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INSURANCE BRIEF

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Medicare Part D Notice Reminder

It's that time of year again!! The Centers for Medicare and Medicaid Services (CMS) requires entities to provide an annual notice to Part D eligible individuals before October 15 indicating whether its plan's coverage is creditable or non-creditable. The Disclosure Notice requirement applies to Part D eligible individuals who are *active or retired* employees, as well as those who are covered as spouses or dependents under active or retiree coverage.

If your plan data does not include dependent data in the detail necessary to identify eligible dependents who may be Medicare Beneficiaries, you may choose to provide the notice to all eligible employees to assure proper notice to all Medicare Beneficiaries. Notice to the employee will constitute notice to dependents unless you have a separate address for a non-resident spouse/dependent.

Plan Sponsors must also provide a Medicare Part-D notice:

a. Prior to an individual's Initial Enrollment Period for Part-D;
b. Prior to the effective date of coverage for any Medicare eligible individual that joins the Plan;
c. 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,
d. Upon the request by the individual.

"Prior to" means that the individual must have received the Disclosure Notice within the past twelve months. So, plans that issue the Part-D notice at time of policy renewals do not need to provide another notice.

The notices have not changed since April 2011. Therefore, if the status of your plans is the same you can use the last year's notice. The notices are provided in English and Spanish at http://www.cms.gov/Medicare/Prescription-Drug-Coverage/CreditableCoverage/Model-Notice-Letters.html

You can also contact your SML Account Team to request a copy be emailed to you.

Disclosure to CMS Form. Don't forget that you must also disclose to CMS whether your plans' coverage is creditable or non-creditable. This is done online at www.cms.hhs.gov/CreditableCoverage/45_CCDisclosureForm.asp

This disclosure must be made within 60 days following the start of the plan year, within 30 days after termination of a prescription drug plan, and within 30 days after any change in the plan's creditable coverage status.

Reinsurance Fee: Updates and Reminders

The Department of Health and Human Services (HHS) has announced it will allow one consolidated payment, payable by January 15, 2015.

Deadlines: November 15, 2014. Self-funded employers must report the number of covered lives to HHS through www.Pay.gov.
January 15, 2015. The first installment of $52.50 per covered life is due. If an employer chooses the combined payment method, both parts are due.
November 15, 2015. The second installment of $10.50 per covered life is due.

The Center for Medicare and Medicaid Services (CMS) is offering training sessions through November 2014. Please register at https://www.regtap.info/ to receive notices regarding upcoming trainings. You can also view the webinar presentations once they have been posted to the REGTAP library.

Counting Methods: HHS provides the same methods permitted under the Comparative Effective Research (CER) fee provision, modified to allow for an annual count determined in the fourth quarter. The sponsor of a self-insured plan is allowed to use a different counting method for purposes of the reinsurance contribution from that used for purposes of the CER fee. If an employer sponsors both self-insured and insured options, then they are only permitted to use the actual count or snapshot count method.

Actual Count Method: Calculate the sum of the lives covered for each day of the first nine months of the plan year and divide that sum by the number of days in those nine months.

Snapshot Count Method: Add the totals of lives covered on a date (or more dates if an equal number of dates is used for each quarter) during the same corresponding month in each of the first three quarters of the benefit year. The dates used for the second and third quarters must be within the same week of the quarter as the date used for the first quarter. Divide the total by the number of dates on which a count was made.

Snapshot Factor Method: Add the total lives covered on any date (or more dates if an equal number of dates is used for each quarter) during the same corresponding month in each of the first three quarters of the benefit year, and divide that total by the number of dates on which a count was made. The number of lives is calculated by adding the number of participants with self-only coverage to the product of the number of participants with coverage other than self-only and a factor of 2.35. Self-only coverage + (other than self-only x 2.35) = total number of covered lives.

Form 5500 Method : For a plan that offers self-only coverage and coverage other than self-only coverage, add the total participants covered at the beginning and end of the benefit year, as reported on the Form 5500 for the last applicable plan year.

New PCORI / CER Fee Rate

The Patient Centered Outcomes Research Institute (PCORI) fees which fund Comparative Effectiveness Research (CER) are adjusted annually. The IRS issued Notice 2014-56 announcing the adjusted rate of $2.08 for plan years that end on or after October 1, 2014 and before October 1, 2015. That is just an 8 cent ($.08) increase over the $2.00 rate for plan years ending on or after October 1, 2013 and before October 1, 2014.

The amount due is calculated by multiplying the rate times the average number of covered lives for that plan year. The counting methods are referenced in the article above. All payments are due on July 31 of the year following the end of the plan year.

Measurement Period Guidance

The IRS released Notice 2014-49 which describes a proposed approach to the application of the look-back measurement method for employers with employees who experience a change in measurement periods. This is important for employers who wish to change their measurement periods or who have opted to vary their measurement periods by permissible categories.

