



Benefit Trends

JENKINS
INSURANCE GROUP

Commitment.
To you, your people, your enterprise.

Employers Must Disclose Medicare Part D Creditable Coverage Status to CMS by March 1, 2011

LEGISLATIVE BRIEF

February 24, 2011

The Medicare Modernization Act requires group health plan sponsors that offer prescription drug coverage to notify Medicare-eligible plan participants (employees and dependents) as to whether their prescription drug coverage is “creditable coverage” – which means the coverage is expected to pay on average at least as much as the standard Medicare Part D prescription drug coverage. Plan sponsors are also required to notify the Centers for Medicare and Medicaid Services (CMS) annually, via the CMS website. For calendar year plans, this notice must be provided to CMS no later than March 1, 2011. This Benefits Compliance bulletin explains this requirement and includes a link to the CMS website where such disclosure must be made.

Details on the Disclosure Requirements

Group health plan sponsors to whom this disclosure requirement applies include employers and Unions; multiple employer welfare arrangements (MEWAs); federal, state and local government employers; and churches. The two separate disclosure requirements are:

To Medicare-eligible participants

Before November 15th of each year, each plan sponsor must provide an annual written disclosure notice to all Medicare-eligible participants in the prescription drug plan. This notice also must be provided when a Medicare-eligible individual first joins the plan and at various other times specified in the regulations (The [CMS website](#) includes Model Disclosure Notices and Creditable Coverage Guidance). The notice must be provided not only to Medicare-eligible active working employees and their dependents, but also to participants who are retired, on COBRA, or disabled and covered under the employer’s prescription drug plan. Although the requirement is only that “Medicare-eligible” individuals be provided this notice, employers often provide it to all plan participants and dependents, because of the practical difficulty of knowing who is Medicare-eligible.

It is important that Medicare-eligible individuals receive this notice, so they do not unwittingly incur a late enrollment penalty. This penalty will be imposed if an individual, after becoming eligible for Medicare Part D coverage, has a lapse of prescription drug coverage for a period of at least 63 days. An individual can elect either Medicare prescription drug coverage or other “creditable coverage” to avoid having a lapse in coverage.

To CMS

Each year the plan sponsor also must complete the Online Disclosure to CMS Form, to report to CMS the creditable coverage status of the employer's prescription drug plan. This must be completed within 60 days after the beginning of the plan year. For calendar year plans, the due date is March 1. Additionally, if applicable, plan sponsors must complete the Online Disclosure to CMS Form within 30 days after termination of a prescription drug plan or within 30 days after any change in creditable coverage status. If the plan sponsor is receiving the Retiree Drug Subsidy (RDS) for some or all Medicare beneficiaries in the plan, this requirement does not apply for those individuals.

Action Steps for Plan Sponsors

Plan sponsors should click [here](#) to go to the Online Disclosure to CMS Form. (This is at https://www.cms.gov/CreditableCoverage/45_CCDisclosureForm.asp, in case you are viewing this in hard copy, rather than electronically.) Completing the online Form is fairly simple. Employers must input the Plan sponsor's name, Federal ID number, address, phone number, type of coverage (a drop-down box lists employer-sponsored GHP, Union GHP, government GHPs, church GHP, etc.), how many prescription drug options are offered under this coverage (e.g., if you offer both an HMO and a PPO, enter "2"), and whether all or some of the options are creditable or non-creditable. Be sure to obtain a submission confirmation (step #3).

For additional information, the main CMS webpage that provides guidance on "creditable coverage" requirements is: <http://www.cms.gov/CreditableCoverage/>

Copyright © 2011 Leavitt Benefits. All Rights Reserved. Reprint with permission only. This Benefits Compliance bulletin is general in nature and is not intended or provided as legal advice or opinion in any particular case. If you have questions, contact Lisa-Klinger@Leavitt.com.

IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any tax advice contained in this communication, unless expressly stated otherwise, was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matter(s) addressed herein.

JENKINS
INSURANCE GROUP