

## Revised Model Medicare Part D Notices of Creditable and Non-Creditable Coverage

September 26, 2011

The purpose of this client alert is to remind employers and group health plan sponsors of an approaching deadline for communication to certain participants. Specifically, annual Medicare Part D creditable coverage notices must be distributed prior to October 15, 2011, which is a month earlier than in prior years.

By way of background, sponsors of group health plans that provide prescription drug coverage must provide their plan participants who are eligible for Medicare with a notice regarding whether the plan provides "creditable coverage," or in other words, whether the plan's prescription drug coverage is at least actuarially equivalent to the standard Medicare Part D prescription drug coverage. These notices are important because if an individual does not maintain creditable coverage for a period of 63 days or longer following his or her initial enrollment period for Medicare Part D, then the individual will be subject to a late enrollment penalty.

These notices generally must be sent annually, prior to the Medicare Part D election and enrollment period (which, in prior years, began November 15). The Patient Protection and Affordable Care Act (PPACA) changed the Medicare Part D election and enrollment period to October 15 through December 7 annually. Therefore, beginning this year, notices regarding creditable coverage are due to applicable plan participants prior to October 15 each year.

Many plans use the model notices of creditable coverage provided by the Centers for Medicare & Medicaid Services (CMS), but plans are not required to do so. Plan sponsors also should be aware that earlier this year CMS revised the model notices to reflect the new election and enrollment period. The new model notices may be used immediately and are available at:

<http://www.cms.gov/CreditableCoverage/Model%20Notice%20Letters.asp#TopOfPage>. If a plan does not utilize the model notices, the plan's notices should be revised to include the new election and enrollment period.

Please contact your Proskauer lawyer or any member of our Health Care Reform Task Force should you have questions regarding the revised Medicare Part D notice requirements, or any other aspect of health care reform.

###

This publication is a service to the clients and friends of **Insurance & Benefits Group** with content courtesy of Proskauer. It is designed only to give general information on the developments actually covered. It is not intended to be a comprehensive summary of recent developments in the law, treat exhaustively the subjects covered, provide legal advice or render a legal opinion.



Proskauer's Health Care Reform Task Force is well poised to help employers and providers navigate these new mandates. Comprised of members of the Employee Benefits, Executive Compensation & ERISA Litigation Practice Center, the Health Care Department, the Labor and Employment Department and the Tax Department, the Task Force brings to bear a unique interdisciplinary approach and perspective that will assist employers and providers in addressing health care compliance issues.

*To ensure compliance with requirements imposed by U.S. Treasury Regulations, Proskauer Rose LLP informs you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.*

© 2010 Proskauer Rose LLP. All Rights Reserved.