



# SPECIAL Alert

## In This Issue

*In this fourth issue of the McGraw Wentworth Special Alert for 2007, we will address the recently released Medicare Part D notice guidance. The new guidance offers new model language for Medicare Part D notices. It also significantly relaxes the electronic delivery requirements for the Medicare Part D notices.*

*The changes were not substantial. This Special Alert will review the new guidance in detail.*

*We welcome your comments and suggestions regarding this issue of our Special Alert. For more information on this article, please contact your Account Manager or visit the McGraw Wentworth web site at [www.mcgrawwentworth.com](http://www.mcgrawwentworth.com).*

## “New Guidance on Medicare Part D Notices”

The Centers for Medicare and Medicaid Services (CMS) recently posted new guidance on the notice requirements for Medicare Part D. Medicare Part D added two notice requirements to the plate of employers:

- An annual notice requirement to CMS advising them of the coverage status of the prescription coverage provided by your group health plan (creditable or not creditable).
- A notice that needs to be delivered to Medicare eligible individuals covered by your group health plan.



The new guidance addresses revisions to the notices that must be provided to Medicare eligible participants.

### Overview of Medicare Part D Notice

The notice to Medicare eligible participants is intended to provide important information relating to your organization’s prescription drug program and how it relates to Medicare Part D. The notice is designed to advise your Medicare eligible participants the status of your plan’s prescription

drug coverage. Is your plan creditable or not creditable? The status of your drug coverage impacts whether an individual who enrolls in a Medicare Part D after their initial Medicare eligibility date will be charged

a late enrollment penalty. If an individual does not enroll when initially eligible for Medicare Part D, the individual may be faced with a late enrollment penalty which is

sometimes called the “higher premium charge”. The penalty can be substantial, up to 1% of Medicare Part D’s base premium for every month the individual is without creditable prescription drug coverage and not enrolled in a Medicare Part D option. The penalty is recalculated each year when the Medicare Part D base premium is adjusted for trend.

Individuals can avoid the Medicare Part D late enrollment penalty if they choose not to enroll for Medicare Part D coverage because they maintain “creditable” drug coverage. Creditable drug coverage is drug coverage that is as good as or better than the coverage provided by the Medicare Part D standard benefit plan. Employers need to determine annually if their prescription drug coverage is creditable. Once the determination

of creditable coverage is made, employers need to notify any Medicare eligible individuals covered by their plan the status of their drug coverage.

The new guidance discusses how employers can determine if their coverage is creditable. Employers can use a gross test or a simplified determination. There was no change to the process for determining creditable coverage. For more information on the process, please

see our *Benefit Advisor* on Medicare Part D Today at [http://www.mcgraw-hill.com/Benefit\\_Advisor/2006/BA\\_Issue\\_5.pdf](http://www.mcgraw-hill.com/Benefit_Advisor/2006/BA_Issue_5.pdf).

McGraw Hill and several insurance carriers have released plan design matrixes to determine the creditable coverage status of various prescription plan designs.

### Delivery Requirements for Notices

The timing requirement for delivering Medicare Part D notices did not change with this new guidance. However, the government significantly relaxed the requirements for delivering these notices electronically.

#### Timing

Employers must deliver the notice to Medicare eligible participants:

1. Within the 12 months *before* the Medicare Part D Annual Coordinated Election Period, sometimes referred to as the open enrollment period. The enrollment period lasts from

November 15<sup>th</sup> through December 31<sup>st</sup> every year.

2. Within the 12 months *before* an individual's initial enrollment period for Medicare Part D.
3. Within the 12 months *before* the effective date of coverage under your plan for any Medicare eligible individual that applies for coverage.
4. When your organization decides to discontinue offering



prescription drug coverage or if your organization changes the drug benefit and it is no longer considered "creditable."

5. When a beneficiary requests it.

If your organization notifies **all plan participants** annually, not just Medicare eligible participants, that notice meets the notice requirement for anyone who becomes Medicare eligible during the plan year. This blanket notice is important because an employer may not know that a plan participant has become eligible for Medicare.

#### Electronic Delivery

Many employers will welcome the more favorable requirements for electronic delivery. Initially, to deliver the notice electronically, the employer needed to secure positive consent from plan participants in order to deliver the notice electronically.

The requirements have been relaxed considerably which means it may make sense to deliver the notice electronically.

- The Medicare coverage notices can be delivered electronically to a plan participant that has the ability to access the plan sponsor's electronic information system on a daily basis as a part of their work duties; *and*
- As part of the electronic delivery message, the employer must inform employees that they are responsible for providing a copy of the electronic notice to their Medicare eligible dependents covered by the group health plan.

The loosening on the restrictions for electronic delivery will be good news for most employers as it makes it infinitely more practical to deliver these notices electronically.

### Notice Content

The notice content was modified slightly by the new guidance. CMS posted new model notices on their website. The following summarizes the new posted notices:

- Notice of Creditable Coverage
- Notice of Creditable Coverage in Spanish
- Notice of Not Creditable Coverage
- Notice of Not Creditable Coverage in Spanish
- Personalized Notice of Creditable Coverage
- Personalized Notice of Creditable Coverage in Spanish

Copies of the model notice language for each of the notices listed above can be found at <http://www.cms.hhs.gov/creditablecoverage>.

