

MEDICARE PART D CREDITABLE COVERAGE NOTICE REQUIREMENTS

The November 15th deadline is fast approaching for employers offering group health plans with prescription drug coverage to provide their Medicare eligible beneficiaries with a notice disclosing whether or not the employer coverage for prescriptions is “creditable coverage” (i.e., actuarially equivalent to Medicare Part D coverage).

This required notice regarding creditable coverage contains important information for Medicare Part D beneficiaries. Pursuant to the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, if (i) a beneficiary’s current prescription coverage is not creditable coverage (as defined above), (ii) their creditable coverage lapses for a period longer than 63 days, or (iii) an eligible beneficiary does not sign up for a Medicare Part D coverage plan during the individual’s “Initial Enrollment Period” (the 7-month period beginning 3 months prior to the month in which the individual first meets the eligibility requirements for Medicare Part A or Part B – generally age 65), the beneficiary or eligible individual will be required to pay a higher premium on a permanent basis when, and if, such individual subsequently enrolls in a Medicare Part D plan.

The regulations provide that an employer may delegate the notice obligation to a third party, such as a third party administrator. Regulations further provide the times when creditable coverage disclosures must be made to Medicare Part D beneficiaries and eligible individuals. At a minimum, disclosure must be made at the following times:

- Prior to the Medicare Part D Annual Coordinated Election Period – beginning November 15th through December 31st of each year;
- Prior to an individual’s Initial Enrollment Period for Part D;
- Prior to the effective date of coverage for any Medicare eligible individual that joins the plan;
- Whenever the entity no longer offers prescription drug coverage or implements a change that affects whether the coverage is credible; and
- Upon request by the individual.

Note: If the creditable coverage disclosure notice is provided to all plan participants annually (such as during your open enrollment period), but not later than November 15th each year. The employer will be deemed to be in compliance with the first two timing requirements listed above.

The Centers for Medicare and Medicaid Services (“CMS”) provides model language that entities may, but are not required to, use when providing the required notice of creditable coverage to beneficiaries. Model notices, along with guidance (“Guidance”) explaining the required notice, can be found on CMS’ website located at <http://www.cms.hhs.gov/creditablecoverage>. Entities that choose not to use the model notices must still include specific language in their notices, which can be found in the Guidance.

Group health plans providing prescription drug coverage to Medicare Part D beneficiaries also need to provide disclosure of creditable coverage to CMS on an annual basis within 60 days of the beginning of its plan year, and again within 30 days of the effective date of any change that affects whether the coverage is creditable. The disclosure to CMS is accomplished through an interactive link on the CMS website, located at <http://www.cms.hhs.gov/creditablecoverage>.

If you have any questions about the required disclosures and notice, please contact any one of the members of the Koley Jessen Employment, Labor and Benefits Group.

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