COMPLIANCE OVERVIEW

Medicare Part D: Disclosure notice to CMS

Employers with health plans that provide prescription drug coverage to individuals who are eligible for Medicare Part D are subject to certain disclosure requirements. One of these requirements provides that plan sponsors must disclose to the Centers for Medicare and Medicaid Services (CMS) on an annual basis, and at other select times, whether the plan's prescription drug coverage is creditable or noncreditable.

This disclosure is required regardless of whether the health plan's coverage is primary or secondary to Medicare. Plan sponsors are required to use the online form on the CMS Creditable Coverage **webpage** to make this disclosure.

The plan sponsor must complete the online disclosure within 60 days after the beginning of the plan year. For calendar year health plans, the deadline for the annual online disclosure is **March 1** (February 29 for leap years).

LINKS AND RESOURCES

- *Employers that are required to report to CMS should work with their advisors to determine whether their prescription drug coverage is creditable or noncreditable.*
- *For more information, employers should also visit CMS' Creditable Coverage **webpage,** which includes links to the **online disclosure form** and related **instructions.***

HIGHLIGHTS

Annual disclosure

- *Each year, employers with health plans that provide prescription drug coverage to Medicare-eligible individuals must disclose to CMS whether that coverage is creditable or noncreditable.*
- *The annual disclosure must be provided **within 60 days after the start of the plan year.***

Creditable coverage

- *A group health plan's prescription drug coverage is considered creditable if it is at least as generous as Medicare Part D prescription drug coverage.*
- *There are two permissible methods to determine whether coverage is creditable: a simplified determination method and an actuarial determination method. The simplified determination method has been **revised** for 2026 and 2027.*

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Disclosure to CMS

Group health plan sponsors are required to disclose to CMS whether their prescription drug coverage is creditable or noncreditable. This disclosure is required regardless of whether the health plan's coverage is primary or secondary to Medicare.

If an employer's group health plan doesn't offer prescription drug benefits to any Medicare Part D eligible individuals as of the beginning of the plan year, the group health plan isn't required to submit the online disclosure form to CMS for that plan year.

Also, a plan sponsor who has been approved for the retiree drug subsidy is exempt from filing the CMS disclosure notice with respect to those qualified covered retirees for whom the sponsor is claiming the subsidy.

The disclosure must be made to CMS on an annual basis and anytime a change occurs that affects whether the coverage is creditable. More specifically, the Medicare Part D disclosure notice must be provided within the following time frames:

- Within 60 days after the beginning date of the plan year for which the entity is providing the disclosure to CMS.
- Within 30 days after the termination of a plan's prescription drug coverage.
- Within 30 days after any change in the plan's creditable coverage status.

The plan sponsor must complete the online disclosure within 60 days after the beginning of the plan year.

Online disclosure method

Plan sponsors are required to use the online disclosure form on the CMS Creditable Coverage **webpage.** This is the sole method for compliance with the disclosure requirement, unless the entity doesn't have internet access.

The disclosure form lists the required data fields that must be completed in order to generate the disclosure notice to CMS, such as types of coverage, number of options offered, creditable coverage status, period covered by the disclosure notice, number of Part D-eligible individuals covered, date the creditable coverage disclosure notice is provided to Part D-eligible individuals, and change in creditable coverage status. CMS has also provided **instructions** for detailed descriptions of these data fields and guidance on how to complete the form.

Creditable coverage

A group health plan's prescription drug coverage is considered creditable if its actuarial value equals or exceeds the actuarial value of standard Medicare Part D prescription drug coverage. In general, this actuarial determination measures whether the expected amount of paid claims under the group health plan's prescription drug coverage is at least as much as the expected amount of paid claims under the Medicare Part D prescription drug benefit.

The determination of creditable coverage doesn't require an attestation by a qualified actuary, except when the plan sponsor is electing the retiree drug subsidy for the group health plan. **However, employers may want to consult with an actuary to make sure that their determinations are accurate, especially since the prescription drug cost reductions of the Inflation Reduction Act may affect the analysis of whether employer-sponsored prescription drug coverage is creditable.**

For plans that have multiple benefit options (e.g., PPO, HDHP, and HMO), the creditable coverage test must be applied separately for each benefit option. For coverage beginning on or after **Jan. 1, 2027,** account-based plans such as health reimbursement arrangements (HRAs), health flexible spending accounts, and health savings accounts are exempt from creditable coverage disclosure requirements.

