Employer Group Requirements for Medicare Part D Notice

Through its federal regulations pertaining to Medicare Part D coverage under the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA), the Centers for Medicare and Medicaid Services (CMS) have imposed certain disclosure obligations on employers that sponsor group health plans with prescription drug coverage. Such employers are required to disclose to Medicare beneficiaries whether the employer's prescription drug coverage is "creditable." Prescription drug coverage is creditable if the actuarial value of the coverage equals or exceeds the actuarial value of standard Medicare prescription drug coverage.

Since you are an employer sponsoring a group health plan with prescription drug coverage, you must provide, at various times, a prescription drug disclosure notice (Disclosure Notice) to all individuals who are eligible for Medicare Part D and enrolled in (or seeking to enroll in) your group health plan. To assist you with your disclosure obligations under Medicare Part D, Blue Cross Blue Shield of North Dakota (BCBSND) has determined the creditable or non-creditable status of the prescription drug coverage available through your group health plan.

A statement containing BCBSND's determination of the status of your group health plan's prescription drug coverage can be found in your group renewal packet.

In addition, the information in this handout is meant to provide you with a summary of your disclosure obligations under Medicare Part D as well as BCBSND recommended actions.

BE ADVISED THAT THIS IS AN INFORMATIONAL DOCUMENT ONLY AND IS NOT INTENDED AS LEGAL ADVICE OR A LEGAL OPINION ON ANY SPECIFIC STATUTE OR REGULATION, OR RELATED TO ANY FACTUAL CIRCUMSTANCES. IT IS NOT INTENDED TO CREATE OR CONTINUE AN ATTORNEY-CLIENT RELATIONSHIP. AS AN EMPLOYER SPONSORING A GROUP HEALTH PLAN, YOU ARE RESPONSIBLE FOR COMPLYING WITH CERTAIN PROVISIONS OF THE MMA AND MEDICARE PART D. BCBSND CANNOT PROVIDE LEGAL ADVICE TO YOU. IT IS RECOMMENDED THAT YOU CONTACT YOUR OWN LEGAL REPRESENTATIVE OR CONSULTANT WITH ANY SPECIFIC QUESTIONS OR CONCERNS.

Who Must Receive the Disclosure Notice?

- The Disclosure Notice must be provided to all Medicare Part D eligible individuals who are covered under, or who apply for coverage under, your group health plan. An individual is eligible for Medicare Part D if he or she is entitled to Medicare Part A and/or enrolled in Part B.
  - For example: The Disclosure Notice requirement applies with respect to Medicare beneficiaries who are active employees, retirees (if your plan provides for retiree coverage) and Medicare beneficiaries who are covered as dependents of active employees or retirees.
- Since you may not know which participants in your group health plan are Medicare eligible (particularly with respect to dependents), BCBSND recommends that you mail the Disclosure Notice to all participants in your group health plan.
- CMS has indicated that you may provide a single Disclosure Notice to Medicare Part D eligible employees/retirees and their Medicare Part D eligible dependents covered under your plan.
- However, you must provide a separate Disclosure Notice if you know that any Medicare Part D eligible dependent resides at a different address than the Medicare Part D eligible employee/retiree.

When Must the Disclosure Notice be provided?

Federal regulations specify that the Disclosure Notice must be provided to Part D eligible individuals at the following times:

1. Prior to the Medicare Part D Annual Coordinated Election Period (beginning October 15th through December 7th of each year);
2. Prior to an individual's Initial Enrollment Period for Medicare Part D;
3. Whenever prescription drug coverage ends or changes so that it is no longer creditable or becomes creditable;
4. Prior to the effective date of coverage for any Medicare eligible individual who joins the employer's health and prescription drug plan; and
5. Upon a beneficiary's request.

Items to keep in mind:

- CMS has indicated that if the Disclosure Notice is provided to all group health plan participants, it will consider items 1 and 2 above to be met.
- CMS has also stated that "prior to" means that the Medicare Part D eligible individual must have been provided the Disclosure Notice within the past twelve months. Thus, if you do not want to specifically determine who is a Part D eligible individual, you will need to send the Disclosure Notice on an annual basis to all plan participants.
- Please note that an annual Disclosure Notice will not satisfy all of the disclosure timeframes set forth by CMS. You must also provide the Disclosure Notice:
  - Prior to the effective date of coverage to any Medicare eligible individual that joins your group health plan (item 4 above); and
  - To any plan participant that requests a Disclosure Notice (item 5 above).

What are the Required Contents of the Disclosure Notice?

- CMS has provided template Disclosure Notices that employers can (but are not required to) use when disclosing creditable coverage status to beneficiaries.
- The template Disclosure Notices are available at the CMS website. http://www.cms.gov/CreditableCoverage
  - You should periodically review the CMS website to ensure that you are using the most up-to-date Disclosure Notices.
- Also, please note that CMS has separate template Disclosure Notices depending on whether your prescription drug coverage is creditable or non-creditable. You must utilize the correct template Disclosure Notice and fill-in any necessary group health plan information as specified in the template Disclosure Notice.

Disclosure of Creditable Coverage to CMS:

You must also provide Disclosure Notice information to CMS.

- On an annual basis; and
- Upon any change that affects whether the prescription drug coverage is creditable.

Instructions for submitting the Disclosure Notice information can be found at www.cms.gov/CreditableCoverage.

You should periodically review the CMS website for updated and new information.

BCBSND recommends that you contact your current professional consultant or legal counsel regarding these disclosure requirements mandated under the MMA and Medicare Part D. In addition, further information and the complete federal regulations, as well as template Disclosure Notices, are available from the CMS website at http://www.cms.hhs.gov/CreditableCoverage.BCBSND will not be responsible for providing Disclosure Notices to your plan participants.

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