



***ABC'S BENEFIT NEWS!***  
**Fall, 2005**  
**SPECIAL NON-HIPAA EDITION!**  
***MEDICARE MODERNIZATION ACT***  
***EMPLOYER REQUIREMENTS!***

**Medicare Prescription Drug Coverage and  
Special Employer Disclosure Notice Requirements**

The Medicare Modernization Act provides for a variety of new Medicare benefits, including, for the first time, Prescription Drug coverage, effective January 1, 2006. Coverage for outpatient prescription drugs will be allowed under Medicare, for all Medicare enrollees, including those who may be covered by other programs, such as those covered as active employees or retirees of employer-sponsored health plans.

**Initial Open Enrollment**

There will be an initial open enrollment period for the prescription drug program between November 15, 2005 and May 15, 2006. Each year following, Medicare enrollees will have the opportunity to enroll in a Medicare prescription drug plan between November 15<sup>th</sup> and December 31<sup>st</sup>.

**Enrollment in Medicare RX vs. Group Plan RX**

It is important that enrollees understand that if they decide to enroll in a Medicare prescription drug plan and drop their employer-sponsored drug coverage, they may not be able to get the group coverage back at a later date. It is important that your employees who may be Medicare eligible understand this. They should compare their group plan coverage with the Medicare plan thoroughly, including a list of covered drugs and the cost under each plan, before they make an election. Note that if the group health plan a person is enrolled in does not provide benefits for prescription drugs that are at least as good as Medicare, and he decides not to enroll in the Medicare prescription drug program during the initial open enrollment period, he will pay a higher premium for Medicare prescription drug coverage once he does enroll that will increase with every month beyond the initial enrollment period that they did not enroll in, and this additional premium will be permanent.

**Disclosure Notice**

It is for this reason that it is very important that persons covered under employer-sponsored plans be notified whether or not the coverage they have through their employer plan is at least as good as the Medicare program coverage. *The Centers for Medicare and Medicaid Services (CMS) requires that all employers provide a disclosure notice to their employees who are on Medicare to provide them with this information.*

**ABC will mail and provide electronically to all group clients sample disclosure notices for both coverage as good as Medicare and coverage not as good as Medicare, and will assist you with your decision as to how to classify your current prescription drug coverage. We will also provide you with a sample cover letter to your employees. All of these will also be posted these on your Client Only Section of our Website.**

The following is a quick overview of the Employer Notice Requirements, provided recently in part by the National Association of Health Underwriters, and modified for ABC's clients and other customers.

## **QUICK OVERVIEW OF EMPLOYER NOTICE REQUIREMENTS**

### Who must receive the notice?

All Part D eligible individuals who are covered by an employer/union health plan with outpatient prescription drug coverage must receive a notice, regardless of whether the employer/union coverage is primary or secondary to Medicare. The notice must be provided to active employees and their spouses as well as those who are covered as retirees, disabled or on COBRA.

### What is Part D?

Part D is a new Medicare prescription drug program beginning January 1, 2006.

### Who is eligible under Part D?

If the individual is entitled to Medicare Part A and/or enrolled in Part B, they are eligible for Part D. For coverage under a specific Part D plan, they must reside in the service area where it is being offered.

### How do I know if someone is eligible for Medicare Part A or B?

A person has Part A coverage if they have attained age 65 and receives monthly Social Security benefits or is a qualified railroad retirement beneficiary. Individuals under age 65 may also become entitled to Medicare benefits if they receive at least 24 months of Social Security benefits based on disability.

### It may be difficult for me to keep track of this information. Is there an easier way to meet the notice requirement?

The simplest way is to provide the notice to all employees and retirees covered by your health plan each year prior to November 15<sup>th</sup>.

### How does Part D enrollment work?

There is an initial open enrollment period beginning on November 15, 2005 and continuing through May 15, 2006. After the initial enrollment period, newly eligible individuals are eligible during the 3 months before their Medicare eligibility date, the month of their eligibility date, until 3 months after that date. If an eligible individual doesn't enroll during this period, they will pay a higher premium for late enrollment.

