

DUAL-ELIGIBLE BENEFICIARIES WITH RETIREE DRUG COVERAGE: What Retiree Plan Sponsors Should Know About the Risks and Choices Facing Retirees, Spouses & Dependents, and What They Can Do to Help

SUMMARY: Certain Medicare-eligible retirees face a prescription drug plan enrollment decision with significant consequences as a result of the following:

- Because they are dually eligible for both Medicare and Medicaid, they have been automatically enrolled in a Medicare drug plan; and
- Their former employer or union retiree drug plan sponsor has informed them that they will only continue to receive their retiree drug benefits, and in some cases retiree medical and drug benefits, if they do not enroll in a Medicare drug plan.

As a result, these individuals may have to choose between remaining enrolled in a Medicare drug plan and losing their (and their spouse's and dependent's) employer/union coverage, or keeping their employer/union retiree coverage and opting out of the Medicare drug plan in which they were automatically enrolled even though the Medicare drug plan provides comprehensive drug coverage at minimal cost. In some cases, additional benefits - such as Medicaid coverage of nursing home expenses and supplemental drug coverage from a State Pharmacy Assistance Program (SPAP) - may also be at risk.

Based on the best available data, several tens of thousands of dually eligible individuals also receive retiree drug coverage from an employer or union plan sponsor. While this number is not large compared with the total number of Medicare-eligible retirees, it is large enough that many retiree plans will cover one or more affected retirees. Because the consequences for an affected retiree are so significant, it is important that every employer and union plan sponsor be aware of these issues and consider taking steps to reduce the risk to and adverse impact on affected retirees. *This document provides an overview of the choices faced by these retirees and outlines best practices employer and union plan sponsors can adopt, including:*

- *Providing a flexible transition/correction period;*
- *Allowing spouses and dependents to continue receiving retiree coverage when the retiree enrolls in a Medicare drug plan;*
- *Adding a supplemental coverage option; and*
- *Providing information to a retiree that assists them to opt out of a Medicare drug plan when that is what they choose to do.*

BACKGROUND: The concerns addressed by this issue paper arise as a result of two provisions of the Medicare Modernization Act (MMA).

First, MMA requires that all dually eligible Medicare and Medicaid beneficiaries be enrolled in a Medicare Part D prescription drug plan by 12/31/05 to ensure that these beneficiaries continue to have prescription drug coverage when their Medicaid coverage ends on 12/31/05. This provision does not include an exception for dually eligible individuals who have retiree prescription drug coverage from a former employer or union.

Second, MMA creates a “retiree drug subsidy” that is paid to qualified employer and union retiree drug plans to offset a portion of the cost those plans incur when they pay for drugs that a Medicare drug plan would have paid for had the retiree been enrolled in a Medicare drug plan instead. In other words, the retiree drug subsidy is intended to subsidize employer/union drug coverage that is taking the place of Medicare drug coverage. Consequently, the subsidy is not paid when a retiree enrolls in a Medicare drug plan.

Although MMA and regulations implementing it expressly permit an employer/union plan sponsor that is receiving the retiree drug subsidy to give retirees the option of enrolling in a Medicare drug plan and receiving supplemental employer/union coverage, rather than get all their drug coverage from the employer/union plan, neither the statute nor the regulations require that retirees be given the option to enroll in a Medicare drug plan and receive supplemental coverage. As a result, a significant number of employer/union plan sponsors do not offer any supplemental drug coverage to retirees who enroll in a Medicare drug plan. In some cases, where the employer/union plan covers both medical and drug costs, the plan does not provide any supplemental medical or drug coverage to retirees who enroll in a Medicare drug plan. The consequence of this voluntary decision by employer/union plan sponsors is that an affected retiree can have Medicare drug coverage, or they can have their retiree coverage, but they can’t have both.

For the vast majority of retirees, this either/or choice is not difficult to make because their employer/union coverage is more generous than Medicare drug coverage, so they are better off if they continue to receive their retiree drug coverage and do not enroll in a Medicare drug plan. However, retirees who are eligible for Medicare’s low income subsidy benefit - which provides drug coverage with significantly reduced cost-sharing – will generally find they can receive better coverage from Medicare than their retiree plan. In the case of dually Medicare and Medicaid eligible individuals, the Medicare drug benefit will be more generous than the vast majority of employer/union plans.

ISSUES: The autoenrollment of dually eligible beneficiaries with retiree coverage affects not just retirees but spouses and dependents as well.

