equal to 28% of the prescription drug cost provided to retirees. Plan sponsors offering a benefit plan to age 65+ retirees may be able to take advantage of these government dollars. In order to receive the subsidy, plan sponsors must complete the following steps:

1. Submit an application by September 30, 2005 (there is a 30-day extension available);
2. Attach an actuary attestation of credible coverage;
3. Certify that credible coverage status has or will be disclosed to plan participants and CMS;
4. Electronically submit and update enrollment information about retirees and dependents to CMS; and
5. Electronically submit data about drug costs to CMS.

This subsidy does not apply to plan sponsors offering coverage to active employees only.

Action Items

1. Determine whether current prescription drug coverage is credible or not credible.
2. Send disclosure notice to all participants under the plan (Active employee plans and Retiree plans) as to whether coverage is credible or not credible.
 - i. "Safe Harbor" Disclosure Notices for both Credible and Non-Credible coverage are located at: <http://www.cms.hhs.gov/medicarerereform/CCguidances.asp>
 - ii. Samples of the disclosure notices are included with this information
3. For Retiree Benefit Plans only, apply for Federal subsidy.

Important Dates

September 30, 2005: Submit application for retiree subsidy (retiree benefit plans only)

October 1, 2005: Direct marketing of Medicare Part D plans to Medicare eligible beneficiaries

November 15, 2005: Deadline for Credible Coverage Notification

November 15, 2005: Open enrollment for Medicare Part D

January 1, 2006: Medicare Part D Effective Date