

## MEDICARE PART D STRATEGIES FOR PLAN SPONSORS

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One of the lesser heralded beneficiaries of the Medicare Modernization Act of 2003 (MMA) are plans sponsoring retiree prescription drug benefits. While more attention has been given to pharmaceutical manufacturers and insurance companies, employers and other plan sponsors (Employers) have the opportunity to reduce their future retiree prescription drug liability by 20% or more as a result of the government subsidies offered under Medicare Part D.

The main goal of the subsidy provisions is to “help employers retain and enhance their prescription drug coverage so that the current erosion in coverage would plateau or even increase (prescription drug coverage),” according to the House of Representatives conference report to the MMA. The severity of this erosion in retiree health coverage is evident when considering that only 38% of large employers offered coverage in 2003, compared with 66% in 1988, according to the Kaiser / HRET Employer Health Benefits Survey.

Employers have several options under Part D, but doing nothing is not one of them! Now is the time to take action. At a bare minimum, Employers should consider all available and practical options. Moreover, the potential gain from acting on this opportunity outweighs the effort needed to fulfill the requirements needed to obtain the subsidies.

Employer options include:

- Keeping existing coverage and applying for a 28% tax-free federal subsidy
- Offering a wrap around plan and making individual Part D coverage primary
- Sponsoring a Medicare Advantage or stand-alone prescription drug plan (PD plan), using the Center for Medicare and Medicaid Services (CMS) waiver provisions
- Contracting directly with a PD plan to offer a private label plan, using CMS waiver provisions
- Dropping coverage

### PRIMARY EMPLOYER SUBSIDY

The Primary Employer Subsidy approach appears to be the preferred option among Employers for calendar year 2006. According to CMS, the estimated value of the tax deductible subsidy is \$668 per beneficiary (equivalent to a \$1,028 taxable payment for Employers in the 35% tax bracket). Those offering retiree prescription drug coverage can continue to offer the same benefit option(s) and -- so long as the coverage is equivalent to, or richer than, the Medicare Standard Part D benefit and the Employer is contributing a sufficient amount towards the coverage -- can apply for and obtain a 28% tax free subsidy for allowable retiree costs between \$250 and \$5000 (including cost sharing paid by the retiree).

To apply for the subsidy, two tests must be certified by a qualified actuary. The first is a gross value test

comparing the total prescription drug coverage value (i.e., total drug spend less cost sharing) of each Employer benefit option with the Standard Medicare Part D coverage. The second is a net value test comparing the Employer's contribution toward prescription coverage (i.e., the total prescription drug coverage value less retiree premium contributions) with the government's expected contribution toward Standard Part D coverage.

The gross value test certifies coverage as creditable for all of the Employer's Medicare eligibles, whether active or retired (including Medicare eligible spouses or dependents). **Even Employers not seeking the primary subsidy must conduct the gross value test on all benefit plans offered to active employees or retirees eligible for Medicare.** The creditable coverage certification allows the individual to enroll directly in Part D at a later date without incurring late enrollment penalties.

Under the Primary Employer Subsidy option, **Employers should take four actions before September 30, 2005:**

- Communicate early and often with retirees regularly regarding the coverage offering and the reasons to not sign up for primary Part D individually,
- Determine filing and reporting requirements,
- Identify a qualified actuary to certify benefit offerings, and
- Submit the application, certification and census of qualifying covered retirees to the Center for Medicare and Medicaid Services (CMS).

The biggest advantages under the Primary Employer Subsidy option include the ability to:

- Maintain the current benefit plan(s), which may be required under collective bargaining agreements,
- Continue to use the same vendor (insurer or pharmacy benefit manager) in providing coverage and administration,
- Utilize potentially the lowest cost option, for Employers who maintain the current benefit plan and are able to realize the tax advantages,
- Take a wait-and-see approach for 2006, while still realizing savings, and
- More easily comply with filing deadlines and reporting requirements, compared with the Employer or Private Label PD Plan options.

