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THE RETIREE DRUG SUBSIDY: WHY EMPLOYERS AND UNION PLAN SPONSORS SHOULD CONSIDER IT

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Employers and unions have a number of options under the Medicare Modernization Act (MMA). The retiree drug subsidy is one of the options designed to encourage employers and unions to continue providing high quality prescription drug coverage. This option is available to all employers and unions regardless of whether they pay taxes or are tax exempt. It has highly flexible rules that permit employers and unions to continue providing drug coverage to their Medicare-eligible retirees at a lower cost while retaining their current plan designs.

Five Easy Steps to Receive the Retiree Drug Subsidy

CMS has created a streamlined process, including quick turnaround of application reviews, for employer and union plan sponsors to qualify for and receive the retiree drug subsidy. Plans can even operate on a calendar year or non-calendar year basis and still receive the subsidy. Plan sponsors also can partner with any vendor they choose to administer the plan regardless of whether the vendor participates in Part D, so there is no disruption to existing business relationships.

For employer and union plan sponsors that are contributing a certain amount to retiree drug costs, the retiree drug subsidy will directly reduce these costs with minimal administrative burden to the employer/union. Sponsors of employer and union plans that do not currently qualify may want to consider increasing their contributions. The retiree drug subsidy could offset all or a portion of these additional costs. In either case, employers and unions can work together with vendors to develop a simple, straightforward process for receiving and using the retiree drug subsidy amounts to directly offset the costs associated with providing retiree benefits through these vendors (either through self-funded or fully insured arrangements). CMS will be working with vendors and employer/union plan sponsors in the near future to assist in simplifying this process. CMS will share this information so that employers and unions can utilize these straightforward mechanisms to obtain the retiree drug subsidy to directly offset a portion of the costs associated with continuing to provide high quality drug coverage to retirees.

The primary steps in the retiree drug subsidy process include:

Step One: Submit (electronically or otherwise) an application by September 30, 2005, to qualify for the retiree drug subsidy beginning January 1, 2006. In subsequent years, calendar year plans submit applications by September 30 of each year; non-calendar year plans submit applications 90 days prior to the beginning of each plan year.

Step Two: Attach to the application an actuary's attestation that the plan meets the MMA's actuarial equivalence standard. Actuaries have considerable flexibility in the use of simplified actuarial calculations, treatment of multiple benefit options, and allocation of premiums between drug and non-drug coverage. Once the actuarial equivalence standard is satisfied, plan sponsors have full flexibility in plan design. This means most plan sponsors can maintain their current high quality, comprehensive coverage without changing plan design or cost-sharing.

Step Three: Certify that the creditable coverage status of the plan has or will be disclosed to plan participants and CMS. This disclosure can be incorporated into other plan communications (e.g., those provided in accordance with ERISA reporting and disclosure requirements). CMS will be providing guidance soon on how to provide these disclosures. This guidance will include sample language.

Step Four: Electronically submit and periodically update enrollment information about retirees and dependents. Entering into a voluntary data sharing agreement with CMS makes the process even easier. Information about how to enter into these voluntary data sharing (VDSA) agreements with CMS is available online at: http://www.cms.hhs.gov/.

Step Five: Electronically submit aggregate data about drug costs incurred and reconcile costs at year-end; submission of detailed individual claims data is not required (though claims records must be maintained for audits for six years). Plan sponsors can choose whether to submit data and receive payments monthly, quarterly or annually. CMS will be providing additional guidance soon on the details of how to submit data electronically.

What are the Advantages of the Retiree Drug Subsidy Option?

All of the options available to employers and unions under Part D reduce the costs associated with providing retiree drug coverage. In order to pick the option or options most advantageous to both the employer/union and their retirees sponsors should consider a range of factors when making their decisions. In most cases, the retiree drug subsidy offers significant advantages. The following table highlights some of the advantages of the retiree drug subsidy relative to providing prescription drug coverage through an employer/union-sponsored PDP or MA-PD.

