



Annual CMS Disclosure Information

According to the Medicare Modernization Act (MMA) of 2003, employers must notify Part D eligible employees whether prescription drug coverage provided under its group health plan is creditable or non-creditable coverage. However, a best business practice is to provide notice to all covered employees of its prescription drug coverage status. This is required to be provided on or before October 15th of every year. In addition to notifying eligible individuals, a second disclosure requirement is for plan sponsors, i.e. employers, to complete an Online Disclosure Form to report its creditable coverage status of their prescription drug plan to CMS.

The delivery requirements of the disclosure to CMS are entirely different from the requirements regarding content, timing, method, and delivery of the disclosures to Part D eligible individuals.

Form and Manner

The Disclosure to CMS Form used to disclose to CMS whether the group health plan coverage is creditable must be completed and sent electronically through the CMS website (hard copies are not generally allowed). Please find attached the [Disclosure to CMS Form](#).

Before completing the Disclosure to CMS Form, employers will want to consult the detailed line-by-line instructions provided by CMS. Following are some, but not all, examples of various key points made by the instructions:

- **Name of Entity Offering Coverage.** This is the name of the entity providing or sponsoring the benefits plan (e.g., an employer), not the insurance carrier or TPA.
- **Entities With Subsidiaries.** One Disclosure to CMS Form can be submitted to CMS for entities with subsidiaries if the plan year is the same for all subsidiaries/divisions; if all entities are covered under the same type of coverage, use the parent company's Federal Tax Identification Number (EIN). Alternatively, an additional form can be submitted for each subsidiary with the applicable information using the subsidiary's EIN.
- **Number of Options Offered.** This is the total number of benefit options that the employer is offering to Medicare eligible individuals (e.g., HMO, PPO, and indemnity options).
- **Creditable Coverage Status of Options Offered.** If the options are either all creditable or all non-creditable, aggregated data may be provided for all of them. If some options are creditable and some are not creditable, the data may be combined into two groups.
- **Period Covered by Disclosure to CMS Form.** Each employer must provide the beginning and ending calendar date(s) of the plan year for which the Disclosure to CMS Form applies. "Plan year" means the beginning and ending date of the entity's annual renewal or contract period.
- **Number of Part D Eligible Individuals.** Employers must estimate how many Part D eligible individuals they expect to be covered as of the first day of the plan year. Individuals who will not become eligible until sometime during the year should not be included for that year (they should be included in the notice for the next plan year). However, employers must provide disclosure notices of creditable coverage status to Part D eligible individuals when such individuals become eligible for Medicare.

- **Date of Notice of Creditable Coverage.** Employers must disclose the latest date on which they provided the disclosure to Part D eligible individuals (i.e., mailed, personally distributed to Part D eligible individuals, etc., as required by the regulations).
- **Change in Creditable Coverage Status (Including Termination of Plan or Option).** Employers must notify CMS if, after the Disclosure to CMS Form has been submitted for a plan year, the creditable status of coverage or any of the options have changed (e.g., so that it is no longer creditable or if a plan or option is terminated). For example, if the employer terminates a creditable coverage option after the Disclosure to CMS Form has been completed for a plan year, it must complete a new Form. The same would also be true if the employer changed the coverage offered so that it was no longer creditable. The disclosure must include the date on which the employer provided the disclosure notice relating to the change in creditable coverage status (i.e., mailed, personally distributed to Part D eligible individuals, etc., as required by the regulations).

Timing

The Disclosure should be completed annually no later than 60 days from the beginning of a plan year (contract year, renewal year), within 30 days after termination of a prescription drug plan, or within 30 days after any change in creditable coverage status. For example, if a plan year starts on July 1, the employer must complete the online Disclosure to CMS Form no later than August 30 each year.

October 15, 2015 has come and gone, and you have met your requirement to provide a notice of creditable or non-creditable coverage to employees. This is a reminder that an employer must also notify CMS of its coverage status.