



Reminder: October 14, 2011 Deadline for Medicare Part D Notices

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 annually to distribute a notice that informs participants whether their prescription drug coverage under the plan is “creditable” or “non-creditable.” **The year’s notice must be delivered to participants by October 14, 2011. This is one month earlier than last year’s notice.**

What is the purpose of the notice?

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.

Who must provide the notice?

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.

What is the form for the notice?

The Centers for Medicare & Medicaid Services issued model notices that employers may use to satisfy the notice requirement. However, these notices should be reviewed and modified to be consistent with the employer’s group health plan.

Who must receive the notice, and when must it be provided?

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 before the beginning of the annual election period. The Patient Protection and Affordable Care Act changed the annual election period for Medicare Part D to October 15 through December 7. Therefore, the notice must be provided **no later than October 14, 2011.**

As a related matter, 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.

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If you need assistance in the preparation of the participant notice or have any questions regarding Part D compliance, please contact [Jay Turner](#) or one of the other attorneys in the [Employee Benefits and Executive Compensation Group](#) of Bradley Arant Boulton Cummings LLP.

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