

Plan Sponsors Must Disclose Prescription Drug Coverage to CMS by March 31, 2006

By March 31, 2006, sponsors of group health plans must submit an online disclosure form to the Centers for Medicare and Medicaid Services ("CMS") describing any prescription drug coverage provided to Medicare-eligible retirees, employees or dependents. CMS recently published guidance regarding the form, content and timing of the disclosure notice that must be provided to CMS. The only way a group health plan can satisfy its disclosure obligation to CMS is by completing a disclosure form on [CMS.gov](https://www.cms.gov).

Background. All group health plan sponsors providing prescription drug benefits should have disclosed to Medicare-eligible participants whether the plan's prescription drug coverage is "creditable coverage." The initial notice was required to be provided to plan participants before November 15, 2005. The notice is intended to help employees determine if they should apply during their initial enrollment period for Medicare Part D prescription drug coverage. Late enrollment penalties apply if an individual fails to enroll when first eligible, unless they had "creditable coverage." For more information regarding this creditable coverage notice and how to determine if your group health plan's coverage is creditable, please see our publication entitled [The November 15, 2005 Prescription Drug Notice Deadline Is Approaching: Have You Sent Your Medicare Part D Creditable Coverage Certificates?](https://www.reinhartlaw.com/practices/employee-benefits)

In addition to providing a creditable coverage notice to Medicare-eligible plan participants, plan sponsors are also required to provide a notice to CMS indicating whether the plan's prescription drug coverage is creditable.

Exempt Plan Sponsors. If CMS approved a group health plan sponsor's application for the retiree drug subsidy available under the Medicare Prescription Drug, Improvement and Modernization Act of 2003, then the plan sponsor is exempt from filing a creditable coverage notice with CMS. This exemption only applies to those qualified covered retirees for which the plan sponsor is claiming the subsidy. This plan sponsor must submit a disclosure notice to CMS for all plan participants and beneficiaries for whom the plan sponsor will not claim the subsidy (i.e., all active plan participants and beneficiaries).

Disclosure Deadlines. Group health plan sponsors must complete the disclosure form by March 31, 2006 for plan years ending in 2006.

POSTED:

Jan 23, 2006

RELATED PRACTICES:

[Employee Benefits](https://www.reinhartlaw.com/practices/employee-benefits)

<https://www.reinhartlaw.com/practices/employee-benefits>



For plan years ending in 2007 and beyond, plan sponsors must submit the required disclosure to CMS:

1. within 60 days after the beginning date of the plan year for which the entity is providing the disclosure to CMS;
2. within 30 days after the termination of a prescription drug plan; and
3. within 30 days after creditable coverage becomes non-creditable coverage (or the opposite).

For example, the 2007 disclosure notice to CMS for a calendar year plan must be submitted by March 1, 2007.

Number of Required Forms to Submit. CMS guidance requires a separate disclosure form to be submitted for each "Type of Coverage." This does not refer to benefit options within a group health plan, such as an HMO or PPO option. There is only one "Type of Coverage," and that is "Group Health Plan." However, the online form does require the plan sponsor to disclose the plan's number of benefit options.

CMS simplified the disclosure notice requirement for entities with subsidiaries that offer separate prescription drug plans. For this purpose, "subsidiaries" includes divisions, lines of businesses, operating units or control groups. The plan sponsor may submit one disclosure form to CMS for the entire entity if the plan year is the same for all plan-sponsored subsidiaries. Alternatively, each subsidiary may file a separate disclosure form with subsidiary-specific information.

Date Creditable Coverage Notice Was Provided. Plan sponsors must disclose to CMS the date the creditable coverage notice was provided to Medicare-eligible employees. CMS does not state the penalties or sanctions that will be applied if plan sponsors fail to timely provide a creditable coverage notice.

These materials provide general information which does not constitute legal or tax advice and should not be relied upon as such. Particular facts or future developments in the law may affect the topic(s) addressed within these materials. Always consult with a lawyer about your particular circumstances before acting on any information presented in these materials because it may not be applicable to you or your situation. Providing these materials to you does not create an attorney/client relationship. You should not provide confidential information to us until Reinhart agrees to represent you.