



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Benefits Administrator Memo

#06-04

To: Benefits Administrators
From: Mary P. Habel, Director
State and Local Health Benefits Programs
CC: All OHB
Date: April 24, 2006
Re: Notice of Creditable Coverage to Medicare-Eligible Participants

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 imposes requirements on employers and other entities that provide prescription drug coverage to disclose to Medicare beneficiaries whether or not the coverage is creditable. Creditable coverage is coverage that equals or exceeds the actuarial value of standard Medicare prescription drug coverage (Medicare Part D). Failure to have creditable coverage for 63 or more days can result in the beneficiary paying a late enrollment penalty when he or she does enroll for Part D coverage. All of the prescription drug coverage provided to active employees under the State Health Benefits Program (the COVA Care Plans, the Kaiser Permanente HMO, and the COVA HDHP that will be available on July 1) is creditable.

This disclosure is required whether the coverage is primary or secondary to Medicare, which means that the State Health Benefits Program for active employees must provide Notices of Creditable Coverage to its Medicare-eligible participants to document that they do have creditable coverage in the program. Since the State Health Benefits Program does not have a record of active employee participants who are eligible for Medicare, the Department of Human Resource Management will

provide an annual notification to all participants. However, there are additional requirements addressed below, some of which will require your involvement.

Two Notice formats are attached for your use. The *generic format* should be used to meet all requirements described below except for individual requests from beneficiaries. Upon request from an individual, the *personalized format* must be used. The *generic format* requires no additional information (except for the date), but the *personalized format* includes information that is specific to the beneficiary.

This disclosure requirement does not apply to State Retiree Health Benefits Program participants in Medicare-coordinating plans that include the enhanced Medicare Part D benefit (all but the medical-only plans) since plans that contract with a Part D plan to provide qualified prescription drug coverage are exempt from the requirement. Also, non-Medicare retirees, by virtue of their non-Medicare status, do not need to receive Notices.

Notices Requirements

Notices must be provided at the following times:

Prior to the effective date of coverage:

Guidance provided by the Centers for Medicare and Medicaid Services (CMS) indicates that a Notice must be provided prior to the Medicare Part D Annual Coordinated Election Period beginning November 15 and ending December 31 each year AND prior to an individual's Initial Enrollment Period for Medicare Part D.

However, if the Notice is provided to all plan participants annually, Medicare will consider that both of these obligations have been met. You will recall that Notices dated November 4, 2005, were provided for distribution to all employees along with the fall *Spotlight*, so at this time, the only ongoing requirement will be to provide a Notice to any new enrollees, prior to their effective date of coverage, after that November distribution.

Understanding that there have been new enrollees between the November 4 distribution and now, the Department of Human Resource Management (DHRM) will mail Notices to all enrollees who have joined the program since that time. **However, starting with any new participants enrolling May 1 or later, it will be the responsibility of the agency Benefits Administrators, or their designees, to provide this Notice to all new health plan enrollees** (for example, new employees, employees coming into the program due to a qualifying midyear event, or employees adding coverage at Open Enrollment). Even though the requirement is only for Medicare-eligible enrollees, DHRM recommends that you provide a Notice to **all** new enrollees to ensure that pre-age 65 Medicare beneficiaries are notified.

If the employee receives a Notice, it will not be necessary to send a separate Notice when a dependent is added. Hand delivery to the employee will be acceptable. If you have knowledge that a covered dependent lives separately from the employee, you should inquire as to whether that dependent is eligible for Medicare and, if so, mail a separate Notice to the dependent. It is recommended that you document in a consistent manner (for example, maintaining a log or keeping a file copy) that the Notice has been provided to new enrollees. Please be sure to provide a Notice to any employee who newly elects coverage at Open Enrollment. Enrollees in the COVA HDHP will also need to be provided with a Notice that confirms its creditable status, and you will be provided with the appropriate format for that Notice.

Upon a beneficiary's request:

If you receive an individual request for a Notice of Creditable Coverage, you must comply by providing the personalized Notice format that is attached.

Other Notice requirements:

The Department of Human Resource Management's Office of Health Benefits will ensure that other notification requirements are met. This will include an annual notification to all plan participants and notification upon any change in drug coverage that would affect the creditable status of the plan.

Please contact hbp@dhrm.virginia.gov if you need any additional information.