

Medicare Part D Guidance Notifications

The Centers for Medicare & Medicaid Services (CMS) recently released follow-up guidance and new model creditable/non-creditable Medicare Part D notifications. The current model notices expire on May 15, 2006. The new notices and guidance are effective May 16, 2006. The following highlights provisions of the new guidance and serves as a reminder of plan sponsor obligations with respect to participant disclosure notifications. The guidance and model notices can be found online at: www.cms.hhs.gov/CreditableCoverage/02_CCafterMay15.asp#TopOfPage. For your convenience the new notices and guidance are attached to this email.

What's New

Updated Model Notices: The creditable and non-creditable coverage model notices have been updated with a few non-substantive changes.

Personalized Notices: Many Medicare eligible beneficiaries requested a personalized creditable coverage notice from their employer to use when signing up for Medicare Part D. The new guidance provides a model "personalized" notice that may be used to comply with the notification requirement. This notice is individual specific and can be used by the employer upon request or in lieu of the "standard" model notice. The personalized model notice contains the following additional information:

- a. Beneficiaries name (first and last);
- b. Beneficiaries social security number or health insurance number;
- c. Entity's(employer/plan sponsor) name and contact information;
- d. Statement of creditability/non-credibility of coverage; and
- e. Date range of creditable coverage.

If a Medicare eligible beneficiary requests a personalized notice, the employer should comply with the request. The personalized notice was created to give employers a way to satisfy employee requests and maintain compliance with the language requirements of the disclosure notification.

COBRA: The guidance clarifies that COBRA qualified beneficiaries need to receive a creditable/non-creditable coverage disclosure letter. This was communicated by Kibble & Prentice in the past; the recent guidance confirms this recommendation.

When to Send Disclosure Notification

As a reminder there are five times that a notice of creditable coverage (non-creditable coverage) needs to be furnished:

1. Prior to the Annual Coordination Election period (open enrollment for Medicare part D) November 15, 2006;
2. Prior to an individual's Initial Enrollment Period (IEP) for part D, as described under 423.38(a);
3. Prior to the effective date of coverage for a Medicare eligible individual entering a group health plan;
4. When the employer no longer offers or the employer changes prescription drug coverage so that it is no longer creditable or that it becomes creditable; and
5. Upon request by the beneficiary.

If creditable coverage notification is provided to all plan participants annually, then CMS considers 1 & 2 above met. CMS commented that the term "prior to" means within the last 12 months. This means if the plan sponsor notified all plan participants in January 2006 of the creditability of prescription drug coverage for the January 1- December 31, 2006 plan year (and properly notified new hires and made no plan changes that would affect credibility mid-year) then the plan sponsor likely satisfied the notice requirement that needs to occur before the open enrollment period starting November 15, 2006. Plan sponsors should ensure every Medicare eligible individuals was properly notified (no one was "missed"). If an employer is unsure, unclear or wants to operate conservatively, an employer can send an all encompassing mailing prior to November 15, 2006.

Responsibility for the Notice

The employer/plan sponsor is ultimately responsible for providing the disclosure notification to Medicare eligible plan participants. Insurance providers may or may not send a creditable coverage notification. Plan sponsors need to be sure that Medicare eligible participants receive the notice in accordance with the above timelines.

Who Receives the Notice?

While the regulations only require that Medicare eligible participants receive the disclosure notification, Kibble & Prentice continues to recommend that the plan sponsor distribute the notice to all eligible participants. This is because the employer may not know whether an employee, spouse or dependent is Medicare eligible. By sending a blanket mailing employers are protected against missing an eligible individual.

Including the Notice w/ Open Enrollment Materials

If the notice is included with open enrollment materials, then the disclosure notice must be “prominent and conspicuous.” CMS provided clarification that the disclosure notice must be prominently referenced in 14 point font in a separate box, bolded or offset on the first page of the provided plan information.

If you have additional questions regarding Medicare Part D please contact Alicia M. Scalzo, J.D. (Alicia.Scalzo@kpcom.com 206-676-7474) or your Account Manager at Kibble & Prentice.