#### WRAP AROUND SUPPLEMENTAL PLAN

Employers can also opt to offer secondary coverage and condition this coverage on the retiree enrolling in a PD plan for primary coverage. This primary coverage would be the standard Medicare Part D plan (as shown in Diagram 1 attached) or an actuarially equivalent plan. The secondary coverage would fill in coverage gaps (i.e., the beneficiary deductible and beneficiary corridor) and/or reduce retiree cost sharing, similar to the way Medicare Supplement policies currently wrap around Parts A and B.

An important related consideration is that costs paid by the secondary plan do not count toward the retiree's \$3600 true out of pocket (TrOOP) limit, which triggers the catastrophic benefit under the PD plan. Thus, the existence of an Employer wrap around plan lessens the value of the Medicare Part D plan, effectively increasing the cost of the wrap around plan.

Coordination of benefits between the primary and secondary plan sponsors will be a difficult process, especially in the initial year of the Part D benefit. However, CMS is expected to provide guidance by July 1, 2005 regarding its strategy for facilitating coordination between sponsors. CMS is planning to procure a "TrOOP coordinator" to act as the single point of contact between the primary and secondary sponsor, similar to a clearinghouse structure. However, even with a clearinghouse, coordination will be difficult, particularly if the primary and secondary plans employ different formularies and/or network pharmacies.

The biggest advantages under the wrap around supplemental plan option include the ability to:

- Provide an equivalent benefit to current coverage at a lower cost than 2005,
- Potentially reap greater cost savings for those tax exempt Employers unable to take full advantage of the Primary Employer Subsidy,
- More easily communicate the benefit structure to retirees, by explaining the approach is similar to how the plan coordinates with Medicare Parts A and B for medical coverage, and
- Have fewer submission and reporting requirements to CMS.

#### EMPLOYER OR PRIVATE LABEL PD PLAN

Employers could also use CMS waiver provisions to maintain the entire drug benefit as a 'group coverage,' either by becoming their own PD Plan or purchasing a private label plan through an external PD Plan. The CMS waiver provisions are designed to lessen the compliance requirements (compared with that for standard Part D plans) and therefore, provide "maximum flexibility and minimum administrative burden with regard to requirements that would hinder

the design of, the offering of, or the enrollment in, Part D plans offered to [the Employer's] retirees," as discussed in the waiver provisions released.

Major waiver provisions include:

- Reduced solvency and licensure requirements for Employer PD plans,
- Extended application and formulary submission dates, along with reduced submission requirements,
- Limited service area and enrollment restrictions,
- Eased benefit design and actuarial equivalence testing provisions below the beneficiary corridor, and
- The ability to apply for and negotiate other provisions specific to the Employer situation.

Employers choosing one of these waiver options should consider the reduction or elimination of the risk protections available to standard Part D plans and the higher potential administrative costs and/or risk premium. Additionally, the shorter timeframe compared with that allowed under the other options introduces significant time pressures.

The biggest advantages under the two waiver options include the ability to:

- Maintain the current benefit plan(s), which may be required under collective bargaining agreements,
- Eliminate coordination of coverage issues by using a single pharmacy administrator,
- Retain control over the benefit plan through formulary management, medical management, etc, under the Employer PD plan option, and
- Potentially reap higher cost savings than the primary option for a tax exempt organization, directly through the direct premium subsidy as an Employer PD plan or indirectly through premium reductions resulting

from the direct premium subsidy if contracting with an external PD plan.

### DROPPING COVERAGE

Finally, an Employer could decide to eliminate the current retiree coverage and pay some or all of the retiree's Part D premium. The most recent Congressional Budget Office projections estimate the monthly beneficiary premium at roughly \$38. While this would likely represent a reduction from current coverage, it still provides some protection against catastrophic prescription drug costs. However, a benefit reduction is something many Employers may be unwilling to consider and/or precluded from doing under collective bargaining agreements.

The biggest advantages of the dropping coverage option are the chance to:

- Use the lowest cost option, and
- Eliminate coverage at an opportune time since many Employers are changing their retiree coverage and other coverage will be available directly from a PD plan.

