

# EMPLOYEE BENEFITS COMPLIANCE UPDATE

A Parker, Smith & Feek Benefit Alert

SEPTEMBER 2023

## Medicare Part D Notice Reminder: Deadline of October 14th

Employers with group health plans that provide prescription drug coverage to individuals who are eligible for Medicare Part D must comply with certain disclosure requirements.

Group health plan sponsors must disclose to individuals who are eligible for Medicare Part D whether their prescription drug coverage is at least as good as the Medicare Part D coverage (in other words, whether their prescription drug coverage is "creditable"). These disclosures must be provided each year prior to Medicare's annual open enrollment period, and at certain other designated times. The annual open enrollment period for Medicare Part D is October 15th through December 7th, so notices must be provided by October 14th.

If the Medicare Part D Notice was included in your open enrollment materials this year then you have met your annual obligation and can stop here. For everyone else, please continue reading to learn about your responsibilities under Medicare.

### WHY IT'S NECESSARY

In order for Medicare eligible individuals to make informed and timely enrollment decisions, group health plan sponsors must disclose the status (creditable or non-creditable) of the plan's prescription drug coverage. If an individual's enrollment in Part D is to be considered timely, the individual must enroll before the end of his or her Initial Enrollment Period.

An eligible individual who fails to enroll in Medicare Part D during their Initial Enrollment Period must maintain "creditable coverage" or pay a late enrollment penalty. The late enrollment penalty will be imposed after a break in creditable coverage that lasts for a period of 63 days or longer (after the Initial Enrollment Period) and will apply for as long as the individual remains enrolled in Part D.

Thus, the disclosure notice is essential to an individual's decision regarding whether to enroll in a Medicare Part D prescription drug plan.

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## AN EMPLOYER'S RESPONSIBILITY

Not all carriers provide the notice to their potential Medicare-eligible members each year. Even though many carriers have assisted in the process in the past, most are only sending the notice to those individuals that they know are already covered by Medicare. Since it is still an employer obligation, we are again recommending that you send the notice to all plan participants to ensure that all participants, including spouses and dependents that need the notice, will receive it.

## REQUIRED NOTICES

In addition to the annual notification requirement required prior to October 15th of each year, the Notices must be provided in the following circumstances:

- + Before the individual's Initial Enrollment Period for Part D;
- + Before the effective date of enrollment in the prescription drug coverage;
- + Upon any change that affects whether the coverage is creditable prescription drug coverage; and
- + Upon request of an individual.

If the notice is provided to plan participants in the 12 month period prior to October 15th, CMS will consider the first two requirements (annual notice and notice prior to an individual's initial enrollment period) to be met.

You may also want to provide the notice to newly covered individuals as they enroll, so that they are aware of the status of your prescription drug plan.

If your plan participants did not receive a Medicare Part D Notice in the previous 12 months, then you will need to send notices before October 14. We have attached sample generic notices based on the CMS drafts, which

have not been revised since 2011. We encourage you to customize them for your plan, especially where indicated in blue. The Notice should be distributed by October 14th. Since these notices are the same as last year's notice, you should be able to use them as a reference in preparing the new notice.

If Parker, Smith & Feek prepared your open enrollment communications then the Medicare Part D Notice was distributed to all plan participants at that time, unless you specifically asked for it to be removed.

## Additional Resources for Your Medicare Part D Responsibility

There is a Medicare Part D Legislative Guide on MyWaveHR. You can access this at [zywave.com](http://zywave.com) and then follow the login process. If you do not have a MyWaveHr account, please contact your [Parker, Smith & Feek Benefits Team](#).

Further guidance, including a user's guide to assist you with the disclosure process, can be found at [cms.hhs.gov/creditablecoverage](http://cms.hhs.gov/creditablecoverage).

As you may recall, CMS also imposed a requirement for employers to disclose the creditability status of their prescription drug coverage directly to CMS. The disclosure to CMS must be completed no later than 60 days following the beginning of the plan year. If you have any questions about the disclosure to CMS at renewal, please don't hesitate to call.



Creditable-Coverage.docx



Non-Creditable-Coverage.docx

*As always, should you have any questions, please contact your [Parker, Smith & Feek Benefits Team](#). While every effort has been taken in compiling this information to ensure that its contents are totally accurate, neither the publisher nor the author can accept liability for any inaccuracies or changed circumstances of any information herein or for the consequences of any reliance placed upon it.*