



Deadline Nears for Submission of Creditable Coverage Disclosures to CMS

Group health plan sponsors that provide prescription drug coverage to Medicare Part D eligible individuals must annually disclose to the Centers for Medicare & Medicaid Services (CMS) whether such coverage qualifies as creditable or non-creditable prescription drug coverage. All plan sponsors that provide prescription drug coverage are required to make this disclosure, even if they do not make coverage available to retirees. Calendar year plans must submit the disclosure to CMS by March 1, 2009.

Introduction

The Medicare prescription drug program (Medicare Part D) went into effect on January 1, 2006. The regulations implementing Medicare Part D require plan sponsors and other entities that provide prescription drug coverage to Part D eligible individuals to furnish a notice regarding the status of that coverage as creditable (i.e., at least actuarially equivalent to the Medicare Part D coverage) or non-creditable to these individuals before the beginning of the Medicare Part D annual enrollment period. The Part D regulations also require these plan sponsors and entities to disclose to CMS, on an annual basis and at certain other times, whether the coverage they provide is creditable or non-creditable. The time for the disclosure to CMS for calendar year plans is approaching.

Creditable Coverage Disclosures to CMS

A plan sponsor must submit a new disclosure to CMS no later than 60 days after the beginning of each plan year – i.e., by March 1, 2009 for calendar year plans. The disclosure is made by filing an electronic disclosure form with CMS. An entity that does not offer outpatient prescription drug benefits to any Part D eligible individual on the first day of its plan year is not required to complete the disclosure to CMS form.

The most recent guidance on this disclosure is available on CMS' [website](#).

A new disclosure form must also be completed if there is a change in the creditable coverage status of a coverage option after the form has been submitted for the plan year. This includes a change in the coverage offered so that it is no longer creditable or the termination of a creditable coverage option. A new disclosure form must also be completed if a plan that provides creditable coverage is terminated after the form has been submitted.

Information Needed to Complete the Disclosure

In preparing the disclosure to CMS, plan sponsors need to –

- identify the number of prescription drug options they offer to Medicare eligible individuals. This is the total number of benefit options they offer, excluding any benefit options they are claiming under the retiree drug subsidy (RDS) program (benefit options for which the plan sponsor is expected to collect the subsidy). For example, a plan sponsor with an HMO, PPO and indemnity option available under its plan would identify three prescription drug options.
- determine the number of benefit options offered that are creditable coverage and how many are non-creditable
- estimate the total number of Part D eligible individuals expected to have coverage under the plan at the start of the plan year (or if both creditable and non-creditable coverage options are offered, estimate the total number of Part D eligible individuals expected to enroll in each coverage category). This includes Part D eligible active employees, retirees or disabled individuals and any of their Part D eligible dependents, as well as any individuals on COBRA who are Part D eligible. The estimate should not include any Part D eligible individuals being claimed under the RDS program. If a plan sponsor provides retiree prescription drug coverage, it will have to be able to provide a similar estimate of Part D eligible individuals who have retiree coverage at the start of the plan year. (Note: Individuals who will subsequently become Part D eligible during the plan year should not be included in the count although they must be provided a notice of creditable or non-creditable coverage prior to their initial enrollment period for Part D.)
- disclose the most recent calendar date on which the required notices of creditable or non-creditable coverage were provided.

Conclusion

Plan sponsors should review the instructions carefully before completing the disclosure form to make certain that they have all necessary information.

Buck's consultants would be pleased to help you determine whether your prescription drug coverage qualifies as creditable or non-creditable coverage and provide you with any assistance you may need to complete the submission to CMS by the deadline or to provide notices of creditable coverage to Part D eligible individuals.

This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.