



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Benefits Administrator Memo

#08-07

To: Benefits Administrators
From: State and Local Health Benefits Programs
CC: All OHB
Date: November 10, 2008
Re: Notice of Creditable Prescription Drug Coverage to Medicare-Entitled Active Employees (and/or their Medicare-Entitled Dependents) Enrolled in the State Health Benefits Program

Background:

As a result of the Medicare Prescription Drug Improvement and Modernization Act of 2003, entities that provide prescription drug coverage to Medicare beneficiaries must disclose whether the entity's coverage is creditable. Coverage is creditable when it is expected, in accordance with Medicare actuarial guidelines, to pay out as much as standard Medicare prescription drug coverage. This notification requirement applies whether the entity's coverage is primary or secondary to Medicare and, therefore, applies to active employees and their dependents who are entitled to Medicare and covered under the State Health Benefits Program. The required disclosure notices provide important information regarding Medicare Part D (outpatient prescription drug coverage) enrollment.

Note: Since our Medicare-entitled retirees with drug coverage through the State Retiree Health Benefits Program are actually enrolled in a Medicare Part D plan, no disclosure is required.

NEW Disclosure Notice Process:

Effective immediately, the Department of Human Resource Management's Office of State and Local Health Benefits will provide an annual report to agencies that employ Medicare beneficiaries or employees who have dependents who are entitled to Medicare AND are covered under the State Health Benefits Program. A report in Excel format entitled PM9639-nnn-11072008 (nnn = your agency number) has been placed in your agency's FTP folder. It is the responsibility of each agency to ensure that the listed employee is provided a disclosure notice. A notice is attached for your use.

You will note on the report that there are columns identifying Medicare beneficiaries (*Bene first name, Bene last name*), which may or may not be the employee, and are provided for your information only. The employee to whom the disclosure notice should be provided is listed under columns entitled *Employee first name, Middle (initial), Employee last name* and *Suffix*. Duplicate rows have been removed to avoid employees being listed twice, but an employee and dependent(s) under the same dual or family plan could all be eligible for Medicare. Generally, one notice to the employee will fulfill the disclosure notice requirement to all Medicare beneficiaries in the covered family group. The only exception would be Benefits Administrators who have knowledge that a Medicare-entitled covered dependent lives separately from the employee. In that case, a separate notice should be sent. However, understanding that BES only accommodates one address, DHRM recognizes that it is unlikely that there is any record of a separate address. All employees listed on your current report should be provided a notice no later than November 14, 2008, and we regret the limited time to meet this requirement.

In summary, federal regulations require that creditable coverage disclosure notices be provided as described below. Agencies must comply with these requirements.

- Notice must be provided to Medicare-entitled individuals prior to the Annual Coordinated Election Period which begins on November 15 each year. This requirement will be met by providing notice to those listed on your current report.
- Notice must be provided to all new health plan participants (e.g., new hires who enroll in health plan coverage or employees who enroll during open enrollment) to ensure that any Medicare-entitled family members receive this information (since you do not have a way to know who is or is not eligible for Medicare). However, if the employee has received a disclosure notice, a separate notice will not be required if a dependent is added.
- Notice must be provided upon request by an individual.

There are two notice formats.

- The attached general notice format should be sent to employees listed on your current report and only requires you to insert a date (no later than November 14, 2008) and agency information for responding to questions (as designated in red). A general notice for your use going forward for new participants will be available on the DHRM web site.
- A personalized notice will also be available on the DHRM web site for use in responding to individual requests. Personalized information that agencies will need to provide in this format is also designated in red.

Disclosure notices should be provided in a hard copy format; an electronic copy will not meet the disclosure requirements. However, the copy may be either hand delivered or mailed.

This memo will supersede BA Memo #06-04 and any subsequent E-News articles prior to this date regarding this topic.