

Compliance Mailing FAQ: Medicare Part D, CHIP, WHCR, HIPAA Special Enrollment

Medicare Part D Coverage Notices

Q: What are my responsibilities as an employer regarding Medicare Part D notices?

A: The Medicare Modernization Act (MMA) requires that plan sponsors that offer prescription drug coverage must provide notices of "creditable" or "non-creditable" coverage to Medicare-eligible individuals before each year's Medicare Part D annual enrollment period by October 15th.

Q: What is Creditable Coverage?

A: Prescription drug coverage that is expected to pay on average as much as the standard Medicare prescription drug coverage is considered creditable. More information about creditable coverage can be found at the [Center for Medicare & Medicaid Services website](#), including a [Creditable Coverage Simplified Determination method](#) that plan sponsors can use to determine if a plan provides creditable coverage.

Q: Who must receive a Medicare Part D notice?

A: The notice must be provided to the following Medicare eligible individuals covered by or eligible for the employer's plan:

- Retirees and their dependents
- Active employees and their dependents
- COBRA participants and their dependents
- COBRA possible electees and their dependents

Q: How do I know which employees are or have dependents who are Medicare Eligible?

A: It can be difficult to identify everyone eligible for your plan who may be Medicare eligible (dependents who are eligible due to age or Social Security disability). For this reason, we recommend sending notices to all active employees, retirees, and COBRA participants.

Q: Why are Medicare Part D notices required?

A: Disclosure of whether employer sponsored prescription drug coverage is creditable allows individuals to make informed decisions about whether to remain in their current prescription drug plan or enroll in Medicare Part D during the Part D annual enrollment period.

Q: What is the Medicare Part D notice deadline?

A: The notice must be provided before the October 15th start of Medicare Part D annual enrollment period.

Q: What if our plan does not offer prescription drug?

A: No notice is required when prescription drug coverage is not offered.

Q: Are there any changes to the Medicare Part D notice from last year due to COVID?

A: There are no changes.

Q: If we provide notices at open enrollment, do we need to send them now?

A: The requirement for Medicare D is to provide a notice of creditable (or non-creditable) coverage (or a Notice of Non-Creditable Coverage) by October 15, each year, to all Medicare eligible members covered on your company sponsored prescription plan. If your open enrollment is covering these requirements, you have met your notice obligation. However, if your open enrollment timeframes and recipients do not fulfill the requirements mentioned, a Medicare D notice should be sent at this time.

Q: What is the penalty for not sending the notice, missing the deadline, or missing a recipient?

A: While a requirement under law, there are no specific penalties for employers that fail to comply with the Medicare Part D disclosure requirements, except for employers that are claiming the [Retiree Drug Subsidy](#).

Q: Does isolved Benefit Services provide proof of mailing for customers who purchase this service?

A: isolved Benefit Services provides all customers a report of letters mailed the day following the mailing date. It is called the "Blanket Notices Mailed Report," and can be found in your Download Center. You will receive an email as soon as the report is available.

Q: What delivery methods are allowed for the Medicare Part D Notice?

First class mailing the method is universally accepted, and the approach that isolved Benefit Services takes. The notice may be able to be distributed electronically if the DOL's guidelines for electronic delivery of group health plan materials are followed. These guidelines are situation specific and should be discussed with your organization's legal counsel.

[HIPAA Special Enrollment Notices](#)

Q: What are my responsibilities as an employer regarding HIPAA Special Enrollment Notices?

A: Group health plans are required to provide special enrollment periods during which individuals who previously declined health coverage for themselves and their dependents may be allowed to enroll (regardless of any open enrollment period).

Q: Who must receive a HIPAA Special Enrollment Notice?

A: All employees who are offered a group health plan.

Q: When should employees receive this notice?

A: Employees must receive a description of special enrollment rights on or before the date they are first offered the opportunity to enroll in the group health plan.

Q: When does an employee have special enrollment rights?