Implications for retirees: Most retirees will not receive Medicare drug coverage unless they voluntarily enroll in it. If they receive drug coverage from a retiree plan that does not provide benefits to retirees who enroll in a Medicare drug plan, and they do nothing, they will generally keep their current drug coverage and not receive Medicare drug coverage. In contrast, MMA provides for the autoenrollment of dually eligible individuals regardless of whether they have retiree coverage. If they receive drug coverage from a retiree plan that does not provide benefits to retirees who enroll in a Medicare drug plan, they must affirmatively opt out of the Medicare drug plan they were automatically enrolled; if they do nothing they will remain enrolled in the Medicare drug plan and lose their employer/union retiree drug benefit. So the effect of “doing nothing” is the opposite for autoenrollees as compared to other retirees.

In most cases, the Medicare drug benefit is sufficiently more generous than typical employer/union coverage, that a retiree will receive better drug coverage by remaining enrolled in the Medicare drug plan, even when they will receive no additional supplemental drug coverage from their retiree plan. However, the choice is much more difficult when the employer/union plan does not provide retiree medical coverage to retirees that enroll in a Medicare drug plan. In this case, the individual must decide whether the more generous Medicare drug coverage outweighs the loss of employer/union supplemental medical coverage if he/she remains enrolled in a Medicare drug plan.

Implications for spouses and dependents: If a retiree's spouse or dependents are also covered by the retiree plan and Medicare eligible, similar choices between more generous Medicare drug coverage and lost employer/union medical coverage arise. But if the covered spouse or dependents are not Medicare eligible, another trade-off arises. Employer and union retiree plans typically link spouse/dependent coverage to the retiree's coverage, such that a retiree's decision to drop their employer/union coverage would result in the spouse and dependents losing their coverage as well. In this case, the individual must decide whether the more generous Medicare drug coverage outweighs the loss of not only his/her employer/union supplemental medical coverage but the loss of spouse/dependent coverage as well.

Additional interactions: Several states have decided, or are considering, linking participation in Medicaid to enrollment in a Medicare drug plan. For dually eligible individuals in these states, particularly those in nursing homes whose costs are being paid by Medicaid, even more severe trade-offs arise. For example, the individual may have to choose between remaining enrolled in a Medicare drug plan, so Medicaid will continue to pay for his/her nursing home costs; and foregoing both Medicare drug coverage and Medicaid nursing home payment in order to preserve employer/union coverage for his/her spouse and dependents. A similar, though generally less severe, situation arises when the individual receives drug coverage from a State Pharmacy Assistance Program that has decided to make enrollment in a Medicare drug plan a condition of continued participation in the SPAP.

BEST PRACTICES: States and employer/union plan sponsors can take a number of steps that significantly reduce the risk and adverse consequences for dually eligible retirees, their spouses and dependents. For example, several States that intend Medicaid to "wrap around" the new Medicare drug benefit have indicated they will also "wrap around" employer/union coverage that is actuarially equivalent to Medicare standard drug benefit, and will not impose the Medicaid requirement to enroll in a Medicare drug plan for beneficiaries whose employer/union plans have told them they will lose coverage if they enroll in a Medicare drug plan.

A number of employer and union plan sponsors have indicated they implemented one or more of the following best practices in an effort to reduce or eliminate the risks and adverse consequences facing retirees and their families:

- ***Flexible transition/correction period:*** Many plan sponsors realized that autoenrolled individuals who wish to opt out of Medicare drug coverage in order to retain their employer coverage may not be able to do so before the beginning of their 2006 retiree plan year (typically starting January 1, 2006). In recognition of this fact, they are taking a variety of steps, including:
 - Deferring any permanent changes in retirees' plan eligibility, enrollment or covered benefits for a period of time to allow extra time for retirees to opt out of their autoenrolled Medicare drug plan;
 - Providing a special enrollment period for retirees to re-enroll in the employer/union plan; and/or
 - Coordinating benefits with Medicare drug plans for a period of time until they can opt out of the Medicare drug coverage.
- ***Split enrollment:*** Many plan sponsors are allowing spouses and dependents to continue receiving coverage from the employer/union plan even when the retiree enrolls in a Medicare drug plan.
- ***Adding a supplemental coverage option:*** Several plan sponsors indicated that although they did not initially intend to provide a supplemental coverage option, they have implemented one in order to address these types of situations.
- ***Assisting retirees to opt out of a Medicare drug plan if that is what they choose to do:*** Plan sponsors are an important source of information for retirees, and many have provided educational materials that explain that dual eligible beneficiaries can disenroll from a Medicare drug plan at any time by calling 1-800-Medicare or by contacting the Medicare drug plan in which they are enrolled.

CONCLUSION: CMS continues to reach out to employer and union plan sponsors to make them aware of the concerns addressed in this issue paper and to identify additional best practices, and welcomes public comment and suggestions. More information is available at <http://www.cms.hhs.gov> or by contacting the Employer Policy and Operations Group's Division of Outreach.