



Distribute Medicare Part D Notices Before October 15th, 2013 Employer Action Required

LEGISLATIVE BRIEF

September 17, 2013

Medicare Part-D Annual Notice

Each year at this time, health care Plan Sponsors whose plans contain prescription drug coverage must distribute an Annual Notice to plan participants who are or who might be eligible for Medicare Part-D coverage or have covered family members who may be eligible. Annual notices issued earlier this year will satisfy this notice requirement.

The Centers for Medicare and Medicaid Services (CMS) last released updated notices for use on or after April 1, 2011. Since there has been no further guidance, Plan Sponsors may rely on the 2011 notice content in complying with their 2013 obligation. Word versions of the Notices are available here:

- [Model Creditable Coverage Disclosure Notice](#)
- [Model Non-Creditable Disclosure Notice](#)

1. The Notice Obligation. Plan Sponsors of all health plans (regardless of the number of individuals covered by the plan) which contain prescription drug benefits inside or adjunct to that health plan must provide an annual notice regarding the creditable or non-creditable status of the prescription drug benefit. Additionally, Plan Sponsors must provide the same Medicare Part-D Notice:

- Prior to an individual's Initial Enrollment Period (IEP) for Part-D;
- Prior to the effective date of coverage for any Medicare-eligible individual that joins the plan;
- Upon the request by the individual.

Prior CMS guidance clarifies that "prior to" means that the individual must have received the Disclosure Notice within the past twelve months. So, plans that issue the Part-D Notice at the time of policy renewals usually do not need to provide another notice.

2. Creditable Coverage. If the plan being offered meets “creditable coverage standards”, then Medicare beneficiaries may keep the Plan Sponsor’s coverage in lieu of electing Medicare Part-D coverage. To be “creditable” the benefit must be the actuarial equivalent to or better than the standard for insured plans. Your health insurance carrier will be able to tell you if the coverage is creditable. If your plan is self-funded, you should seek the advice of a benefit professional.

3. Delivering the Notice by Mail. Plan Sponsors may mail the notice as a stand-alone mailing or choose to incorporate the notice into other documents or disclosures, so long as there is prominent first-page, 14-point reference to the incorporated notice language.

4. Electronic Delivery. Plan Sponsors may also deliver the notice electronically to plan participants who have the ability to access the Plan Sponsor’s electronic information system on a daily basis as a part of their work duties. Plan Sponsors should inform participants that they are to share the electronic notice with all family members who are covered under the group health plan.

5. Recipients. Plan Sponsors should provide the notice to all health plan participants or Part-D eligible individuals who apply for the Plan’s drug coverage as well as to COBRA beneficiaries. As we stated above, Plan Sponsors need only to provide a single notice to a participant with covered dependents, unless the sponsor records contain a separate address for other family members.

6. Notice Content. Plan Sponsors have the option of using the sample notices or producing their own notices which contain all of the necessary elements, as described in the recently revised model notices. CMS provides the model notices in both English and Spanish. There is no regulation requiring plan sponsors to use the Spanish versions at present.

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