Effective date: Employers can rely upon the proposed approach until new guidance is issued, and in any case until December 31, 2016.

Key Provisions: We are providing just one of the six examples from the Notice. For the remaining examples please see Notice 2014-49 .

The status of any employee whose applicable measurement period is changed by the employer is determined as if the employee had transferred from a position to which the original measurement method applies to a position to which the revised measurement method applies as of the effective date of the change.

Example 3: New variable hour employee in initial measurement period transfers to position in which employee is also in initial measurement period. For Position 1, the employer uses a 3-month initial measurement period that begins on the first day of the month following the start date and, if the employee is full-time during the initial measurement period, a 6-month stability period immediately following the initial measurement period. For Position 2, the employer uses a 12-month initial measurement period beginning on each employee's start date, applies an administrative period that runs from the end of the initial measurement period until the end of the month in which that date falls, and uses a one-year stability period starting the day after the end of the administrative period.

The employer hires Employee C into Position 1 as a new variable-hour employee on February 15, 2015. On May 1, 2015, Employee C transfers from Position 1 to Position 2. Employee C is not reasonably expected to average 30 or more hours of service per week in Position 2 (and thus the transfer from Position 1 to Position 2 does not constitute a change in employment status for purposes of §54.4980H-3(d)(3)(vii)). Employee C does not average 30 or more hours of service per week during the period from February 15, 2015 through February 14, 2016.

As of the date of transfer, Employee C had not been employed for the full initial measurement period for Position 1 and so, as of the date of transfer, Employee C is not in a stability period. Accordingly, Employee C's status is determined using the measurement method applicable to Position 2 (February 15, 2015 through February 14, 2016).

Employee C continues to be treated as a new variable hour employee from the date of transfer through February 28, 2016 (the end of the initial measurement period and associated administrative period for Position 2). For the stability period beginning March 1, 2016, Employee C's status is determined on the basis of Employee C's average hours of service in the initial measurement period for Position 2, taking into account the hours of service in Position 1. Employee C is not a full-time employee for the stability period from March 1, 2016 through February 28, 2017.

What's Next: Please contact your SML Account Team if you wish to change your current measurement period.

New Section 125 Qualifying Events

Many employers will be relieved to see that the IRS has provided a solution to two obvious problems— what can be done for those employees locked into coverage during a stability period who no longer work enough hours to pay their share of premium? And what about employees covered under a non-calendar plan year who wish to move to the Exchange during its open enrollment?

IRS Notice 2014-55 contains two new Sec. 125 qualifying events. These events only allow the employee to drop coverage. They do not allow the employee to change their health FSA election.

Conditions for revocation due to reduction in hours:

1. The employee has been in an employment status under which the employee was reasonably expected to average at least 30 hours of service per week and there is a change in that employee's status so that the employee will reasonably be expected to average less than 30 hours of service per week after the change, even if that reduction does not result in the employee ceasing to be eligible under the group health plan; and
2. The revocation of the election of coverage under the group health plan corresponds to the intended enrollment of the employee, and any related individuals who cease coverage due to the revocation, in another plan that provides minimum essential coverage with the new coverage effective no later than the first day of the second month following the month that includes the date the original coverage is revoked.

An employer may rely on the reasonable representation of an employee who is reasonably expected to have an average of less than 30 hours of service per week for future periods that the employee (and dependents) have enrolled or intend to enroll in another plan that provides minimum essential coverage that is effective no later than the first day of the second month following the month that includes the date the original coverage is revoked.

Conditions for revocation due to enrollment in a Qualified Health Plan:

1. The employee is eligible for a Special Enrollment Period to enroll in a Qualified Health Plan through an Exchange pursuant to guidance issued by the Department of Health and Human Services and any other applicable guidance, or the employee seeks to enroll in an Exchange plan during the Exchange's annual open enrollment period; and
2. The revocation of the election of coverage under the group health plan corresponds to the intended enrollment of the employee and any related individuals who cease coverage due to the revocation in an Exchange for new coverage that is effective beginning no later than the day immediately following the last day of the original coverage that is revoked.

An employer may rely on the reasonable representation of an employee who has an enrollment opportunity in an Exchange that the employee and related individuals have enrolled or intend to enroll through an Exchange for new coverage that is effective beginning no later than the day immediately following the last day of the original coverage that is revoked.

Effective date: September 18, 2014.

Next Steps: Employers will need to amend their Sec. 125 plan to add either or both of these new qualifying events. It must be amended on or before the last day of the plan year in which the changes are sought. The amendment can be effective retroactively to the first day of the plan year so long as the employer informs participants of the amendment.

Please contact your SML Account Team if you have any questions.