The Spanish versions will be welcomed by employers with bi-lingual populations.

The changes in the model notice language are mostly grammatical. The only substantive content change highlights the 60 day special enrollment period Medicare beneficiaries are granted if they lose creditable prescription drug coverage. The best way to address the new language is for organizations to compare their current notice content to the information included in the applicable model notices. You may need to slightly modify your current notices based on this new guidance.

The law does not require the employer to use these model notices but, if the employer does not, their Medicare Part D notices must, at a minimum, include the following:

**Creditable Coverage Notice**

- The entity has determined the prescription drug coverage is creditable.
- The meaning of creditable coverage.
- Explanation of the importance of creditable coverage with a description of the potential for a late enrollment penalty under Medicare Part D.
- Explanation of the individual's right to a notice and timing of notice delivery requirements.
- Your organization's policies regarding Medicare Part D coverage including how your plan will coordinate with Medicare Part D and the potential impact of other health coverage if Medicare



Part D coverage is elected. This should address coverage for any Medicare eligible individual and any other eligible dependents.

- Description of circumstances in which individuals might be able to re-enroll in the employer's plan if they cancel coverage to secure Medicare Part D coverage.
- Information on getting help paying for coverage for individuals with limited income.

**Not Creditable Coverage Notice**

- The entity has determined the prescription drug coverage is *not* creditable.
- Explain the meaning of creditable coverage.
- A note that Medicare eligible individuals have limited opportunities to enroll in

Medicare Part D coverage. Include information on the annual opportunity to enroll in Medicare Part D which occurs each year from November 15<sup>th</sup> – December 31<sup>st</sup>.

- An explanation of the importance of creditable coverage and the possibility an individual may be assessed a late enrollment penalty if they do not enroll in a Medicare Part D plan within 63 days of losing creditable coverage.
- Explanation of the individual's right to a notice and timing of notice delivery.
- Your organization's policies regarding Medicare Part D coverage including how your

plan will coordinate with Medicare Part D and the impact of other health coverage if Medicare Part D coverage is elected. This should address coverage for any Medicare eligible individual and any other eligible dependents.

- Description of circumstances in which individuals might be able to re-enroll in the employer's plan if they cancel coverage to secure Medicare Part D coverage.
- Information on getting help paying for coverage for individuals with limited income.

**Personalized Notice**

- Individual's first and last name.
- Individual's date of birth or unique member identification number.
- Employer's name and contact information.
- Statement that the employer has determined the prescription drug coverage is creditable or not creditable depending on the circumstances.
- The dates that creditable coverage has been in place.
- Explain the meaning of creditable coverage and that the individual has an annual opportunity to enroll in Medicare Part D.
- An explanation of the importance of creditable coverage and the possibility an individual may be assessed a late enrollment penalty.
- Explanation of the individual's right to a notice and timing of notice delivery requirements

- Your organization's policies regarding Medicare Part D coverage – coordination with Part D, and the impact on other health coverage if Medicare Part D coverage is elected. This should address coverage for any Medicare eligible individuals and any other eligible dependents.
- Description of circumstances in which individuals might be able to re-enroll in the employer's plan if they cancel coverage to secure Medicare Part D coverage.
- Information on getting help paying for coverage for individuals with limited income.

The notice is especially important for individuals that may lose creditable coverage under your group health plan. Individuals have limited opportunities to enroll in Medicare Part D:

- **Initial Enrollment Period:** 3 months before and 3 months following the month in which an individual becomes initially eligible for Part A and Part B of Medicare.
- **Annual Coordinated Election Period:** This is the annual open enrollment period for Medicare Part D. It occurs

every year between November 15<sup>th</sup> and December 31<sup>st</sup>.

- **Special Enrollment Period:** This is allowed for an individual who loses creditable coverage during the year. There is a 60-day window of opportunity from the loss of coverage date to enroll in any Medicare Part D plan.

The information in the Medicare Part D notice for individuals losing creditable coverage will help them understand the importance of enrolling quickly in a Medicare Part D plan to avoid the late enrollment penalty and avoid any potential delay in securing Medicare Part D coverage, if they miss the timing of a Special Enrollment Period.



### Conclusion

The new guidance for Medicare Part D notices did not make substantial changes to the notice requirements for Medicare Part D. However, the new guidance did change some of the recommended content of Medicare Part D notices. The content changes were not substantial, it makes sense

to compare the new model notices to the notice you are currently using for Medicare Part D and make any necessary changes that may be needed where your notice differs from the model language.

The notice in Spanish will be helpful for employers with substantial Spanish-speaking populations.

Finally, the relaxed requirements for electronic delivery will be good news for many employers. It will make it possible to annually deliver the notices electronically as part of the open enrollment communication process.

Make sure your open enrollment communication materials clearly guide Medicare eligible participants to the Medicare Part D coverage information. In addition, add the language that addresses the plan participants' obligation to provide the notice to any Medicare eligible dependents of the covered employee.

If you have any questions regarding the new Medicare creditable coverage notice requirements, please contact your McGraw Wentworth Account Manager. **MW**

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