

FALL RIVER EMPLOYEE BENEFITS



New 2011 Medicare Part D Model Notice Update

Health plan sponsors are required to supply, at least annually, a special notice to their enrollees who are also covered by Medicare. The special notice indicates whether the plan's prescription drug coverage is "creditable" – that is, at least as good as Medicare Part D, on an actuarial basis. The "Medicare Part D notice" helps enrollees who are covered by Medicare make informed and timely decisions about whether and when to enroll in Medicare Part D and avoid a Medicare late enrollment penalty. Although a plan sponsor's obligation to supply a notice extends only to enrollees who are covered by Medicare, plans sometimes do not know which enrollees actually have Medicare coverage. *As a result, plans often simply distribute the Part D notice to all participants.*

Under existing guidance, Medicare Part D notices must be provided prior to the Medicare Part D annual enrollment period each year. The annual enrollment period used to run from November 15 to December 31 each year. The beauty of the old guidance was that, once given, the Part D notice need not be provided again during the ensuing 12 months unless the creditable or non-creditable nature of the plan's drug benefit changed. *As a result, many sponsors simply included the Part D notice in their annual enrollment packets and relied upon the "once every 12 months" rule to avoid having to give the notice again in early November.*

Healthcare reform accelerated the Part D annual enrollment window from October 15 – December 7 each year, beginning this year. In response to the accelerated Part D annual enrollment period, the Centers for Medicare and Medicaid Services (CMS) recently issued revised model Part D notices referencing the new Part D annual enrollment period.

So, what are plan sponsors supposed to do now? Suppose a sponsor included a Part D notice in open enrollment packets last December. Under the "once every 12 months" rule, it should not have to issue another notice until this coming December. But the Part D open enrollment information included in last year's notice is out of date. When CMS issued the revised model notices earlier this year, it did not specify whether plans that provided the old notice in late 2010 or early 2011 are required to issue an updated notice prior to October 15.

The conservative approach is to distribute the new Part D notice prior to October 15, either separately or in open enrollment packets for 2012, if the packets will be issued



that early. Then there's no question that enrollees have been notified about the new Part D annual enrollment period in advance of the opening of that period.

Alternatively, plan sponsors might choose to wait and distribute the updated Part D notice after October 15, but include it in open enrollment packets distributed prior to December 7 (in this regard, we think the earlier the better). In this case, the possibility of an enrollee being disadvantaged is minimized because he or she will have received the updated notice prior to the end of the Part D annual enrollment period, giving him or her time to enroll in the plan's prescription drug coverage, if creditable, or in Medicare Part D, if non-creditable, without penalty.

Currently, CMS does not appear to impose penalties on employers for failure to timely distribute Part D notices to enrollees. In addition, an enrollee who misses out on the Part D annual enrollment period due to inaccurate notices from the plan sponsor and winds up paying a late enrollment penalty may apply to CMS for a waiver of the late enrollment penalty.

You can [download the latest model notices](#) directly from CMS (English & Spanish) and distribute either via mail or electronically as desired/permitted to your employees. Any further questions, please contact Jennifer Ancona, Account Manager, at Jennifer@fallriverconsulting.com or 303.369.3200.