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## Don't Let the Medicare Drug Benefits Law Catch You by Surprise!

### What all employers must do by November 15, 2005

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#### Introduction

As part of the Medicare Modernization Act of 2003 (MMA), Medicare will begin providing prescription drug benefits on January 1, 2006. All organizations (including non-profits) that offer prescription drug benefits and have employees (and/or dependents) also eligible for Medicare (due to age or disability), have specific actions that must be completed by November 15, 2005.

Medicare eligible employees and dependents participating in your organization's health plans will have the choice to continue their prescription benefits through your plan, or enroll in the Medicare plan. In order to help your employees/dependents decide which plan will be most beneficial, employers are required to provide specific notices by November 15, 2005. For those agencies insured through CIS, by mid-October we will have a number of resources available to make this process as simple as possible.

#### The Law

The Part D prescription plan portion of the MMA makes prescription drug coverage available for the first time beginning January 1, 2006. Employers need to compare their prescription coverage to the Part D coverage and then provide specific written notices to all Medicare-eligible participants (and/or dependents) by November 15, 2005. This notice is designed to help your employees and/or dependents make a decision as to which plan will better suit their needs.

Employer Plans that offer prescription benefits that are as good as or better than the Part D plans are called **creditable**. Employer Plans that offer benefits that are not as good as the Part D benefits are called **non-creditable**. There is no penalty to an employer for providing non-creditable coverage.

As long as a participant is enrolled in a **creditable** plan, and does not go without this coverage for longer than a 63 day period—they can enroll in Medicare Part D on a date after their initial eligibility without having to pay the "late enrollee" higher premiums.

It appears that the majority of the health plans with prescription benefits will most likely qualify as "creditable".

In addition to the initial notification mentioned above, there are 5 other times a notice must be provided:

#### Criteria for "Creditable" Coverages for Integrated Plans

*(Prescription plan is combined with other benefits such as medical, etc.)*

Must meet all criteria

- 1 Must cover both generic and brand-name prescriptions
- 2 Must be accessible through retail outlets and mail order
- 3 Must cover an average of 60% of employees' prescription expenses
- 4 Has no more than a \$250 annual deductible
- 5 Has an annual maximum benefit of \$25,000 or more
- 6 Has a lifetime maximum benefit of \$1,000,000 or more

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- 1) prior to a participant's initial enrollment period for Medicare
- 2) prior to a participant's enrollment into the group plan (may be incorporated into the plan's Summary Plan Description {SPD})
- 3) upon any change in the plan's prescription coverage that affects the "creditable" or "non-creditable" designation
- 4) annually before November 15
- 5) upon request

But wait, there's more! All employers are also going to be required to notify the Center for Medicare and Medicaid Services (CMS) **annually** of the status (e.g. creditable or non-creditable) of their prescription coverage and/or immediately should a prescription plan's status change. CMS still needs to provide further guidance on how this will be accomplished (additional information is expected before the end of the year).

### **Your Responsibilities as an Employer**

Here are the items that employers are responsible for:

- Determine whether your prescription plans are creditable or non-creditable. *If you're insured through CIS for your health insurance, we will be providing you this information by mid-October.*
- Determine which of your employees and dependents are or will be eligible for Medicare as of January 1, 2006. *Since it's sometimes difficult to determine an employees' or dependents' Medicare eligibility, many employers have decided to provide the required notice to all employees (including those on COBRA).*
- Provide each eligible participant with a Notice of Creditable Coverage or Notice of Non-Creditable Coverage. *If you're insured through CIS for your health insurance, we will be providing you with a customizable version of both notices by mid-October.*
- Notify CMS of the status (creditable and/or non-creditable) of your plans by 12/31/05 and annually thereafter. *We will provide you with more information regarding this process once it becomes available.*
- Provide the appropriate Notice thereafter as required (see more details under the above section "The Law").

For more information regarding the MMA and Part D prescription plan, CMS has an excellent website with numerous fact sheets and details at <http://www.cms.hhs.gov/medicarerreform/>.

### **Information to Give to Your Employees**

**What:** Medicare will begin offering prescription benefits for the first time, beginning January 2006. You will be receiving a notice from your employer by November 15, 2005, that lets you know how your employer's plan compares to the Medicare Part D plan.

A Notice of Creditable Coverage means that your employer's plan is as good as or better than the Medicare plan, and will allow you to enroll in the Medicare Plan later without the "late enrollee" higher premiums.

A Notice of Non-Creditable Coverage means that your employer's plan is adequate, but not as good as the Medicare Part D plan and you may want to enroll in Medicare's prescription plan. If you choose to remain on your employer's plan now and switch over to the Medicare plan later, you will be faced with higher lifetime premiums.

**When:** If you are currently on Medicare Part A and/or Part B, you can sign up for Part D (prescription coverage) between 11/15/05–5/15/06. When you become eligible in the future, different enrollment periods apply (see Enrollment and More Information below).

**How Much:** Multiple plans with various premiums and co-payments will be available. Estimated monthly premiums start at about \$32.00, and the deductible for 2006 will be \$250.00.

### **Enrollment and More Information:**

Free-personalized information can be obtained at [www.medicare.gov](http://www.medicare.gov) or 1-800-MEDICARE (1-800-633-4227).

*This article is an outline of the basic responsibilities of employers under the Medicare Modernization Act of 2003 (MMA). We recommend, because of the complexity and potential liability of MMA, legal advice or other expert assistance should be obtained. ■*