Retiree Drug Subsidy Update
and RDS Program Oversight

Employer Policy & Operations Group
Center for Beneficiary Choices
(October 2005)
Introduction

• Today’s discussion
  – Refresher on Employer Options
  – Update on RDS Program
  – Retiree Drug Subsidy Program Oversight
  – Retiree Drug Subsidy Program Audits
Employer Options

• Provide drug coverage in lieu of the Medicare drug benefit and receive retiree drug subsidy payments

• Provide a stand-alone drug plan to supplement the Medicare drug benefit

• Purchase integrated drug coverage from a Medicare PDP or MA-PD to supplement the Medicare drug benefit

• Provide integrated drug coverage by direct-contracting with Medicare to become a Medicare PDP or MA-PD

• Pay part or all of retirees’ Medicare drug plan premium
Retiree Drug Subsidy Option

• Subsidy payment is 28% of allowable retiree costs attributable to gross covered prescription drug costs

• Subsidy applies to costs incurred between the cost threshold ($251 in 2006) and the cost limit ($5,000 in 2006)
  – threshold and limit indexed after 2006

• Subsidy only paid for retirees not enrolling in a Medicare drug plan

• Subsidy payments are tax-exempt for taxable entities
Retiree Drug Subsidy Option

- Eligibility requirements for retiree drug subsidy program include:
  - submit a timely annual application with retiree (and dependent) enrolment data and provide periodic updates
  - submit attestation (i.e., certification) by an actuary that the plan meets the actuarial equivalence standard
  - provide claims-related drug cost data, including year-end reconciliation of estimated data
  - maintain records for audits
  - disclose creditable coverage status to CMS and Medicare eligible individuals
Retiree Drug Subsidy Option

• To receive the retiree drug subsidy, the sponsor’s plan must offer prescription drug coverage that is at least “actuarially equivalent” to Medicare Part D
  – Actuarial equivalence is a two-part standard that is determined by applying a “gross value” test and a “net value” test
    • Plans that pass the “gross value” test meet the “creditable coverage” standard (discussed above)
    • Plans that pass both the “gross value” test and the “net value” test meet the actuarial equivalence standard and are eligible to receive the retiree drug subsidy
Retiree Drug Subsidy Option

• The “gross value” test:
  – Gross value = expected total claims
  – Compare gross value of the sponsor’s plan to gross value of Medicare drug benefit to determine whether sponsor’s plan is of equal or greater value

• The “net value” test:
  – Subtract retiree premium contributions from gross value of sponsor’s plan and subtract beneficiary drug premium from gross value of Medicare drug benefit, then
  – Compare resulting net values to determine whether the sponsor’s plan is of equal or greater value
Retiree Drug Subsidy Option

• Why might plan sponsors prefer the retiree drug subsidy approach?
  – Minimizes change to current plan
  – Switch to other approaches could require longer lead time
  – Contractual or collective bargaining commitments may constrain ability to switch
  – May prefer to wait until market evolves before committing to change
RDS Drug Subsidy Program Oversight

• Goals

  – Confirm the identity of individuals and organizations in the RDS program

  – Make accurate payments and protect the Medicare Trust Fund

  – Detect and prevent fraud and abuse
Examples of Potential Fraud in the RDS Program

• Submitting false information on the RDS program application

• Submitting false information regarding retirees in original retiree list and update file

• Creating false or misleading documentation regarding the actuarial equivalence of plan design
Examples of Potential Fraud in the RDS Program

• Submitting false or misleading drug cost data

• Submitting false or misleading data regarding rebates and other price concessions

• Submitting false or misleading documentation when requesting an appeal
Situations That May Not Be Fraud

- Making a drug cost calculation or processing error
- Unknowingly submitting incorrect data or rebates
- Unknowingly submitting incorrect information on retirees
RDS Program Audits

• Types of Audits
  – **Random** – plan sponsors will be selected using samples within strata based on plan sponsor size
  – **Targeted** - subjects selected based on information derived or received by CMS from:
    • RDS Center Referrals
    • Random audit findings
    • Complaints
    • Law enforcement officials
Audit Categories

- Creditable coverage disclosures
- Actuarial equivalency attestations
- Subsidy payments
Audits of Creditable Coverage Disclosures

• What will be examined?
  – Actual creditable coverage disclosures used by the plan sponsor to notify retirees
  – Method of disclosure and date
  – Evidence that the disclosure occurred
Audits of Actuarial Equivalency Attestations

• What will be examined?

