Medicare Part D is a prescription-drug benefit created by the Medicare Modernization Act (MMA). Its intent is to provide increased resources to make prescription drugs more affordable to retirees. Employers are required to provide a disclosure notice of “creditable coverage” to those individuals eligible for Medicare Part D. This article discusses issues that cities should be aware of relating to the disclosure notice requirements, as well as action steps for implementation.

**Disclosure of creditable coverage.**
Medicare Part D imposes a disclosure notice obligation to certain participants and beneficiaries (Part D eligible individuals) under the employer-sponsored group health plan. The intent of the notice is to provide eligible individuals with the information necessary to determine whether to enroll in Part D.

The disclosure notice must identify whether the prescription drug coverage provided under the group health plan is “creditable coverage” (the prescription drug coverage available through the group health plan must be at least the actuarial equivalent to the prescription drug coverage available through Part D). Where the coverage is not creditable, the notice must also describe Part D enrollment limitations, including late enrollment penalties (i.e., the possibility of paying higher premiums).

Part D-eligible individuals include individuals who are both entitled to Medicare (actually covered by Medicare) and covered by an employer-sponsored group health plan. No distinction is made between employees, former employees (COBRA participants, retirees) and dependents (spouses, dependent children). If the city sponsors a plan that covers anyone who is actually covered by Medicare, the obligations apply.

“Group health plan” means each program that offers prescription drug coverage, including: private sector, public sector, and church programs; collectively bargained programs; stand-alone prescription drug programs; Health Reimbursement Arrangements, to the extent the HRA is offered in conjunction with another group health plan (a high deductible health plan) the plans may be combined for purposes of determining “creditable coverage.”

Originally, Part D appeared to apply to all employer-sponsored group health plans, including medical reimbursement accounts offered through the employer’s cafeteria plan. Recent guidance from the Centers for Medicare and Medicaid Services (CMS) clarifies that Part D notification obligations do not apply to medical reimbursement accounts through a cafeteria plan, medical savings accounts, and health savings accounts.

Cities sponsoring a group health plan (including those sponsoring an HRA designed to coordinate with a high-deductible health plan) should determine whether the plan(s) provide creditable coverage and issue the appropriate notification of creditable coverage.

Cities with insured plans should contact their carriers to confirm that the carrier is determining whether the health plan provides creditable coverage. If the city also sponsors an HRA, the city should confirm that the carrier is treating the major medical coverage and the HRA as a combined plan for purposes of determining creditable coverage.

Cities with self-funded plans and stand-alone HRAs will need to determine creditable coverage on their own with the assistance of service providers, such as TPAs, actuaries, and/or accountants. If the city sponsors an HRA in addition to a self-funded major medical plan, the plans should be combined in order to determine creditable coverage.

Notice must be provided to individuals covered under the employer-sponsored health plan at the following times:

- Prior to the eligible individual’s initial enrollment period for Part D.
- Prior to the eligible individual’s effective date of enrollment for Part D.
- Prior to commencement of annual coordinated election period (begins each Nov. 15).
- Upon request by an eligible individual.

Because the first, initial enrollment period under Part D begins Nov. 15, the first notice must be made on or before this date. CMS standard notices may be used to provide this notification (notices are available at: [www.cms.hhs.gov/medicarereform/CCguidances.asp](http://www.cms.hhs.gov/medicarereform/CCguidances.asp)). Cities should contact their TPAs and/or insurance carriers to confirm that notices will be prepared and issued in a timely manner.

**Action steps for implementation.**
Following are recommended action steps for implementing Part D compliance:

- Identify group health plans that provide prescription drug coverage; keep in mind that a group health plan includes HRAs.
- Identify who can assist in the actuarial equivalence determination (e.g., insurance carrier, TPA, accounting firm, actuary).
- Identify who must receive the notice of creditable coverage.
- Identify who will prepare and distribute the notice (city, insurance carrier, TPA, consulting firm, attorney, etc.).
- Amend service provider contracts to reflect responsibilities and cost for Part D compliance.
- Determine ongoing responsibilities for Part D compliance.

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