

Creditable Coverage Disclosure to CMS Required by March 31, 2006

CMS publishes disclosure instructions

The Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) requires that all entities providing prescription drug coverage to Medicare Part D-eligible individuals must periodically disclose to the Centers for Medicare & Medicaid Services (CMS) whether the prescription drug coverage offered is creditable or non-creditable to Medicare Part D. On January 10, 2006, CMS published instructions for making these periodic disclosures.

When must disclosure be made to CMS?

According to the January 10 instructions, at a minimum, disclosure to CMS must be made by the following deadlines:

- For plan year ending in 2006, disclosure of creditable coverage status must be provided no later than March 31, 2006;
- For plan years ending in 2007 and beyond, disclosure must be provided within 60 days after the beginning 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.

Who must make the disclosure to CMS?

- MMA requires that sponsors of group health plans, including employers, unions, churches, Federal, State and local governments, among others, that provide prescription drug coverage to Medicare Part D-eligible individuals must disclose creditability status to CMS. This requirement also applies to governmental sponsored plans (e.g., Medicaid, State High Risk Pools, etc), military coverage (e.g., VA plans, TRICARE, etc), individual coverage, Medigap plans, and Indian Health Service, tribal and urban Indian organization plans, among others.
- Though the disclosure requirement applies to prescription drug coverage provided to Medicare Part D-eligible individuals, group health plan sponsors may want to consider providing the disclosure to CMS even if they're not aware of Part D-eligible members in their group health plan. This is because of the difficulty in determining whether employees' spouses or dependents are Medicare-eligible.
- Plan sponsors that have applied for and anticipate receiving payment for the retiree drug subsidy (RDS) are not required to make this disclosure to CMS.

How is the disclosure made?

Disclosure must be made electronically via the Disclosure Notice form on the CMS Creditable Coverage Web site at www.cms.hhs.gov/apps/ccdisclosure/default.asp.

Where can clients get additional information and instructions?

- CMS' January 10, 2006 disclosure guidance is posted on the CMS Web site at www.cms.hhs.gov/CreditableCoverage/.
- Information, guidance, and questions and answers about creditable coverage can be found on the CMS Web site at www.cms.hhs.gov/CreditableCoverage/.

How can we assist clients?

Notification of creditable coverage status is a CMS requirement specifically for sponsors of group health plans, including employers and unions. Therefore, HCSC cannot notify CMS of a client's creditable coverage status.

The information in this article should not be construed as legal advice or as a legal opinion on any specific facts or circumstances, and is not intended to replace advice of independent legal counsel.

