

CMS Revises Model Prescription Drug Coverage Disclosure Notices (Again!)

For the third time in as many years, CMS has revised its model prescription drug coverage disclosure notices. (CMS stands for the Centers for Medicare and Medicaid Services.) The model notices are intended to help employers and other plan sponsors meet their disclosure obligations under Medicare Part D. The model notices provide language for explaining to current and prospective health plan enrollees whether or not the plan provides creditable prescription drug coverage (i.e., coverage that is equivalent to Medicare's Part D prescription drug benefit).

CMS has also revised its guidance on the notice requirement. For the most part, the changes are those that CMS proposed last September (see *Willis Employee Benefits Alert #84, Medicare Prescription Drug Annual Requirements*). CMS has, however, expanded its discussion of electronic delivery options.

Background

The creditable prescription drug coverage notice is required to be distributed annually and at several other times as explained in *Willis Employee Benefits Alert #66, Creditable Prescription Drug Coverage Disclosure Notices*. The information that the notice provides will be important to individuals when they are deciding whether to enroll in a Medicare prescription drug plan. This is because a late enrollment penalty may apply to an individual who joins a Medicare prescription drug program if, after becoming Medicare Part D eligible, the individual has a gap in creditable prescription drug coverage of 63 days or more.

When to Begin Using the New Model Notices

Even though the new model notices were not posted on CMS' website until mid-March, CMS specifies that they are for use on or after February 15, 2007. Therefore, plan sponsors should use the new model notices for all future notices. In order to do so, plan sponsors will

once again need to transfer customized information from their current notices into the new model notices.

Few Changes to the Model Notices

There are few changes to the model notices. One change is the addition of a reference to an "Employer Group Special Enrollment Period" during which individuals who leave or lose employer- or union-sponsored coverage can enroll in Medicare Part D. In addition, employers who use personalized notices instead of general notices will note that some of the personal information items have changed. (Personalized notices have content similar to the general notices, but they are customized for individual recipients. Use of personalized notices is optional.)

Electronic Distribution Made Easier

The noteworthy change in the updated disclosure notice guidance relates to electronic delivery of the prescription drug coverage disclosure notices. Previous guidance set

forth specific CMS requirements for electronic delivery of the notices. Those requirements were very burdensome and they differed from the Department of Labor (DOL) requirements for electronic distribution of SPDs and other plan communications. Therefore, few employers chose CMS' delivery method for their Part D notices.

The new guidance retains the prior CMS requirements as one option for electronic distribution of the notices. It also provides that employers may instead provide the notices according to the DOL requirements for electronic delivery if the employer advises the employee that he or she is responsible for providing a copy of the electronic disclosure to his or her Medicare-eligible dependents. Using the DOL method, the disclosure notices generally can be provided electronically to employees who have access to electronic documents at their place of work on a daily basis as part of their work duties.

(The DOL method includes additional requirements that are discussed in Chapter 1 of the *Willis Compliance Manual*.)

Annual Reporting Requirement Reminder

In addition to distribution of the creditable prescription drug coverage notices, reporting creditable coverage status to CMS remains an annual requirement imposed by Medicare Part D. As with the notices, the deadline for CMS reporting has not changed. As a reminder, the report to CMS is due within 60 days after the first day of the each plan year and within 30 days after a change in the creditable status of the coverage or termination of the plan.

The new notices and guidance are available on CMS' website at http://www.cms.hhs.gov/CreditableCoverage/10_CCAfterFeb15.asp#TopOfPage.

U.S. Benefit Office Locations

Atlanta, GA (404) 224-5000	Austin, TX (800) 861-9851	Baltimore, MD (410) 527-1200	Birmingham, AL (205) 871-3871
Boston, MA (617) 437-6900	Cary, NC (919) 459-3000	Charlotte, NC (704) 376-9161	Chicago, IL (312) 621-4700
Cleveland, OH (216) 861-9100	Columbus, OH (614) 766-8900	Dallas, TX (972) 385-9800	Denver, CO (303) 218-4020
Detroit, MI (248) 735-7580	Eugene, OR (541) 687-2222	Farmington, CT (860) 284-6147	Florham Park, NJ (973) 410-1022
Ft. Worth, TX (817) 335-2115	Grand Rapids, MI (616) 954-7829	Greenville, SC (864) 232-9999	Houston, TX (713) 625-1023
Jacksonville, FL (904) 355-4600	Knoxville, TN (865) 588-8101	Las Vegas, NV (702) 432-7120	Long Island, NY (516) 941-0260
Los Angeles, CA (213) 607-6300	Louisville, KY (502) 499-1891	Memphis, TN (901) 248-3100	Miami, FL (305) 373-8460
Milwaukee, WI (414) 271-9800	Minneapolis, MN (763) 302-7100	Mobile, AL (251) 433-0441	Naples, FL (239) 659-4500
Nashville, TN (615) 872-3700	New Orleans, LA (504) 581-6151	New York, NY (212) 344-8888	Omaha, NE (402) 391-1044
Orange County, CA (949) 885-1200	Orlando, FL (407) 805-3005	Philadelphia, PA (610) 964-8700	Phoenix, AZ (602) 787-6000
Pittsburgh, PA (412) 586-1400	Portland, OR (503) 224-4155	Roswell, NM (505) 317-3397	St. Louis, MO (314) 721-8400
San Diego, CA (858) 678-2000	San Francisco, CA (415) 981-0600	San Jose, CA (408) 436-7000	San Juan, PR (787) 756-5880
Seattle, WA (206) 386-7400	Tampa, FL (813) 281-2095	Washington, DC (301) 530-5050	Wilmington, DE (302) 477-9640

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