

Medicare Part D Notice of Creditable Coverage September 2017

The **Medicare Part D** program provides access to prescription drug coverage to eligible individuals who are enrolled in Medicare. As part of this program, Plan Sponsors (including employers who offer an employer-sponsored health plan that includes prescription drug coverage) are required **on an annual basis** to provide a disclosure notice to all Medicare eligible individuals who are covered under, or who apply for, the group's medical plan. This disclosure notice must contain information regarding the "credibility" of the employer-sponsored prescription drug coverage. The notice is required by the Centers for Medicare and Medicaid Services (CMS).

What are the employer requirements?

If you are an employer that provides prescription drug coverage to employees, their dependents and retirees as part of your employer-sponsored health insurance plan, you need to do the following:

1. **Notify all of your Medicare-eligible employees, dependents and retirees of their options with regard to Medicare Part D prescription drug coverage.** There are separate notifications required depending upon whether your prescription drug coverage is creditable or non-creditable. Samples of both notices are attached to this overview.

Note: Since it is difficult to know for sure who among your employees, their dependents and retirees who may be Medicare-eligible, we recommend sending this notice to all employees and retirees that are eligible for your group medical plans.

This notice must be sent before **October 15, 2017**, in order to satisfy the annual notice requirement. As plan sponsors, employers are also required to provide this notice before the effective date of coverage for any newly eligible individual who joins the employer's group health plan; upon request by any employee or dependent; when a change in the employer-sponsored prescription drug coverage affects the creditability of that coverage; or if the employer-sponsored plan ends.

2. **In addition, as a plan sponsor, you are required on an annual basis to complete an online Disclosure to CMS Form.** Completion of this form is mandatory for all plan sponsors, and must be completed within 60 days after the first day of the Plan year. A Disclosure to CMS Form must also be completed whenever there is a change to the prescription drug coverage that will affect whether or not the coverage is creditable; and in the event the plan is terminated.

What is "creditable coverage"?

In order for employer-sponsored prescription drug coverage to be considered creditable coverage, it must meet the following criteria:

- 1) Provides coverage for brand and generic prescriptions;
- 2) Provides reasonable access to retail providers;

- 3) The plan is designed to pay on average at least 60% of participants' prescription drug expenses; and
- 4) Satisfies at least one of the following:
 - a) The prescription drug coverage has no annual benefit maximum benefit or a maximum annual benefit payable by the plan of at least \$25,000; or
 - b) The prescription drug coverage has an expectation that the amount payable by the plan will be at least \$2,000 annually per Medicare individual.

See the CMS website at the following link for full details on determining whether coverage meets the full criteria.

<https://www.cms.gov/Medicare/Prescription-Drug-Coverage/CreditableCoverage/Downloads/CCSimplified091809.pdf>

Why is this notice required?

Individuals who are eligible for the Medicare Part D prescription drug benefit must enroll during certain specified times in order to avoid a penalty. For example, once an individual turns age 65 and becomes entitled to Medicare Part A and/or covered under Medicare Part B, he/she is eligible at that time to enroll in Medicare Part D for prescription drugs. If he/she does not enroll in the Medicare Part D coverage when first eligible, he/she will be required to wait until the next annual Medicare Part D election period, which begins on October 15 of each year. However, by waiting until the next Medicare Part D enrollment period, that person will incur a penalty (except as noted below) on the Medicare part D premium payment of 1% for each month that coverage was delayed.

There is one exception to this rule. If an individual does not enroll in Medicare Part D when first becoming eligible for the coverage because he/she has creditable prescription drug coverage through an employer-sponsored group health plan, he/she will not incur a premium penalty when choosing to enroll in Medicare Part D at a later date – as long as there is a break of no more than 63 days between the date creditable coverage ends and Medicare Part D coverage begins.

Thus, it is important for employees and retirees to know whether your employer-sponsored prescription drug coverage is considered creditable coverage – and it is mandatory for you, as a plan sponsor, to inform your employees and their covered dependents of that fact.

What do you need to do now?

1. **Determine whether or not your employer-sponsored prescription drug coverage is meets the creditable coverage guidelines.** For more information on how to make this determination, you may wish to review the CMS website below. <https://www.cms.gov/Medicare/Prescription-Drug-Coverage/CreditableCoverage/index.html>
2. **Provide all employees (and their dependents) and retirees with the appropriate Medicare Part D notice** – either the Disclosure Notice of Creditable Prescription Drug Coverage, or the Disclosure

Notice of Non-Creditable Prescription Drug Coverage. **This notice must be sent before October 15, 2017.** A copy of each of these Notices is attached to this overview. Please note that, as the Plan Sponsor, you should insert information applicable to your plan in the highlighted areas throughout the letters. You may also find Model Notices, as well as further guidance from Medicare, on the CMS website below.

<https://www.cms.gov/Medicare/Prescription-Drug-Coverage/CreditableCoverage/Model-Notice-Letters.html>

Note: *The Model Notices have not changed from last year.*

- 3. Complete an online Disclosure to CMS Form.** This Form may be accessed at the CMS website at link below. **This online Disclosure Form must be completed within 60 days after the beginning of your Plan year (i.e., your Plan renewal date).**

<https://www.cms.gov/Medicare/Prescription-Drug-Coverage/CreditableCoverage/CCDisclosureForm.html>

If you have any questions about this process, please do not hesitate to contact your Account Manager at EBS.

Please note that EBS is sharing this information to assist you with your compliance planning. We recommend that you contact your legal counsel with specific questions relating to this law, and how it might affect individuals covered under your plan.

Attachments:

Disclosure Notice of Creditable Coverage 2011

Disclosure Notice of Non-Creditable Coverage 2011

September 2017