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PPACA Change to Medicare Part D Enrollment Period Impacts Notices of Creditable/Non-Creditable Coverage

The Medicare Part D enrollment period has been moved to October 15 through December 7 beginning with enrollment for 2012. This change will require plan sponsors to update their notices of creditable or non-creditable coverage and most likely will require plan sponsors to provide the notices by October 15, 2011.

Background

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 requires group health plans that provide prescription drug coverage to disclose to individuals eligible for Medicare Part D whether the plan's coverage is "creditable" (i.e., whether it is at least actuarially equivalent to the Medicare Part D coverage). Individuals who do not enroll in Medicare Part D when first eligible and who have gone 63 days or longer without creditable coverage generally will have to pay higher premiums permanently if they subsequently enroll. Thus, individuals need to know the status of their coverage in order to make an informed decision about enrolling in Part D.

Notices to Part D eligible individuals regarding whether prescription drug coverage is creditable or non-creditable must, at a minimum, be provided prior to the start of the annual Part D enrollment period which had been November 15 through December 31 of each year. Most plan sponsors have used model notices issued by CMS that referred to those specific dates.

Change to the Part D Annual Enrollment Period

The Patient Protection and Affordable Care Act (PPACA) amended the Social Security Act to move the Medicare Part D annual enrollment period to October 15 through December 7. This change is effective for 2012 Part D enrollment, which will occur in the fall of 2011. As a result, references to the November 15 through December 31 annual enrollment period in the notices of creditable or non-creditable coverage are no longer accurate.

BUCK COMMENT. *PPACA made a similar change to the Medicare Part C (Medicare Advantage) enrollment period.*

CMS has not yet issued revised model forms or other guidance relating to how the change in the dates of the Medicare Part D annual enrollment period will impact notices of creditable or non-creditable coverage. However, plan sponsors will want to update their notices to reflect the new Medicare Part D annual enrollment period and

should expect that future guidance will require that the notices be provided by October 15, 2011 instead of November 15, 2011.

BUCK COMMENT. *Plan sponsors that have included the notices in their annual enrollment packages will need to make certain that the October 15 deadline is satisfied. Starting in 2011, PPACA also expanded Part D coverage by providing coverage in the “donut hole.” While guidance is needed, it appears that the determination of whether a group health plan provides creditable coverage will be based on this expanded Part D coverage.*

Conclusion

Buck’s consultants are available to answer any questions you may have regarding the change in the Part D enrollment period and its impact on your plans.

This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.