

COMPLIANCE ALERT

Reminder: Medicare Part D Creditable Coverage Notice Deadline is October 14, 2018

September 19, 2018

Each year, employer group health plans, including prescription drug coverage, must provide a Medicare Part D creditable coverage notice to all Medicare eligible employees and dependents prior to October 15th. The purpose of this annual disclosure is to inform Medicare beneficiaries whether or not their employer's prescription drug coverage is comparable to Medicare's prescription drug coverage and help them decide whether to enroll in Medicare Part D. For 2019, the annual Medicare Part D enrollment period will begin on October 15, 2018 and end on December 7, 2018.

Take Action

Employers should review their prescription drug coverage to determine creditable coverage status and distribute the appropriate notice on or before October 14th. If a plan has multiple benefit options providing prescription drug coverage, the test must be applied separately for each benefit option. In order to assist employers with Medicare Part D requirements, the remainder of this alert provides additional background details including:

- Model disclosure notices.
- Employers impacted by Medicare Part D.
- An overview of who is considered a "Medicare eligible individual".
- Notice disclosure deadlines and delivery methods.

Model Disclosure Notices

The Centers for Medicaid and Medicare Services (CMS) provides guidance and sample creditable coverage disclosure notices on their [website](#). Note that the templates are dated April 2011, and no changes have been made to the standard language since that time.

Employers Subject to Medicare Part D

An employer is subject to the Medicare Part D notification requirements if it offers prescription drug coverage to its active employees or retirees covering Medicare Part D eligible individuals (including dependents).

Medicare Part D Eligible Individuals

All Medicare Part D eligible individuals who are applying for, or are covered by, the employer's prescription drug benefits plan must receive the notice. A "Medicare Part D eligible individual" is a person who:

- Is entitled to benefits under Medicare Part A and/or is enrolled in Medicare Part B, as of the effective date of coverage under a Medicare Part D plan (active employees may have Medicare coverage); and

- Resides in a “service area” of a Medicare Part D plan. A “service area” is defined as a location that meets certain pharmacy access standards. Most individuals live in a service area.

“Medicare Part D eligible individuals” may include active employees, employees who are disabled or on COBRA, retired employees, and their covered spouses and dependents. An employer may not know the Medicare eligibility status for all of these individuals, and we recommend employers provide the notice to all covered individuals (Please see *Method of Delivery* below for delivery to covered families living at the same address).

Disclosure Deadlines

Disclosures must be made to Medicare Part D eligible individuals:

- Prior to the Medicare Part D Annual Election Period beginning on October 15th each year.
- Prior to an individual’s initial enrollment period for Medicare Part D.
- Prior to the effective date of coverage for any Medicare-eligible individual that joins the employer’s plan.
- Whenever prescription drug coverage ends or changes so that it is no longer creditable or becomes creditable.
- Upon the request of the individual.

Method of Delivery

Plans may provide the creditable coverage notice with other member information materials (including new hire and open enrollment materials) or in a separate mailing. If the notice is combined with other information such as an enrollment brochure or guide, the notice must appear on the first page of the document and be in at least 14-point font in a separate box, or boldfaced or offset text, and refer to the appropriate page or section.

The notice may be hand-delivered or mailed. A single notice can be provided to a family living at the same address. Employers may also provide the notice electronically as long as they meet the Department of Labor’s (DOL) electronic disclosure requirements or if the participants consent electronically. The DOL requires that:

- Electronic transmissions may be relied on only for participants who can access the documents in electronic format at their work sites.
- Appropriate measures must be taken to ensure actual receipt by participants.
- Participants must be notified in writing or electronically of their right to receive a paper copy of the notice free of charge.

In addition, if an employer provides the notice electronically, it must also notify participants that they are responsible for providing a copy of the disclosure to their Medicare eligible dependents covered by the group health plan.

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