



## Lambert & Carney Benefits Group, LLC Newsletter Brief

### Guidance Issued On Medicare Part D Creditable Coverage Disclosure to CMS

January 11, 2006

Last week, the Centers for Medicare & Medicaid Services (CMS) posted long-awaited guidance on the obligation employers that sponsor prescription drug coverage to inform CMS of whether plans are creditable for purposes of Medicare Part D. This disclosure must be completed online to CMS by March 31, 2006.

#### Creditable Coverage Disclosure Requirement

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 added Part D to Medicare to provide prescription drug coverage to eligible retirees.

This law required employee benefit plan sponsors with prescription drug benefits to advise their participants whether the coverage they sponsored was creditable. These initial notices should have gone to all Medicare eligible plan beneficiaries by November 15, 2005 (contact Lambert & Carney if you need additional information or help bringing your plan into compliance). The law also requires affected plan sponsors to notify CMS whether their plans are creditable or not.

If you want assistance completing the CMS disclosure process, please contact us at (800) 357-1840 or by email to [plambert@lcbenefits.com](mailto:plambert@lcbenefits.com)

Until this release, guidance did not exist as to how to properly inform CMS of whether a plan sponsor's plan was creditable or not.

The disclosure will be used by CMS and Part D providers to, among other things, counsel potential Part D enrollees and determine whether any individuals who delay enrollment will be subject to a late enrollment penalty.

#### Which Entities Need Disclosure to CMS

The new guidance on the disclosure to CMS requires the entities listed below to disclose to CMS whether their prescription drug coverage is creditable or noncreditable:

1. Group health plans, including those offered by employers; union/Taft-Hartley plans; church, federal, state and local government, and other group-sponsored plans;
2. Governmental sponsored plans, including Medicaid; State Pharmaceutical Assistance Programs (SPAPs); State High Risk Pools;
3. Military Coverage, including the Veterans' Administration coverage and TRICARE;
4. Individual health insurance;
5. Indian Health Service; Tribe or other Tribal Organizations; Urban Indian Organizations; and
6. Medigap (Medicare Supplement) plans, including standardized plans H, I or J; pre-standardized plans; waiver state plans; and plans with innovative benefits.

The guidance limits the disclosure requirement to plans that offer drug coverage to Medicare Part D eligible individuals. In practice, this means that virtually any entity offering prescription drug coverage should notify CMS, since it is often impossible to determine whether spouses or dependents of employees are eligible for Medicare. This suggested treatment is similar to the approach we recommended for distributing the annual Part D Notice of Creditable Coverage to all employees regardless of their age.

Entities that are exempt from providing the disclosure to CMS are: prescription drug plan (PDP), Medicare Advantage plan that provides prescription drug coverage (MA-PD), Program of All-Inclusive Care for the Elderly (PACE) or cost-based HMOs, or Competitive Medical Plans (CMPs) that provide qualified Part D coverage (because they are, by design, not just creditable but actually providing Part D benefits).

The guidance also exempts employers who have claimed the 28% retiree drug subsidy from filing the disclosure since they, through the subsidy application process, have already informed CMS that the coverage is creditable. However, this section of the guidance restricts the exemption to retirees for whom the employer is claiming the subsidy, thus leaving open the possibility that employers still need to complete the disclosure with respect to covered individuals under the plan for active employees who may be eligible for Part D coverage but who have postponed enrollment.

### **Content of Disclosure**

The electronic disclosure (<http://www.cms.hhs.gov/apps/ccdisclosure/default.asp>) is the sole method of complying with the CMS disclosure requirement. The disclosure requests the following information:

- Name of Entity Offering Coverage
- Federal Tax Identification Number of the Entity
- Street Address, including the City, State and Zip Code of the Entity
- Phone Number of the Entity
- Type of Coverage
- Number of Options offered by the Entity
- Creditable Coverage Status of Options offered by the Entity
- Period covered by Disclosure Notice
- Number of Part D Eligible Individuals expected to be covered under these Plan(s) as of the Beginning Date of the Plan Year
- Estimate Number of individuals expected to be covered through an Employer/Union group health Retiree Plan
- Date of Notice of Creditable Coverage provided to Part D Eligible Individuals
- Change in Creditable Coverage status of previously disclosed information to CMS
- Name, Title and Email of the Entity's Authorized Individual
- Date of Disclosure to CMS

### **Timing of Ongoing Disclosures**

Following the initial Disclosure, the plan sponsor must send an updated report:

- within 60 days after the beginning of each plan year for plan years that end in 2007 and beyond;
- within 30 days after the prescription drug plan terminates or;
- within 30 days after any change in the creditable coverage status of the prescription drug plan.

If you would like further information regarding the issues raised in this News Letter Brief, please contact Paul Lambert at [plambert@lcbenefits.com](mailto:plambert@lcbenefits.com). Our website is [www.lcbenefits.com](http://www.lcbenefits.com).