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October 14, 2018 Deadline for Medicare Part D Creditable/Non-Creditable Coverage Notices Nears

Plan sponsors that offer prescription drug coverage must provide notices of creditable or non-creditable coverage to Medicare-eligible individuals before each year's Medicare Part D annual enrollment period — this year, by October 14. The notice obligation is not limited to retirees and their dependents but also includes Medicare-eligible active employees and their dependents and Medicare-eligible COBRA participants and their dependents.

Background

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 requires group health plan sponsors that provide prescription drug coverage to disclose annually to individuals eligible for Medicare Part D whether the plan's coverage is "creditable" or "non-creditable." Prescription drug coverage is creditable when it is at least actuarially equivalent to Medicare's standard Part D coverage and non-creditable when it does not provide, on average, as much coverage as Medicare's standard Part D plan. The Centers for Medicare & Medicaid Services (CMS) has provided a [Creditable Coverage Simplified Determination](#) method that plan sponsors can use to determine if a plan provides creditable coverage.

Disclosure of whether their prescription drug coverage is creditable allows individuals to make informed decisions about whether to remain in their current prescription drug plan or enroll in Medicare Part D during the Part D annual enrollment period. Individuals who do not enroll in Medicare Part D during their initial enrollment period (IEP), and who subsequently go at least 63 consecutive days without creditable coverage (e.g., because they dropped their creditable coverage or have non-creditable coverage), generally will pay higher premiums if they enroll in a Medicare drug plan at a later date.

Who must receive the notice?

The notice must be provided to all Medicare-eligible individuals who are covered under, or eligible for, the sponsor's prescription drug plan, regardless of whether the plan pays primary or secondary to Medicare. Thus, the notice obligation is not limited to retirees and their dependents but also includes Medicare-eligible active employees and their dependents and Medicare-eligible COBRA participants and their dependents.

Notice Requirements

The Medicare Part D annual enrollment period runs from October 15 to December 7. Each year, before the enrollment period begins (i.e., by October 14), plan sponsors must notify Medicare-eligible individuals whether their prescription drug coverage is creditable or non-creditable. The October 14 deadline applies to insured and self-funded plans, regardless of plan size, employer size or grandfathered status. Part D eligible individuals must be given notices of the creditable or non-creditable status of their prescription drug coverage:

- Before an individual's IEP for Part D
- Before the effective date of coverage for any Medicare-eligible individual who joins an employer plan
- Whenever prescription drug coverage ends or creditable coverage status changes
- Upon the individual's request

According to CMS, the requirement to provide the notice prior to an individual's IEP will also be satisfied as long as the notice is provided to all plan participants each year before the beginning of the Medicare Part D annual enrollment period.

Exception for EGWPs

Employers that provide prescription drug coverage through a Medicare Part D Employer Group Waiver Plan (EGWP) are not required to provide the creditable coverage notice to individuals eligible for the EGWP.

The required notices may be provided in annual enrollment materials, separate mailings or electronically. Whether plan sponsors use the CMS model notices or other notices that meet prescribed standards, they must provide the required disclosures no later than October 14, 2018.

Model notices that can be used to satisfy creditable/non-creditable coverage disclosure requirements are available in both English and Spanish on the [CMS website](#). Plan sponsors that choose not to use

the model disclosure notices must provide notices that meet prescribed content standards. Notices of creditable/non-creditable coverage may be included in annual enrollment materials, sent in separate mailings or delivered electronically.

Plan sponsors may provide an electronic notice to plan participants who have regular work-related computer access to the sponsor's electronic information system. However, plan sponsors that use this disclosure method must inform participants that they are responsible for providing notices to any Medicare-eligible dependents covered under the group health plan. Electronic notice may also be provided to employees who do not have regular work-related computer access to the plan sponsor's electronic information system and to retirees or COBRA qualified beneficiaries, but only with a valid email address and their prior consent. Before individuals can effectively consent, they must be informed of the right to receive a paper copy, how to withdraw consent, how to update address information, and any hardware/software requirements to access and save the disclosure. In addition to emailing the notice to the individual, the sponsor must also post the notice (if not personalized) on its website.

What if no prescription drug coverage is offered?

Because the notice informs individuals whether their prescription drug coverage is creditable or non-creditable, no notice is required when prescription drug coverage is not offered.

In Closing

Plan sponsors that offer prescription drug coverage must determine whether their drug plan's coverage satisfies CMS's creditable coverage standard and provide appropriate creditable/non-creditable coverage disclosures to Medicare-eligible individuals no later than October 14, 2018.

Don't forget the disclosure to CMS!

Plan sponsors that provide prescription drug coverage to Medicare-eligible individuals must also disclose to CMS annually whether the coverage is creditable or non-creditable. This disclosure must be made no more than 60 days after the beginning of each plan year. (See our [February 2, 2018 FYI](#).)

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