



SPECIAL Alert

In This Issue

In this first Special Alert for 2009, we discuss the recently released guidance addressing Medicare Part D notices. CMS (Centers for Medicare and Medicaid Services) released the guidance regarding the employer notice to Medicare-eligible beneficiaries early in the new year. The changes are not earth-shattering but employers need to take note and make changes.

CMS has recommended that employers use the new model notice language immediately. Your organization will need to review your Medicare Part D creditable coverage disclosures to determine if you will need to make any changes.

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.

“New Guidance - Medicare Notices”

The Medicare Prescription Drug Improvement and Modernization Act passed at the end of 2003 added outpatient prescription drug coverage to the Medicare program. It also required employers to issue two notices. The first is sent to the Centers for Medicare and Medicaid Services (CMS) electronically every year to inform them of the status of your organization’s prescription drug coverage. The second is sent to the Medicare-eligible participants your health plan covers. The notice requirements apply to both active and retiree health plans.

CMS updated the second notice requirement in early January 2009. This is the notice sent to plan participants eligible for or receiving Medicare benefits. The notice states whether or not the employer’s prescription drug coverage is creditable. To determine whether your plan’s coverage is creditable, compare it to the Medicare Part D standard plan. If your plan is as good as or better than the Medicare standard plan, your prescription drug benefit is considered creditable. If your prescription drug coverage is not as good as the Medicare standard benefit, then the coverage is considered not creditable. The new guidance does not change how a plan determines creditable coverage status, but rather discusses the Medicare notice requirements. If you

have any questions about determining creditable coverage, please read our Medicare Part D Benefit Advisor at http://mcgrawwentworth.com/Benefit_Advisor/2006/BA_Issue_5.pdf.



The notice is important for Medicare-eligible participants because if they lose creditable prescription drug coverage, they must enroll in Medicare Part D within 60 days. If they enroll later, they will have to pay a late enrollment premium penalty. They can enroll in any of the following periods:

- **Initial enrollment period:** This 7-month period includes the 3 months before the individual becomes eligible, the month the individual becomes eligible, and the 3 months after the month the individual becomes eligible. It is the same as the initial enrollment period for Medicare Part B.
- **Open enrollment period:** Anyone eligible can enroll in Medicare Part D between November 15 and December 31 every year. Coverage becomes effective January 1. Those who have not maintained creditable coverage must pay the late enrollment penalty.

- **Special enrollment period:** Some Medicare beneficiaries already have creditable drug coverage through an employer or even a retiree plan. If they choose not to enroll in Medicare Part D when they are first eligible and then lose that coverage, they have 60 days to enroll in a Medicare Part D plan.

Although the new guidance has modified the content of the notices, the delivery requirements remain the same. If you need more information on the delivery requirements, please read our *Special Alert* at http://mcgrawwentworth.com/Special_Alert/2007/Special_Alert_Issue_4.pdf.

Initially, CMS released model notice for creditable coverage, non-creditable coverage and a personalized notice.

The latest CMS guidance includes only the first two notices. Although CMS recognizes the value of a personalized notice, they believe the notice is no longer necessary. However, the newest model notice wording does include an optional inset that employers can use to personalize the notice with a Medicare beneficiary's specific information.

This information is optional; employers need not offer the personal information when they are distributing a blanket notice to all plan

participants. However, CMS recommends it should be included when a Medicare-eligible participant specifically requests the coverage notice.

You are not required to use the exact wording in the model notice, but it is certainly recommended. If you choose to create your own notice, it must:

- State whether coverage is creditable or not creditable.
- Define creditable coverage.
- Explain why creditable coverage is important and warn about the late enrollment penalty.

The Part D notice should also explain the following:

- The employee has a right to a notice and when the employee can expect to receive it.
- The coverage the employee will be eligible for, if he or she enrolls in a Medicare Part D plan.
- When or if an employee can re-enroll in the employer plan after dropping employer coverage to enroll in a Medicare Part D program.
- How to get extra help to pay premiums or out-of-pocket expenses for Medicare beneficiaries with limited income.

For the most part, aside from making personal information optional, the new wording changes are not substantial. It makes sense to use the model notice wording in your annual notice. In addition, you should use the new model notice wording in your organization's Part D notice in case a Medicare-eligible participant requests a notice during the year. You can download the new model notice in the Word format at http://www.cms.hhs.gov/CreditableCoverage/08_CCAfterJanuary1.asp. Click on the zipped files to download. The link has model notice wording for both creditable and non-creditable coverage in both English and Spanish.

CMS wants employers to adopt this new wording immediately. If you already notified your employees of the creditable coverage status during open enrollment, you do not need to send the notice again. However, going forward your organization should use the new wording.

Keep the new model notice in your files in case a Medicare-eligible participant requests a notice mid-year. You should also modify any new hire or employee materials that state the creditable coverage status of your prescription plan.

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

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