	Tax-free Retiree Drug Subsidy Option and Application Process	**Employer/Union-sponsored PDP or MA-PD Option and Application Process**
Employer control over plan design (such as cost sharing and formulary)	• Full flexibility over plan design, including formularies, and rules providing flexibility for multiple benefit options and allocating premiums • Simplified two-part actuarial equivalence test	• Customized employer-only PDP or MA-PD must meet all CMS requirements for Part D plans, including formularies, subject to CMS waivers or modifications • Benefit design must meet more specific multiple actuarial standards than under retiree subsidy
Ability to use vendors of choice	• Can choose any vendor to administer plan, including insurer or PBM providing or administering coverage to active employees	• Restricted to Medicare-approved PDPs and MA-PDs unless employer/union direct-contracts to become an PDP or MA-PD

Administrative requirements	• Short one-step application • Attestation from actuary • No Part D enrollment; instead submit enrollment data on qualifying retirees, spouses, dependents with periodic updates • 6-year recordkeeping requirement • Flexibility in determining frequency of data submissions and payments • PBMs, insurers, other vendors submit aggregate allowable drug expenses per retiree and allocable rebates/ other price concessions • No TrOOP calculation or coordination of benefits with Medicare required (though may need to coordinate benefits with non-Medicare secondary payers) • Not required to adjust premiums for low-income retirees	• More extensive multi-step application • Submission of formularies for review • Submission of bids • Demonstration that actuarial standards are met • Demonstration that financial solvency standards are met • Submission of enrollment materials (with possible review and modifications required by CMS) • Enroll retirees, spouses, dependents per Part D rules • 10-year recordkeeping requirement • Fixed monthly payment schedule • Must keep records and submit detailed individual claims data to CMS; must submit actual claims data for catastrophic reinsurance payments • Must comply with regular reporting requirements including information related to business transactions and financial requirements, rebate data, utilization management data, exceptions and appeals information, medication therapy management data, routine administrative performance reports, and conflict of interest reports • Calculates "true out-of-pocket" (TrOOP) costs for purposes of catastrophic reinsurance and for coordination of benefits with secondary payers • Must adjust premiums for low income enrollees entitled to low income subsidy

Service area restrictions	• None	• Restrictions may apply depending on type of arrangement
Timing	• Application due by September 30, 2005 (extensions permitted); application required 90 days before plan year in future, with extensions permitted	• Notice of intent to apply by March 23, 2005; application submission by April 25; formulary submission by June 6; bid submission TBD (similar deadlines in future years)
Communication with retirees	• Minimal retiree communications other than creditable coverage disclosure (which can be incorporated in other plan communications) and communicating to retirees that they do not need to enroll in a Part D plan	• Complex communications may be required depending on the extent of plan design changes
Ability to have non-calendar year plans	• Yes	• Yes, but non-calendar year plans not eligible for catastrophic reinsurance payments

In addition to the simpler application process and less burdensome and costly administrative requirements, the retiree drug subsidy offers financial advantages to many qualifying plan sponsors that are at least the same or better when compared with the employer/union-sponsored PDP or MA-PD option. For example, CMS estimates an average tax-free retiree drug subsidy payment of $668 per participant in 2006, which is equivalent to $891 for plan sponsors with a 25% marginal tax rate and $1028 for plan sponsors with a 35% marginal tax rate. CMS estimates an average payment of close to $900 per participant in an employer-sponsored PDP or MA-PD plan. However, payments to the PDP or MA-PD may be taxable as income depending on their tax status. In addition, calendar year plans must comply with significant administrative requirements to be eligible for any catastrophic reinsurance payments (non-calendar year plans are not eligible) and none of these plans are eligible for risk corridors.

How Can the Retiree Drug Subsidy be Combined with Non-Drug Coverage?

Additionally, plan sponsors that wish to participate in the retiree drug subsidy program have several different approaches for combining that coverage with hospital, surgical, and other non-prescription health plan benefits. These can include the use of Medicare Advantage (MA) plans or other types of coverage. The following is a summary of available options:

	Non-MA Plan	MA Plan or Medicare Cost Plan Without Drug Coverage
Self-Funded Drug Benefit	• Employer or union provides retiree benefits through a qualifying self-funded plan and claims the retiree drug subsidy.	• Employer or union provides retiree benefits (other than for drug costs) through an insurer sponsoring an MA plan or Medicare cost plan, provides retiree drug coverage on a self-funded basis administered by that same insurer or another vendor, and claims the retiree drug subsidy.
Insured Drug Benefit	• Employer or union provides retiree benefits through a qualifying insured benefit and claims the retiree drug subsidy.	• Employer or union provides retiree benefits (other than for drug costs) through an insurer sponsoring an MA plan or Medicare cost plan, provides retiree drug coverage through a separate insured arrangement with the same (or different) carrier, and claims the retiree drug subsidy.

Where Do I Go For More Information?

Please visit the CMS website at http://www.cms.hhs.gov/ and follow the link to the Employer/Union webpage for plan sponsor guidance and summaries documents available online. Additional information is also posted on the RDS Center website at http://rds.cms.hhs.gov/.