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Medicare Part D Disclosures

CMS Disclosure Report Filing Obligation

Generally, an employer that sponsors a group health plan that provides prescription drug coverage to Medicare Part D eligible individuals must file a "Disclosure Report" with the Centers for Medicare and Medicaid Services (CMS) as to whether the coverage is "creditable" or "non-creditable" prescription drug coverage. This disclosure is required whether the entity's coverage is primary or secondary to Medicare. The Disclosure Report must be filed with the CMS within 60 days of the start of a new plan year (contract, year, renewal year, etc.). Therefore, in the case of a group health plan maintained on a calendar year basis, the filing for the 2009 calendar year plan must be made on or before March 1, 2009. Filing is done electronically at the CMS website.

There are a few exemptions from the filing requirement which include, but are not limited to, a retiree medical plan where the employer has applied for and received the retiree drug subsidy, and a plan that contracts with a Medicare Part D plan directly to provide drug coverage.

Notwithstanding this required annual filing, if during the current plan year a decision to terminate prescription drug coverage, or in the alternative, change the coverage such that creditable coverage becomes non-creditable (or vice versa), sponsors are obligated to file such disclosure with the CMS within 30 days of the change or termination of coverage, as the case may be. This filing is likewise done electronically at the CMS website.

Should you have any questions regarding the CMS Disclosure Report filing requirements, to include whether your entity may be exempt from filing the Disclosure Report, please contact Nancy Spezia via email at space@skalaw.com, or by phone at (734) 747-7050.

Medicare Part D Creditable (or Non-Creditable) Coverage Disclosure Notice

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The CMS has issued model individual Creditable (or Non-Creditable) Coverage Disclosure Notices **for use on or after January 1, 2009.** Each version of the notice is posted on the CMS website at **http://www.cms.hhs.gov/CreditableCoverage/**. Employers and other entities that provide prescription drug coverage to Medicare-eligible individuals other than through a Medicare Part D plan must provide notice regarding whether that coverage is "creditable"-- that is, whether the expected amount of paid claims under the entity's prescription drug coverage is at least as much as the expected amount of paid claims under the standard Medicare Part D drug benefit.

If employers have occasion to provide a disclosure before the next annual mailing in 2009, say for example, because of request from a Medicare beneficiary, or there is a new hire, the January 1, 2009 notice located at the CMS website, tailored for the employer's circumstance, should be used.

THE TAKEAWAYS:

- **The Disclosure Report to CMS needs to be done online by March 1, 2009 if you are a calendar year plan.**
- **If you need to issue a Creditable Coverage Disclosure Notice after January 1, 2009, use the new form that is available online at the CMS website.**