



Medicare Part D Annual Enrollment Period Changed to October 15th, Employers Must Send Notices Before October 15th

LEGISLATIVE BRIEF

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For 2011 and future years, the Medicare annual enrollment period for Part D (Prescription Drug coverage) will be October 15th - December 7th, so plan sponsors must provide Part D “creditable coverage” notices prior to October 15th of each year. Before 2011, the Medicare Part D annual enrollment period did not begin until November 15th. Most plan sponsors use the CMS Model Medicare Part D Notices of Creditable Coverage and Non-Creditable Coverage to notify affected plan participants. These Model notices have been amended to reflect the October 15th date. You can access them at the CMS website.

Background

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. These notices must be provided at least once annually, prior to the beginning of the Part D annual enrollment period, and also if the employer provided coverage changes or if the individual requests a copy of the notice. In prior years the Medicare annual enrollment period for Part D began November 15th, so plan sponsors were required to provide “creditable coverage” notices prior to November 15th of each year. The federal Health Care Reform Act (Affordable Care Act) changed the Medicare annual enrollment period to October 15th – December 7th, so plan sponsors must now provide creditable coverage notices prior to October 15th of each year. The Centers for Medicare and Medicaid Services (CMS) provide Model Medicare Part D Notices (available on the CMS website), which most employers use to notify Medicare-eligible plan participants. These Model notices have now been amended to reflect the October 15th date. (The amended Model Notices say “For use on or after April 1, 2011” in the heading.)

The reason plan sponsors are required to provide Part D Notices is because a penalty will be imposed if an individual, after becoming eligible for Medicare Part D coverage, has a lapse of “creditable” prescription drug coverage for a period of at least 63 days. Additionally, such individuals may have to wait until the following October to join. An individual can elect either Medicare prescription drug coverage or other “creditable coverage” to avoid having a lapse in

coverage. Thus, Medicare-eligible participants in employer group health plans must know whether or not the employer group coverage is “creditable” so they do not unwittingly incur a late enrollment penalty.

Additional 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 Part D 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.

Additionally, plan sponsors are required to notify CMS annually, via the CMS website. For calendar year plans, this notice must be provided to CMS no later than March 1st, for the prior calendar year plan year. See Leavitt’s February 18, 2011 Benefits Compliance Bulletin for additional information on this requirement.

Action Steps for Plan Sponsors

Plan sponsors who use the CMS Model Notices should use the recently-updated Model Notices available at the CMS website. Click [here](#).

You do not have to wait until October 15th to provide Part D Notices. You can provide them earlier in the year, such as at your plan’s Open Enrollment period.

If you provide prescription drug benefits through an insurance contract, you will also need input from your carrier as to whether or not your prescription drug coverage is creditable and to ensure that you correctly complete some of the information on your Part D Notice.

If you provide prescription drug benefits through a self-funded health plan, and you are an employer or union that is not applying for the retiree drug subsidy, you can use the “creditable coverage simplified determination” method annually to determine whether or not your prescription drug plan’s coverage is creditable. This is also on the CMS website. Click [here](#).

Contact your Jenkins benefits consultant if you want assistance with your Medicare Part D Notices.

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If you have questions, contact Lisa-Klinger@Leavitt.com.

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