



SPECIAL Alert

In This Issue

In this eighth Special Alert for 2007, we review the recent guidance issued by the Centers for Medicare and Medicaid Services (CMS) that clarifies the creditable coverage notification requirements for group health plans. Any health plan that covers a Medicare-eligible individual must file the status of their prescription drug plan with CMS annually.

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.

“Creditable Coverage Notice to CMS”

The Medicare Prescription Drug Improvement and Modernization Act (MMA) of 2003 added a voluntary benefit for outpatient prescription drugs to the Medicare program. A section of the MMA included a requirement for employer group health plans to annually notify the Centers for Medicare and Medicaid Services (CMS) the status of their prescription drug plan. The drug plan is either “creditable” (as good as or better than Medicare Part D’s standard benefit) or “not creditable” (not as good as Medicare Part D’s standard benefit).



The MMA included two notice requirements. Group health plans must notify Medicare-eligible individuals annually of the status of the plan. Group health plans are required to notify CMS of the plan status as well.

The MMA did not include the details on the notice requirements. The details addressing the notification to CMS were released at the end of 2005. The key details of the CMS notification process are as follows:

- **Electronic filing:** Group health plans must complete the notification electronically via the Internet. The form is located at <http://www.cms.hhs.gov/CreditableCoverage>. This is the

only method of notification available to group health plan sponsors.

- **Coverage determination:** Group health plans can determine coverage status in a number of ways. The plan can use the simplified determination method or the gross test. For more information on these two methods, please see our Special Alert at

<http://www.mcwent.com/SpecialAlert/2006/SpecialAlertIssue1.pdf>. In addition, McGraw Wentworth and a number of insurance carriers have released charts of various prescription drug plan designs, which can also be used to determine creditable coverage status.

- **Timing of Notice:** The CMS notice must be completed within the first 60 days of the plan year and within 30 days of a change in prescription drug coverage that impacts creditable coverage status, including if a plan terminates prescription drug coverage.

The most difficult part of this notice to CMS is remembering to actually complete the electronic form. The new guidance does not markedly change the provisions of the initial guidance, but it does provide some helpful clarifications for employers:

- The new guidance provides “screen shots” of each section of the form, along with a detailed explanation of what each question means. The instructions for completion, along with screen shots of the forms, can be found at http://www.cms.hhs.gov/CreditableCoverage/Downloads/2007-09-25_CCDisclosure2CMS_InstructionsScreenShots.pdf.
- If the plan does not cover any Medicare Part D eligible individuals at the beginning of the plan year, the plan does not have to complete the disclosure to CMS for that year. Remember, a Medicare Part D eligible individual does not have to be an employee;



the person may be covered as a dependent by your plan.

- The form does ask the health plan to disclose an estimate of the number of Medicare-eligible individuals covered by the plan. This does not include any individual covered by a retiree health plan that is applying for the Retiree Drug Subsidy. The new guidance compels employers to make a good faith effort to identify any Medicare-eligible individuals covered by the plan. This means CMS expects employers at a minimum to check with their health plan vendor to see if any covered plan participant may be eligible for Medicare.
- The form does ask employers to disclose the date the notice of creditable coverage was sent to Medicare-eligible plan participants.

The new guidance simply clarifies much of the information requested in the electronic form. The detailed instructions will help employers that were unsure how to reply to certain questions.

It is a good idea to put a reminder in your calendar to complete the form within 60 days of the 1st day of your plan year.

If you have any questions about this guidance, please contact your McGraw Wentworth Account Manager. **MW**

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