



benefits

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Reminder: November 15, 2006 Deadline for Medicare Part D Notices

By [B. David Joffe](#)

Employers who sponsor health plans that provide prescription drug coverage to individuals entitled to Medicare Part A or enrolled in Medicare Part B are required to distribute annually a notice that informs participants whether their prescription drug coverage under the plan is “creditable” or “non-creditable.” **This year’s notice must be delivered to participants by November 15, 2006.**

The disclosure is important because it provides eligible individuals with information about Part D enrollment. More specifically, individuals who do not have creditable prescription drug coverage and who choose not to enroll before the end of their initial enrollment period for Part D will ordinarily pay a higher premium on a permanent basis if they later decide to enroll in Part D. However, it is not always easy to determine whether a plan provides creditable coverage. For insured plans, insurers will ordinarily provide information to help determine whether coverage is creditable. But it is important to note that it is the employer—not the insurer—that has the disclosure obligation. For self-funded plans, the determination may require the services of a consultant or actuary.

The Centers for Medicare & Medicaid Services (“CMS”) has issued revised model notices that employers may use to satisfy the notice requirement after May 15, 2006. However, CMS posted further revised model notices for public comment on September 22, 2006 but has not yet issued final versions of the notices. Although employers may use the May 2006 model notices, the September 2006 model notices provide some important clarifications that should be considered. In all cases, the model notices must be adapted based on the plan design and should not be used “as is.”

Every employer sponsoring employee health plans must take action to ensure that the appropriate notice is provided to all Medicare-eligible individuals in the employer’s health plans **no later than November 15, 2006**. Since it may be difficult or impractical for an employer to determine exactly which members of its workforce are eligible for benefits under Medicare, the best way to comply with the notice requirement may be to provide the notice to every participant in the health plan. Electronic delivery may also be an option for some employers if certain requirements are met.

If you need assistance in the preparation of the participant notice or have any questions regarding Part D compliance, please contact one of the attorneys on the Boulton Cummings [Employee Benefits and Executive Compensation](#) Team listed below:

Andrew Elbon
615.252.2378
aelbon@boultoncumings.com

Charles M. Cain
615.252.2330
ccain@boultoncumings.com



B. David Joffe
615.252.2368
djoffe@boultcummings.com

Gordon Earle Nichols
615.252.2387
gnichols@boultcummings.com

John M. Scannapieco
615.252.2352
jscannapieco@boultcummings.com

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Roundabout Plaza, 1600 Division Street, Suite 700 Nashville, TN 37203
615.244.2582 www.boultcummings.com

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