### CONCLUSION

In response to the MMA, Employers should focus on:

- Analyzing their available Part D options from a financial and administration standpoint,
- Assessing these available options in light of present and future company goals, and
- Planning their implementation and retiree communication strategies.

**As mentioned earlier, now is the time to take action.**

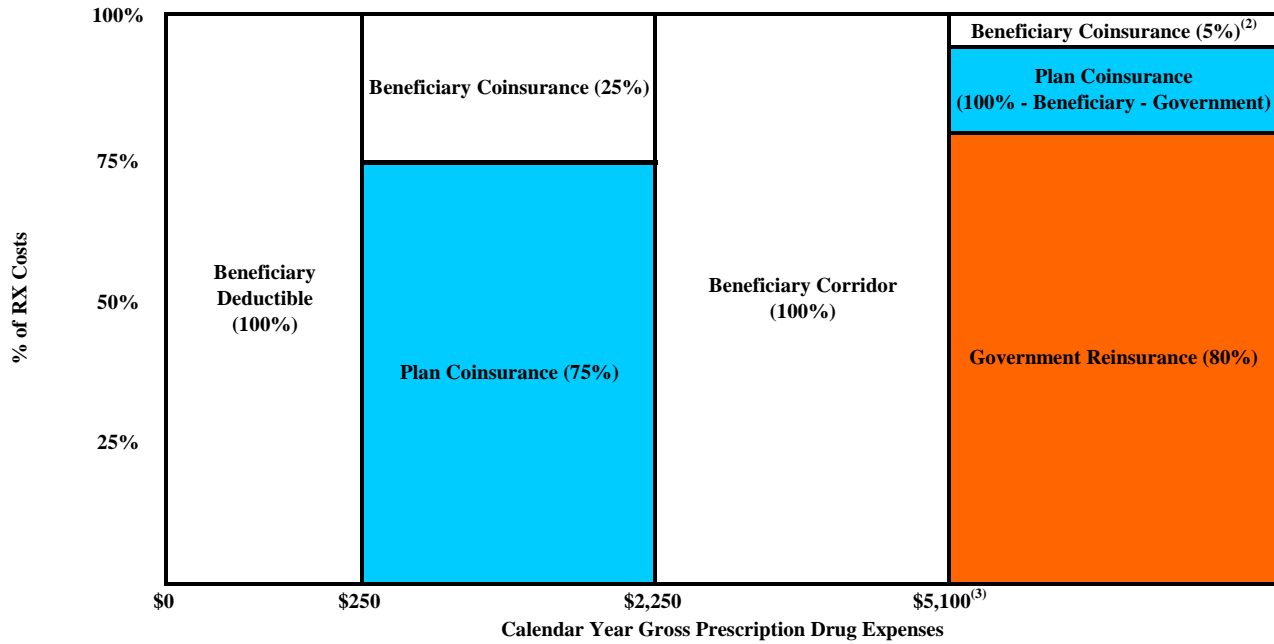
Doing nothing is not an option. The chance to reduce your future retiree prescription drug liability by 20% or more is an opportunity that should not be ignored.

**Author's Note:** This article reflects information released by CMS through April 8, 2005. Subsequent guidance released by CMS could impact the discussion and conclusions in this article. Please contact Troy Filipek or your Milliman consultant for the most up to date Part D Employer information.

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**DIAGRAM 1**

**Standard Benefit Design for 2006<sup>(1)</sup>**



- (1) Thresholds and limits are increased each year by average per capita outpatient drug expenditures.
- (2) Beneficiary cost sharing equal to the greater of \$2 generic / \$5 brand copayment or 5% of the drug expenditure.
- (3) The annual OOP threshold of \$5,100 in prescription drug expenses is consistent with beneficiary cost sharing of \$3,600 under the standard Part D benefit. Payments made by other prescription drug benefit programs (excluding low-income programs) could increase the width of the beneficiary corridor.