Medicare Part D Notice of Creditable Coverage

Since 2006, the Medicare Part D program has provided access to prescription drug coverage to eligible individuals who are enrolled in Medicare. As part of this program, Plan Sponsors (including employers who offer an employer-sponsored health plan that includes prescription drug coverage) are required on an annual basis to provide a disclosure notice to all employees and dependents who are eligible for Medicare. This disclosure notice must contain information regarding the “creditability” of the employer-sponsored prescription drug coverage. The notice is required by the Centers for Medicare and Medicaid Services (CMS).

What is “creditable coverage”?  
In order for employer-sponsored prescription drug coverage to be considered creditable coverage, it must meet the following criteria:

1. it must provide coverage for both generic and brand name prescriptions;
2. it must provide reasonable access to retail providers (i.e., pharmacies);
3. it must be designed to pay on average at least 60% of participants’ prescription drug expenses; and
4. it must satisfy certain plan design requirements (e.g., it has an annual maximum benefit of at least $25,000 and a deductible of no more than $250 per year, or it must meet certain actuarial requirements).

So what does this mean for you?  
If you are an employer that provides prescription drug coverage to employees and their dependents as part of your employer-sponsored health insurance plan, you must notify all of your Medicare-eligible employees and dependents of their options with regard to Medicare Part D prescription drug coverage. This notification must be sent before the Medicare Part D open enrollment period begins on October 15, 2013.

There are separate notifications required depending upon whether your prescription drug coverage is creditable or non-creditable. Samples of both notices are attached to this e-mail.

- Since it is difficult to know for sure who among your employees and their dependents may be Medicare-eligible, we recommend sending this notice to all participants in your employer-sponsored health insurance plan.

This notice must be sent before October 15, 2013, in order to satisfy the annual notice requirement. As plan sponsors, employers are also required to provide this notice before the effective date of coverage for any newly eligible individual who joins the employer’s group health plan; upon request by any employee or dependent; when a change in the employer-sponsored prescription drug coverage affects the creditability of that coverage; or if the employer-sponsored plan ends.

Why is this notice required?  
Individuals who are eligible for the Medicare Part D prescription drug benefit must enroll during certain specified times, in order to avoid a penalty. For example, once an individual turns age 65 and becomes
entitled to Medicare Part A and/or covered under Medicare Part B, he is eligible at that time to enroll in Medicare Part D for prescription drugs. If he does not enroll in the Medicare Part D coverage when first eligible, he will be required to wait until the next annual Medicare Part D election period, which begins on October 15 of each year. However, by waiting until the next Medicare Part D enrollment period, that person will incur a penalty on his Medicare part D premium payment – for each month that his coverage was delayed, his Medicare Part D premium will be at least 1% higher than it otherwise would be. So, for example, if Joe is initially eligible for Medicare Part D on September 1, but he waits until December of that same year to enroll (meaning that his Medicare Part D coverage is not effective until January 1 of the following year), his Medicare Part D premium will always be at least 4% higher than it otherwise would have been if he had enrolled in a timely fashion.

There is one exception to this rule. If an individual does not enroll in Medicare Part D when he first becomes eligible for the coverage because he has creditable prescription drug coverage through an employer-sponsored group health plan, he will not incur a premium penalty when he does choose to enroll in Medicare Part D at a later date – as long as there is a break of no more than 63 days between the date his creditable coverage ends and his Medicare Part D coverage begins.

Thus, it is important for you to know whether your employer-sponsored prescription drug coverage is considered creditable coverage – and it is mandatory for you, as a plan sponsor, to inform your employees and their covered dependents of that fact. In addition, as a plan sponsor, you are required on an annual basis to complete an online Disclosure to CMS Form. Completion of this form is mandatory for all plan sponsors, and must be completed within 60 days after the first day of the Plan year. A Disclosure to CMS Form must also be completed whenever there is a change to the prescription drug coverage that will affect whether or not the coverage is creditable; and in the event the plan is terminated.

What do you need to do now?
At this point, there are a few steps that you will need to take:

1. Determine whether or not your employer-sponsored prescription drug coverage is considered to be creditable coverage. For more information on how to make this determination, you may wish to review the CMS website below. https://www.cms.gov/Medicare/Prescription-Drug-Coverage/CreditableCoverage/index.html

2. Provide all employees (and their dependents) that are covered under your employer-sponsored health plan with the appropriate Medicare Part D notice – either the Disclosure Notice of Creditable Prescription Drug Coverage, or the Disclosure Notice of Non-Creditable Prescription Drug Coverage. This notice must be sent before October 15, 2013. A copy of each of these Notices is attached to this e-mail. Please note that, as the Plan Sponsor, you should insert information applicable to your plan in the highlighted areas throughout the letters. You may also find Model Notices, as well as further guidance from Medicare, on the CMS website below.

Note: The Model Notices have not changed since last year.

3. **Complete an online Disclosure to CMS Form.** This Form may be accessed at the CMS website at the link below. **This online Disclosure Form must be completed within 60 days after the beginning of your Plan year (i.e., your Plan renewal date).**

https://www.cms.gov/Medicare/Prescription-Drug-Coverage/CreditableCoverage/CCDisclosureForm.html

If you have any questions about this process, please do not hesitate to contact your Account Manager at EBS.

Please note that EBS is sharing this information to assist you with your compliance planning. We recommend that you contact your legal counsel with specific questions relating to this law, and how it might affect individuals covered under your plan.

**Attachments:**
Disclosure Notice of Creditable Coverage 2011
Disclosure Notice of Non-Creditable Coverage 2011