A: Special enrollment rights can occur when:

- An individual loses eligibility for coverage under a group health plan or other health insurance coverage plan
- An employer terminates contributions toward health coverage
- An individual becomes a new dependent through marriage, birth, adoption, or being placed for adoption
- An individual loses coverage under a State Children's Health Insurance Program (CHIP) or Medicaid, or becomes eligible to receive premium assistance under those programs

Find more information on special enrollment rights, [visit the Department of Labor's FAQ](#).

Q: Why are HIPAA Special Enrollment notices required?

A: The HIPAA Special enrollment notice is designed to inform employees of their rights to apply for group health insurance coverage outside the group's annual open enrollment period (if they meet certain life events) and the deadline the employee/family member has to request special enrollment.

Q: What is the HIPAA Special Enrollment Notice deadline?

A: The Notice must be provided at or before the time an employee is initially offered the opportunity to enroll in a group health plan.

Q: Can the special enrollment notice be provided in the Summary Plan Description (SPD)?

A: Yes, if the SPD is provided to the employee at or before the time the employee is initially offered the opportunity to enroll in the plan. If the SPD is provided at a later time, the special enrollment notice should be provided separately.

[Children's Health Insurance Program \(CHIP\) Notices](#)

Q: What are my responsibilities as an employer regarding CHIP notices?

A: Employers that maintain a group health plan in a State that provides premium assistance under Medicaid or CHIP must provide notice regarding these programs. [Click here for a list of states and their Medicaid and Children's Health Insurance Program contacts](#).

Q: Who must receive a CHIP Notice?

A: All Employees must be notified if they reside a state with potential opportunities for premium assistance.

Q: When should employees receive a CHIP notice?

A: The time of year is not prescribed, but employees must receive the notice when initially eligible for the employer's health plan and then at least once a year thereafter.

Q: Why are CHIP notices required?

A: The CHIP notice informs employees that their state's CHIP or Medicaid program may offer premium assistance to help them pay for group health coverage. Many states offer some form of premium assistance to residents based on family income.

Q: What is the CHIP notice deadline?

A: The CHIP notice is not required to be provided by a specific date but is required to be provided annually.

Q: Can the CHIP notice be provided in the Summary Plan Description (SPD)?

A: Yes, as long as these materials are provided to all employees and are provided in accordance with the Department of Labor's disclosure rules.

Q: What is the penalty for not sending the CHIP notice, missing the deadline, or missing a recipient?

A: Employers that fail to send the required notices may be subject to penalties up to \$120 per day, per employee in 2021 (penalties are adjusted for inflation annually).

Find more information on CHIP, [visit the Department of Labor's FAQ](#).

[Women's Health and Cancer Rights Act \(WHCRA\) Notices](#)

Q: What are my responsibilities as an employer regarding WHCRA notices?

A: Group health plans, health insurance companies and HMOs covered by the law must provide written notification to individuals of the coverage required by WHCRA upon enrollment and annually thereafter.

Q: Who must receive a WHCRA notice?

A: All group health plan participants and beneficiaries are entitled to receive the notice. A separate notice must be furnished to beneficiaries where the last known address of the beneficiary is different than the last known address of the covered participant.

Q: When should employees receive a WHCRA notice?

A: The time of year is not prescribed, but employees must receive the notice when initially enrolled in an employer's health plan and then at least once a year thereafter.

Q: Why are WHCRA notices required?

A: The WHCRA notice informs plan participants of protections provided by law to individuals who elect breast reconstruction after a mastectomy.

Q: What is the WHCRA notice deadline?

A: The WHCRA notice is not required to be provided by a specific date but is required to be provided annually.

Q: Can the WHCRA notice be provided in the Summary Plan Description (SPD)?

A: Yes, as long as these materials are provided to all employees and are provided in accordance with the Department of Labor's disclosure rules.

Q: What is the penalty for not sending the WHCRA notice, missing the deadline, or missing a recipient?

A: Employers that fail to provide the required notices may be subject to penalties up to \$100 per day, per employee under §4980D.

Find more information on WHCRA, [visit the Department of Labor's FAQ](#).