

HEALTH REFORM IMPACT

What you need to know NOW

NEWS FOR THE CLIENTS AND FRIENDS OF BASS, BERRY & SIMS PLC

New October 14 Deadline for Medicare Part D Notices Is Fast Approaching

October 5, 2011

As an important reminder, group health plans that provide prescription drug coverage must annually notify participants whether the plan's coverage is "creditable" under Medicare Part D. The notice must be provided prior to commencement of the annual Medicare Part D enrollment period. Traditionally, that period began on November 15 of each year. The Affordable Care Act (health reform) accelerated the beginning of the Part D annual enrollment period to October 15. As a result, plans will need to distribute Medicare Part D notices no later than October 14, beginning this year. Employers that distribute the notice with open enrollment materials will need to make alternative plans for distribution if enrollment materials will not be distributed by then.

The model Part D notices issued by the Centers for Medicare and Medicaid Services (CMS) have also been revised to reflect the new enrollment period: [Click here.](#)

The federal agencies charged with implementing health reform have issued important guidance on other topics as well.

Revised Form 8928 Requires Self-Reporting of Non-Compliance

On September 20, 2011, the IRS quietly posted on its website a revised and updated Form 8928. Form 8928 is used by employers and plan administrators to report non-compliance with certain requirements applicable to group health plans. In the past, the form was used primarily to report violations of COBRA, HIPAA, and the laws relating to parity of benefits for mental health and substance abuse benefits. Failure to timely file Form 8928 and pay related amounts when due can result in additional taxes and penalties.

Health reform expanded the scope of required reporting to include failures to comply with the substantive provisions of that law. Examples include the requirement to offer coverage to children up to age 26, first dollar coverage of in-network preventive services, the new appeals and external review requirements, and the new limits on annual and lifetime dollar limits. In updated instructions accompanying the revised Form 8928, the IRS explains the limited scope reporting applicable to violations that are due to "reasonable cause and not willful neglect." The Form 8928 may be found [here](#) and accompanying instructions are available [here](#).

Summary of Benefits and Coverage Template is Now Available

On August 22, 2011, the Departments of Labor, Treasury, and Health and Human Services issued proposed regulations and a model template for the new "Summary of Benefits and Coverage" (SBC) required under the Affordable Care Act. Group health plans, and certain coverage sold in the individual market, must distribute the four-page document no later than March 23, 2012. The SBC is intended to facilitate an "apples-to-apples" comparison of coverage provided by different health plans, including coverage available to spouses through their respective employers. Comments from the public are requested and may be submitted through October 21, 2011. The agencies have acknowledged that implementation of the new SBC may need to be delayed past March 23, 2012, depending on the volume of comments received. In the meantime, plan sponsors should prepare to comply with the existing deadline. A copy of the proposed template (which runs to six pages, with accompanying "coverage examples") may be found [here](#).

If you have questions regarding the information in this alert, please contact any of the attorneys in our Employee Benefits Practice Group listed below.

Also, please [click here](#) to visit our special website for Health Reform IMPACT.

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