### How does this relate to the employer/union disclosure notice?

If an eligible individual is covered under a health plan that is providing prescription drug coverage as good as the Medicare program coverage (called creditable coverage), they will not be charged a late enrollment penalty if they choose to continue their employer/union sponsored coverage and enroll in a Medicare prescription drug program at a later date. If the coverage for prescription drugs under their health plan is not as good as the standard Medicare prescription drug coverage (called non-creditable coverage) and they go beyond their initial open enrollment period, they will pay a late enrollment penalty for the rest of the time they are enrolled in the Prescription Drug program.



Is there a simple way an employer/union can determine if the coverage provided under their plan is as good as the Medicare program?

Unless an employer/union is applying for the retiree prescription drug subsidy, a statement by an actuary is not necessary.

The employer/union can determine if its prescription drug plan is as good as Medicare if it meets all four of the following standards:

1. Provides coverage for brand and generic prescriptions;
2. Provides reasonable access to retail providers and, optionally, for mail order coverage;
3. The plan is designed to pay on average at least 60% of participants' prescription drug expenses; and
4. Satisfies at least one of the following:
  - a. The prescription drug coverage has no annual benefit maximum benefit or a maximum annual benefit payable by the plan of at least \$25,000, or
  - b. The prescription drug coverage has an actuarial expectation that the amount payable by the plan will be at least \$2,000 per Medicare eligible individual in 2006.
  - c. For entities that have integrated health coverage, the integrated health plan has no more than a \$250 deductible per year, has no annual benefit maximum or a maximum annual benefit payable by the plan for at least \$25,000 and has no less than a \$1,000,000 lifetime combined benefit maximum. An integrated plan is a plan that has one or benefits combined, such as medical and prescription drug, medical, dental and prescription drug, etc.

***YOUR HEALTH INSURANCE PLAN CAN ASSIST YOU WITH THIS DETERMINATION.***

What are the employer/union disclosure notice requirements?

CMS has provided for flexibility in distribution of the notice. It need not be sent as a separate mailing and may be provided with other plan participant materials. If the notice is included with other plan participant materials, it must be prominently referenced in at least 14-point font. One notice for the eligible individual and all covered dependents is permitted, unless it is known that a spouse or dependent resides at a different address. The employer/union can provide the notice through electronic means but only if the Medicare beneficiary has indicated that he or she has adequate access to electronic information, and has been informed of his or her right to obtain a paper version.

What should the disclosure notice say?

CMS has developed sample model notices for creditable and non-creditable coverage. See the CMS website, or clients of ABC will find these, customized for you, on your section of our Clients Only website.

When should the employer/union disclosure notices be distributed?

1. Prior to the Medicare Part D Annual Coordinated Election Period beginning November 15<sup>th</sup> each year;
2. Prior to an individual's initial enrollment period for Part D;
3. Prior to the effective date of coverage for any Medicare eligible individual that joins the plan;
4. Whenever prescription drug coverage ends or changes so that it is no longer creditable or becomes creditable; and
5. Upon a beneficiary's request.



Note: Items 1 and 2 will be deemed to be met if the notice is provided to all plan participants at least once a year, prior to November 15. RECOMMENDED.

The employer/union must provide a copy of their notice to CMS on an annual basis. CMS will provide future guidance relating to this requirement in the fall of 2005.

The employer/union may arrange for this notice to be provided by a third party, such as their health insurance carrier. Again, for ABC clients, this is being done for you, and will be posted on your ABC client website.



**See our Website for our Fall, 2005 Seminar Schedule...Registrations Now Being Accepted.**

***November 17, 2005, HIPAA Portability & Certification Updates  
(2 Hour Program)***

***November 29, 2005, Sexual Harassment Train the Trainer  
(Half-day Program)***

***December 6, 2005, HIPAA Privacy Training (Full Day Program)***

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