There are two permissible methods to determine whether coverage is creditable for purposes of Medicare Part D: a **simplified determination** method and an **actuarial determination method.** However, given the significant changes made to Medicare Part D by the Inflation Reduction Act, CMS has established a **revised simplified determination methodology.** Under this methodology, a group health plan must be designed to pay, on average, at least 72% of a participant's drug expenses (increased from 60% under the prior methodology) to be considered creditable coverage.

- For calendar year 2026 only, group health plan sponsors that aren't applying for the retiree drug subsidy may use either the prior simplified determination methodology or the revised simplified determination methodology to determine whether their prescription drug coverage is creditable.
- For calendar year 2027 and subsequent years, CMS will no longer permit use of the prior simplified determination methodology. For 2027, the revised methodology requires plans to pay, on average, at least 73% of a participant's drug expenses to be considered creditable, with CMS establishing updated percentages for later years through subregulatory guidance.

For calendar year 2027 and subsequent years, CMS will no longer permit use of the prior simplified determination methodology.

Simplified determination

If a plan sponsor isn't applying for the retiree drug subsidy, the sponsor may be eligible to use a simplified determination that its prescription drug coverage is creditable. Specifically, a prescription drug plan is deemed to be creditable under the revised simplified determination method if it:

1. Provides reasonable coverage for brand name and generic prescription drugs and biological products.
2. Provides reasonable access to retail pharmacies.
3. Is designed to pay, on average, **at least 72%** of a participant's prescription drug expenses **for 2026, which is increased to 73% for 2027.**

How the revised simplified methodology differs from the prior simplified methodology

CMS updated the simplified methodology to better reflect how modern group health plans are designed. While the revised approach retains key elements of the prior methodology, such as requirements for reasonable coverage of brand name and generic drugs and access to retail pharmacies, it now also includes biological products.

CMS also removed several outdated requirements. Annual and lifetime benefit limit standards were eliminated because such limits are largely prohibited under the Affordable Care Act. In addition, CMS removed requirements related to an annual deductible, acknowledging that most employer plans integrate medical and prescription drug coverage. As a result, plans with higher deductibles (including high-deductible health plans) may, depending on their overall design, be able to satisfy the criteria for creditable coverage under the revised methodology.

Actuarial determination

If a plan sponsor can't use the revised simplified determination method to evaluate the creditable coverage status of the prescription drug coverage it offers, then it must make an annual actuarial determination. This determination must assess whether the expected amount of paid claims under the prescription drug coverage is at least as much as the expected amount of paid claims under the standard Medicare prescription drug benefit.

The actuarial determination doesn't require an attestation by a qualified actuary, unless the plan sponsor is an employer electing the retiree drug subsidy. Nonetheless, an employer may need to hire an actuary to make the determination.

Disclosures to individuals

In addition to the annual disclosure to CMS, group health plan sponsors must disclose to individuals who are eligible for Medicare Part D whether the plan's prescription drug coverage is creditable. At a minimum, creditable coverage disclosure notices must be provided to individuals at the following times:

- Prior to the Medicare Part D annual coordinated election period, which begins October 15 and remains open through December 7 of each year.
- Prior to an individual's initial enrollment period for Part D.
- Prior to the effective date of coverage for any Medicare-eligible individual who joins the plan.
- Whenever prescription drug coverage ends or changes so that it's no longer creditable or becomes creditable.
- Upon request.

If the creditable coverage disclosure notice is provided to all plan participants annually before October 15 of each year, items (1) and (2) above will be satisfied. "Prior to," as used above, means the individual must have been provided the notice within the past 12 months. In addition to providing the notice each year before October 15, plan sponsors should consider including the notice in plan enrollment materials provided to new hires.

CMS has provided model disclosure notices for plan sponsors to use when disclosing their creditable coverage status to Medicare beneficiaries. The model disclosure notices are available on CMS' **website.**

In addition to the annual disclosure to CMS, group health plan sponsors must disclose to individuals who are eligible for Medicare Part D whether the plan's prescription drug coverage is creditable.

Please contact us with any questions.

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