  – Actuary working papers to determine:

    • If generally accepted actuarial principals were used

    • The accuracy of gross value test calculation(s)

    • The accuracy of net value test calculation(s)
Audits of Subsidy Payments

• What will be examined?
  
  – RDS Center payments made
  
  – Plan Sponsor payments requested
  
  – Actual sample claims, list of claims, rebate, chargeback, price concession, and admin. cost data
Audit Open Issues

• How will CMS collect/receive the information needed to complete an audit
  – Electronic vs. hardcopy?
  – Format of electronic files?

• What proportion of audits will be desk reviews vs. onsite?
For more information . . . .

- http://www.cms.hhs.gov/medicare/cob/ -- information about COB Agreements and Voluntary Data Sharing Agreements
- http://rds.cms.hhs.gov - Retiree Drug Subsidy Operational information website
Retiree Drug Subsidy Update

The Employer Perspective

CMS/HCAA Medicare Part D Compliance Conference
December 12, 2005

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Overview

Employer’s Perspective on:
- General reaction to Part D
- Notice requirement
- Is it creditable
- Applying for the Subsidy

Concerns going forward

General perspectives
Initial Information Source

- Trade Associations
- Benefit Consulting Groups
- Employers Association
- Conferences/Seminars
- Insurance Carriers
- Word of mouth
Approach to Part D

- Varies by Employer:
  - Large vs. small
  - Geographic scope
  - Industry
  - Employee characteristics
Employer’s general reaction to Part D

- Do I have to?
- I’m so confused ……
- What is Medicare?
- What subsidy?
- Huh?
Employers’ Position

- Generally, employers haven’t needed to understand how Medicare program works
- Thought Part D would be administered a lot like Parts A & B
- Appears regulations have some commonality with existing regulations for individual coverage – employers deal with group coverage regulations
Employers Reaction

- CMS guidance:
  - Sample notices are unclear
  - Non-timely clarifications
  - Not pro-active information from CMS
  - Many unaware of the Retiree Drug Subsidy Program web site
    (http://rds.cms.hhs.gov/)
“If I don’t have a retiree plan, I don’t need to send notices.”

“I only need to send notices to those who are in my retiree plan.”

“I thought the government would send me more information on what I had to do next.”
Notices

- Do I have to send them?
  - Yes
- Who do I send them to?
  - Targeted vs. Everyone
- How do I send them?
  - US mail vs. certified mail vs. email
- How often do I send them?
  - Now, when things change, when people become eligible
- Can my insurance carrier send them on my behalf?
  - If your organization’s name appears in the letter
Is it Creditable?

- Reliance on insurance carriers analysis
- Carrier notices state employers shouldn’t rely on this claim, ‘hire your own expert to determine actual results’
- Many employers don’t have expertise, resources, funding to hire own actuary
Employer’s perspective on subsidy program

Considerations:
- Time constraints
- Contracted insurance carriers reluctance to provide actual data
- Finding actuaries willing to provide attestations
- Compensation for actuaries ($15,000+)

Result:
- Only large employers applied
Application process

- Reported CMS delay in providing initial approval to those trying to apply close to the deadline
- Concern about releasing personal information into the CMS system
- Concern about the resources required to submit and maintain data

“Is it worth all the effort?”
‘Tax Free’ Subsidy?

State law, passed in 2005 session:
- Requires “C” corporations, individuals, trusts and estates to add to federal taxable income:
  - federal subsidies paid to employers who provide prescription drug coverage for their retirees, exempted federally under the Medicare Prescription Drug, Improvement and Modernization Act.
Concerns Going Forward

- Resources needed for claims submission and reconciliation process for subsidy
- Incorrect notices that lead to retiree complaints and more
- On-going mailing of notices
- Increased number of calls from retirees/dependents eligible for Medicare
Bottom line

- Beneficiaries
  - General confusion over Part D
  - Aggressive marketing of some plans
  - 1st mailing received referred to low income; some who didn’t qualify for low income option believe they don’t qualify at all
  - Additional mailing required by employers adds to confusion
For Further Information Contact

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