

CMS CREDITABLE PRESCRIPTION DRUG COVERAGE NOTICE UPDATE AND FILING REMINDER

The Centers for Medicare & Medicaid Services (CMS) maintains an excellent and comprehensive on-line archive of Medicare Part D information. CMS is not always diligent, however, in announcing new information, so many plan sponsors may be surprised to learn that CMS recently posted new versions of the Medicare Part D [model notices for use after January 1, 2009](#). (The model notices were last revised only six months ago.) CMS has also updated its [guidance on the notice requirement](#).

BACKGROUND

The Medicare Prescription Drug Improvement and Modernization Act of 2003 requires all plan sponsors – even those who did not provide retiree prescription drug benefits – to distribute notices to Part D-eligible individuals explaining the creditable coverage status of their prescription drug benefits. This notice tells recipients whether or not the plan's prescription drug coverage is considered "creditable" as measured against Medicare's Part D standard prescription drug benefit. Creditable status is important since a Part D-eligible individual will be assessed a Part D late enrollment fee if he or she initially waives enrollment in Medicare's prescription drug benefit and later enrolls after a break in creditable coverage of 63 days or longer.

A second disclosure requirement (described below) requires plan sponsor communication of creditable coverage status directly to CMS.

UPDATED FORMS FOR PARTICIPANT DISCLOSURE

CMS's latest revisions consolidate three previous notices into two. In the past, CMS used the following three notices:

- Model notice of creditable coverage
- Model notice of non-creditable coverage
- Model personalized notice

The personalized notice included:

- Medicare-eligible individual's full name
- Individual's Social Security number or health insurance claim number
- Statement that the individual has [has not] been covered under prescription drug coverage that is creditable
- The date ranges or periods of creditable coverage
- Entity name and contact information

Because personalized notices were only issued at the beneficiary's request, plan sponsors seldom issued them. As of January 1, 2009, the personalized notice form has been eliminated. The other two model notices have been revised, with optional information fields added for the information previously provided in the personalized notice. With the change, plan sponsors now have the option of completing fields in the creditable or non-creditable coverage notices that satisfy requests from plan participants for a personalized notice. Plan sponsors should use the new forms with the understanding that they will once again need to transfer customized information from their current notices onto the new forms. The changes to the notice also afford an opportunity for plan sponsors to revisit key distribution considerations.

ANNUAL DISTRIBUTION REQUIREMENT

Distribution of the notice remains an annual requirement, and this deadline has not changed. The notice must be sent within the 12-month period prior to every November 15. As a reminder, the disclosure notices can be sent along with open enrollment materials. Employers must also provide the notice at several other times, including when enrollment is offered.

RESPONDING TO REQUESTS FOR ADVICE

If history is any indication, the delivery of the creditable coverage notice will probably elicit responses from many retirees asking what they should do. Willis HRH's National Legal & Research Group suggests that employers refrain from providing specific advice to retirees. In some cases, where an answer seems obvious, advising employers to decline to respond may feel counter-intuitive. Yet, in many situations an answer may only seem obvious because HR does not have all the necessary information. Medicare-related issues are intensely fact specific, and making a wrong decision could be costly for a retiree. In order to avoid bad situations in which retirees might believe they were misled, the best course of action for most employers is to refer the retiree(s) to CMS, or one of the myriad consumer advocate groups that exist to counsel retirees on these and other issues.

IMPORTANT REMINDER: ADDITIONAL REPORTING DUTY TO CMS

Group health plan sponsors that provide prescription drug coverage to Medicare Part D-eligible individuals must also report creditable status to CMS. Specifically, the group health plan must communicate whether its prescription drug coverage qualifies as creditable or non-creditable. The government needs this information to more effectively coordinate Medicare Part D enrollment.

All plan sponsors providing prescription drug coverage are required to make this disclosure – even if they do not make coverage available to retirees. Reporting to CMS about the plan's creditable status is due within 60 days after the first day of the new plan year. Calendar year plans must submit the disclosure to CMS by March 1, 2009.

KEY CONTACTS

US BENEFITS OFFICE LOCATIONS

NEW ENGLAND

Bangor, ME
207 942 4671

Boston, MA
617 557 7517

Hartford, CT
860 756 7365

Shelton, CT
203 924 2994

NORTHEAST

Buffalo, NY
716 856 1100

Cranford, NJ
908 931 3005

Florham Park, NJ
973 410 4622

Morristown, NJ
973 829 6374
973 829 6465

New York, NY
212 915 8802

Philadelphia, PA
610 260 4351

Radnor, PA
610 254 7289

Stamford, CT
203 351 5606

Wilmington, DE
302 397 0171

ATLANTIC

Baltimore, MD
410 584 7528

Bethesda, MD
301 581 4261

Knoxville, TN
865 588 8101

Memphis, TN
901 248 3103

Nashville, TN
615 872 3716

Norfolk, VA
757 628 2303

Reston, VA
703 435 7078

Richmond, VA
804 527 2343

Rockville, MD
301 692 3025

SOUTHEAST

Atlanta, GA
404 224 5136

Birmingham, AL
205 871 3871

Charlotte, NC
704 344 4856

Gainesville, FL
352 378 2511

Greenville, SC
704 344 4856

Miami, FL
305 421 6208

Mobile, AL
251 544 0212

Orlando, FL
352 378 2511

Raleigh, NC
704 344 4856

Savannah, GA
912 239 9047

Tallahassee, FL
850 385 3636

Tampa, FL
813 490 6808
813 289 7996

Vero Beach, FL
772 469 2842

MIDWEST

Appleton, WI
414 259 8837

Chicago, IL
312 527 6482
312 621 4843
312 621 4704

Cleveland, OH
216 357 5921

Columbus, OH
614 326 4788

East Lansing, MI
517 349 3226

Grand Rapids, MI
248 735 7249

Green Bay, WI
414 259 8837

Milwaukee, WI
414 203 5248
414 259 8837

Minneapolis, MN
763 302 7131
763 302 7209

Moline, IL
309 764 9666

Pittsburgh, PA
412 645 8537
412 586 3524

Schaumburg, IL
847 517 3469

SOUTH CENTRAL

Amarillo, TX
806 376 4761

Austin, TX
512 651 1660

Dallas, TX
972 715 2194
972 715 6272

Denver, CO
303 765 1564
303 773 1373

Houston, TX
281 584 1672
281 584 1676
713 625 1017

McAllen, TX
956 682 9423

Mills, WY
307 266 6568

New Orleans, LA
504 581 6151

Oklahoma City, OK
405 232 0651

Overland Park, KS
913 498 4423
913 339 0800, ext. 108

San Antonio, TX
210 979 7470

Wichita, KS
316 494 6174

WESTERN

Aliso Viejo, CA
949 461 3996

Fresno, CA
559 256 6212

Las Vegas, NV
602 787 6235
602 787 6078

Los Angeles, CA
213 607 6300

Novato, CA
415 493 5210

Phoenix, AZ
602 787 6235
602 787 6078

Portland, OR
503 972 1916
503 260 6309

Rancho/Irvine, CA
562 435 2259

San Diego, CA
858 535 1800
858 678 2130

San Francisco, CA
415 291 1567

San Jose, CA
415 291 1567

Seattle, WA
800 456 1415

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