

Notification duty in Medicare drug benefits law

According to the U.S. Centers for Medicare and Medicaid Services (CMS), by November 15, 2005, employers will have to give employees a disclosure notice if they are eligible for Medicare. The notice tells the employee whether the prescription drug benefits that the employer provides are at least equivalent to the drug benefits that will be available from Medicare Part D. Part D provides prescription drug coverage to enrollees beginning January 1, 2006. The notice must be given to Medicare beneficiaries who are active employees and to those that are retired, as well as Medicare beneficiaries who are covered as spouses under active or retiree coverage. The law applies to any employer that offers prescription drug coverage and has employees that are eligible for Medicare. There isn't a small employer exemption.

Required Disclosures to CMS

Employers must disclose to CMS whether their prescription drug coverage is credible or non-credible. This must happen on an annual basis, or upon any change that affects whether the coverage is credible. CMS says that rules for making disclosures will be provided in future guidance.

What is Creditable Coverage?

If the coverage is at least as good as the new Medicare drug benefit, then the employee can continue to get the same care and can also avoid higher payments if they sign up for the Medicare drug benefit at a later date. Coverage is creditable if the actuarial value of the coverage equals or exceeds the actuarial value of standard prescription drug coverage under Medicare Part D.

Enrollment in Part D

The initial enrollment period for Part D begins on November 15, 2005 and extends through May 15, 2006. If the individual hasn't enrolled in a plan by the end of this period and doesn't have creditable coverage, the individual will likely pay a higher premium if an application is made at a later date.

When Must an Employer Make the Disclosure?

According to CMS, at a minimum, disclosure must be made at the following times:

- Prior to the Medicare Part D Annual Coordinated Election Period (ACEP) — 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 prescription drug coverage ends or changes so that it is no longer creditable or it becomes creditable
- Upon a beneficiary's request.

The following pages are available at www.cms.hhs.gov, and can be used to meet the notification requirement under Medicare Plan B. For more information, contact the CMS Employer Policy and Operations Group at epog@cms.hhs.gov, or contact CTSI at 303-861-0507.

County Technical Services, Inc.

Important Notice from [Insert Name of Entity] About Your Prescription Drug Coverage and Medicare

Please read this notice carefully and keep it where you can find it. This notice has information about your current prescription drug coverage with [Insert Name of Entity] and new prescription drug coverage available January 1, 2006 for people with Medicare. It also tells you where to find more information to help you make decisions about your prescription drug coverage.

- 1. Starting January 1, 2006, new Medicare prescription drug coverage will be available to everyone with Medicare.**
- 2. [Insert Name of Entity] has determined that the prescription drug coverage offered by the [Insert Name of Plan] is, on average for all plan participants, expected to pay out as much as the standard Medicare prescription drug coverage will pay.**
- 3. Read this notice carefully - it explains the options you have under Medicare prescription drug coverage, and can help you decide whether or not you want to enroll.**

You may have heard about Medicare's new prescription drug coverage, and wondered how it would affect you. [Insert Name of Entity] has determined that your prescription drug coverage with [Insert Name of Entity] is, on average for all plan participants, expected to pay out as much as the standard Medicare prescription drug coverage will pay.

Starting January 1, 2006, prescription drug coverage will be available to everyone with Medicare through Medicare prescription drug plans. All Medicare prescription drug plans will provide at least a standard level of coverage set by Medicare. Some plans might also offer more coverage for a higher monthly premium.

Because your existing coverage is on average at least as good as standard Medicare prescription drug coverage, you can keep this coverage and not pay extra if you later decide to enroll in Medicare coverage.

People with Medicare can enroll in a Medicare prescription drug plan from November 15, 2005 through May 15, 2006. However, because you have existing prescription drug coverage that, on average, is as good as Medicare coverage, you can choose to join a Medicare prescription drug plan later. Each year after that, you will have the opportunity to enroll in a Medicare prescription drug plan between November 15th through December 31st.

If you do decide to enroll in a Medicare prescription drug plan and drop your [Insert Name of Entity] prescription drug coverage, be aware that you may not be able to get this coverage back.

**MODEL BENEFICIARY CREDITABLE COVERAGE DISCLOSURE NOTICE LANGUAGE
FOR USE PRIOR TO 11/15/05. THIS MODEL LANGUAGE NOT TO BE USED BY MEDIGAP INSURERS**

If you drop your coverage with [Insert Name of Entity] and enroll in a Medicare prescription drug plan, you may not be able to get this coverage back later. You should compare your current coverage, including which drugs are covered, with the coverage and cost of the plans offering Medicare prescription drug coverage in your area.

[CMS recommends that the entity providing this notice insert of an explanation of the prescription drug coverage option(s) that beneficiaries will have available to them when the Medicare Part D benefit becomes available] In addition, your current coverage pays for other health expenses, in addition to prescription drugs, and you will [or will not] still be eligible to receive all of you current health and prescription drug benefits if you choose to enroll in a Medicare prescription drug plan.

You should also know that if you drop or lose your coverage with [Insert Name of Entity] and don't enroll in Medicare prescription drug coverage after your current coverage ends, you may pay more to enroll in Medicare prescription drug coverage later. If after May 15, 2006, you go 63 days or longer without prescription drug coverage that's at least as good as Medicare's prescription drug coverage; your monthly premium will go up at least 1% per month for every month after May 15, 2006 that you did not have that coverage. For example, if you go nineteen months without coverage, your premium will always be at least 19% higher than what most other people pay. You'll have to pay this higher premium as long as you have Medicare coverage. In addition, you may have to wait until next November to enroll.

**For more information about this notice or
your current prescription drug coverage...**

Contact our office for further information [or call [Insert Alternative Contact] at [(XXX) XXX-XXXX]. NOTE: You may receive this notice at other times in the future such as before the next period you can enroll in Medicare prescription drug coverage, and if this coverage changes. You also may request a copy.

**For more information about your options under
Medicare prescription drug coverage...**

More detailed information about Medicare plans that offer prescription drug coverage will be available in October 2005 in the "Medicare & You 2006" handbook. You'll get a copy of the handbook in the mail from Medicare. You may also be contacted directly by Medicare prescription drug plans. You can also get more information about Medicare prescription drug plans from these places:

- Visit www.medicare.gov for personalized help,
- Call your State Health Insurance Assistance Program (see your copy of the Medicare & You handbook for their telephone number)
- Call 1-800-MEDICARE (1-800-633-4227). TTY users should call 1-877-486-2048.

For people with limited income and resources, extra help paying for a Medicare prescription drug plan is available. Information about this extra help is available from the Social Security Administration (SSA). For more information about this extra help, visit SSA online at www.socialsecurity.gov, or call them at 1-800-772-1213 (TTY 1-800-325-0778).

MODEL BENEFICIARY **CREDITABLE** COVERAGE DISCLOSURE NOTICE LANGUAGE
FOR USE PRIOR TO 11/15/05. THIS MODEL LANGUAGE NOT TO BE USED BY MEDIGAP INSURERS

Remember: Keep this notice. If you enroll in one of the new plans approved by Medicare which offer prescription drug coverage after May 15, 2006, you may need to give a copy of this notice when you join to show that you are not required to pay a higher premium amount.

Date:	[Insert <u>MM/DD/YY</u>]
Name of Entity/Sender:	[Insert Name of Entity]
Contact--Position/Office:	[Insert Position/Office]
Address:	[Insert Street Address, City, State & Zip Code of Entity]
Phone Number:	[Insert Entity Phone Number]