

CLIENT ALERT

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CREDITABLE COVERAGE NOTICE TO CMS Make sure you know your obligations.....

THE WHO WHAT AND WHY OF CREDITABLE COVERAGE DISCLOSURE

Under The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), group health plans that currently provide prescription drug coverage to Medicare Part D eligible individuals must disclose to the Centers for Medicare & Medicaid Services (CMS) whether the coverage is “creditable prescription drug coverage” (Disclosure Notice). A disclosure is required whether your coverage is primary or secondary to Medicare.

Who Must Provide the Disclosure Notice to CMS

The Disclosure Notice is required to be provided to CMS by certain entities listed at 42 CFR §423.56(b) that are not excluded at §423.56(e). These include:

1. **Group health plans, including those offered by employers;** ← **This means you!!!**
union/Taft-Hartley plans; church, Federal, State and local governments, and other group-sponsored plans;
2. Governmental sponsored plans, including Medicaid; State Pharmaceutical Assistance Programs (SPAPs); State High Risk Pools;
3. Military Coverage, including the Veterans' Administration coverage and TRICARE;
4. Individual health insurance;
5. Indian Health Service; Tribe or other Tribal Organizations; Urban Indian Organizations; and
6. Medigap (Medicare Supplement) plans, including standardized plans H, I or J;

Timing of Creditable Coverage Disclosure to CMS

The Disclosure Notice must be made to CMS on an annual basis, and upon any change that affects whether the drug coverage is creditable.

At a minimum, disclosure to CMS must be made at the following times:

- disclosure of creditable coverage status must be provided within 60 days after the beginning date of the plan year for which the entity is providing the disclosure to CMS.
- Within 30 days after the termination of the prescription drug plan ; and
- Within 30 days after any change in the creditable coverage status of the prescription drug plan.

The following wording appears in the instructions on the CMS Website:

If an entity does not offer prescription drug benefits to any Medicare Part D eligible individual on the beginning date of their plan year (renewal year, contract year, etc.), the entity is not required to complete the Disclosure to CMS Form for that plan year.

We recommend that you complete the information regardless. Depending on the size of your company, you may not know of a dependent who is under the age of 65, but who may nevertheless be eligible for Medicare due to a disability.

How to Notify CMS of Creditable Coverage Status

An entity is required to provide the Disclosure Notice through completion of the disclosure form on the CMS Creditable Coverage Disclosure Web Page at https://www.cms.hhs.gov/CreditableCoverage/45_CCDisclosureForm.asp. As you answer the questions on the electronic Disclosure to CMS form, additional boxes will appear where you should enter the required disclosure information. This method of transmission is convenient and will take minimal time to complete, and is the sole method for compliance with the requirement. Instructions can be found in the download section here.

https://www.cms.hhs.gov/CreditableCoverage/40_CCDisclosure.asp#TopOfPage

If you believe your plan is Not Creditable or you are not sure, please call our office.

Disclaimer:

This notification is not meant to advise you of your entire obligations under Medicare D, nor to serve as legal advice. If you would like more complete information, please do not hesitate to contact our office of your attorney.