



DATE: October 13, 2010
TO: Our Valued Client Partners & Friends
FROM: HIB Account Team
RE: **LEGISLATIVE UPDATE 2010-20: Medicare Part D:
Annual Notice Action Required by November 15, 2010**

We are pleased to bring you our **Legislative Update 2010-20: Medicare Part D: Annual Notice – Action Required by November 15, 2010**. This update provides an overview of the Medicare Part D annual notice requirement. As always, please feel free to contact your HIB Account Team for assistance.

Medicare Part D: Annual Notice - Action Required by November 15, 2010

Each year at this time, health care Plan Sponsors whose plans contain prescription drug coverage must distribute an Annual Notice to plan participants who are or who might be eligible for Medicare Part-D coverage or have covered family members who may be eligible. Annual notices issued earlier this year will satisfy this notice requirement. The Centers for Medicare and Medicaid Services (CMS) last released updated notices and regulatory guidance on September 18, 2009. Since there has been no further guidance, Plan Sponsors may rely on the 2009 notice content in complying with their 2010 obligation.

2010 ANNUAL NOTICE

Since the 2010 model notices are the same as last year's notices, Plan Sponsors need only update the status of their drug plans (creditable or not creditable) and incorporate any specific changes to their plans, and then distribute the update notices.

Plan Sponsors have the option of using the sample notices or producing their own notices which contain all of the necessary elements, as described in the guidance. This guidance is also available on the CMS website.

ACTION PLAN

- 1. Updating Plan Specifics.** We suggest you download the model notices from the CMS website and incorporate the specific content required for the notice. Please refer to Section 5 of this Memorandum for instructions.

[Creditable Coverage Guidance and Model Disclosure Notices to be used for 2010](#)

- 2. Pick a Method of Delivery:**
 - i By Mail.** Plan Sponsors may mail the notice as a standalone mailing or choose to incorporate the notice into other documents or disclosures, so long as there is prominent first-page, 14-point reference to the incorporated notice language.
 - i Electronic Delivery.** Plan Sponsors may also deliver the notice electronically to plan participants who have the ability to access the Plan Sponsor's electronic information system on a daily basis as a part of their work duties. Plan Sponsors should inform participants that they are to share the electronic notice with all family members who are covered under the group health plan.
- 3. Mail to Recipients.** Plan Sponsors should provide the notice to all health plan participants or Part-D eligible individuals who apply for the Plan's drug coverage as well as to COBRA beneficiaries. Plan Sponsors need only to provide a single notice to a participant with covered dependents, unless the Plan Sponsor records contain a separate address for other family members.



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4. **The Deadline.** November 15, 2010! Medicare beneficiaries begin an open enrollment period on that date. To assist them in electing prescription drug coverage, they must know the status (creditable / non-creditable) of their current coverage. This requirement applies whether the plan coverage is primary or secondary.

If for some reason, a Plan Sponsor does not meet this deadline, it is critical to distribute the notice as soon as possible thereafter.

5. **Instructions.** In addition to inserting the employer's name, or plan name if more than one, the Plan Sponsor will need to personalize the paragraph, "What happens to your current coverage if you decide to join a Medicare Drug Plan."
 - i **Your Current Coverage [will/will not] be Affected.** *The issue here is whether an individual is covered under a medical plan providing drug coverage that requires the participant to elect its drug coverage. For example, if a member drops drug coverage under a Kaiser Senior Advantage Plan, Kaiser will also cease to provide medical to that member. This is common for Medicare Advantage plans. The Plan Sponsor will complete the sentence [will be affected], and explain what happens.*
 - i **If you decide to join a Medicare drug plan and drop your current coverage, [Employer's or Plan's name] you [will/will not] be able to get this coverage back.** *Typically, group health plans will allow an individual back on to the Plan (if eligible to do so) but only at the Plan's next open enrollment. Medigap policies issued to individuals will not allow an individual back on the Plan.*

OTHER MATTERS

1. **Multiple Plans with Drug Benefits.** Plan Sponsors who offer more than one health plan option (e.g. PPO, HMO) may want to produce separate notices for each group of plan participants, if the drug benefits are different; however, it is not necessary so long as the Plan options are shown in list form in the paragraph discussed in Section 5 of this Memorandum. Please note that Plan Sponsors must use different notices if one Plan is creditable and another is not.
2. **Determining Creditability.** Plan Sponsors should rely on professional guidance to obtain this determination. For an overview of the criteria used please refer to the [CMS website](#).
3. **Other Medicare Part-D Notice Requirements.** Plan Sponsors must also provide a Medicare Part-D notice:
 - i Prior to an individual's Initial Enrollment Period (IEP) for Part-D;
 - i Prior to the effective date of coverage for any Medicare eligible individual that joins the Plan;
 - i Whenever the entity no longer offers prescription drug coverage or changes the coverage offered so that it is no longer creditable or becomes creditable; and,
 - i Upon the request by the individual.



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