

## ANNUAL MEDICARE PART D NOTICES MUST BE DISTRIBUTED BY NOVEMBER 15, 2009

*Under Medicare Part D, a “Notice of Creditable Coverage” must be provided to all Medicare-eligible participants in employer-sponsored group health plans prior to November 15th of each year. The notice informs participants whether the prescription drug coverage under the plan constitutes creditable or non-creditable coverage for purposes of Part D. In preparing this year’s notices, employers should take notice of revised model notices provided by the Centers for Medicare & Medicaid Services (CMS).*

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 requires group health plans that provide prescription drug coverage to notify Medicare-eligible participants whether their group drug coverage is “creditable,” i.e., whether it is at least actuarially equivalent to Medicare Part D coverage. This notice is very important because individuals who do not enroll in Medicare Part D when first eligible and who have gone more than 63 days without creditable coverage generally will have to pay higher premiums when they later enroll. Thus, individuals need to know whether their group coverage is creditable in order to make an informed decision about enrolling in Part D.

Notices stating whether drug coverage is creditable or non-creditable must be provided before November 15th of each year. Specifically, the notices must be provided prior to the start of the annual Part D enrollment period, which runs from November 15 through December 31 of each year. Accordingly, employers who sponsor group health plans with drug coverage must prepare and deliver the annual notices very shortly.

In addition, creditable coverage notices must be provided:

- prior to an individual’s initial enrollment period for Part D
- prior to the effective date of coverage for a new participant who is eligible for Part D
- when an employer’s prescription drug coverage ends or its status as creditable coverage changes
- upon a beneficiary’s request.

Earlier this year, CMS posted revised model notices and guidance on its website. The changes to last year’s model notices and guidance are very limited – CMS has added an optional information box that employers can complete to provide personalized disclosure notices. CMS recommends, but does not require, that personalized notices be provided upon request to enable individuals to show proof of prior creditable coverage when enrolling in a Part D plan. Employers may want to compare their current notices to the model notices posted on the website to determine if any changes should be made.

Because it is difficult to keep track of which employees, spouses and dependents are eligible for Medicare benefits, we recommend that employers provide the Notice to all health plan participants, as part of enrollment materials provided to new hires and to existing employees at annual open enrollment.

Remember that health plan sponsors must also submit a form to CMS each year reporting whether prescription drug coverage is creditable or non-creditable. This form must be submitted electronically within 60 days of the beginning of each plan year. Thus, a plan that uses the calendar year as its plan year must submit the form by March 1, 2010. The form is available on the CMS Creditable Coverage Web site, <http://www.cms.hhs.gov/CreditableCoverage/>.

If you have any questions about Medicare Part D notifications, please contact Robert W. Patterson at 716.843.3910 or [rpatterson@jaeckle.com](mailto:rpatterson@jaeckle.com) or Michele O. Heffernan at 716.843.3850 or [mheffernan@jaeckle.com](mailto:mheffernan@jaeckle.com).

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