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## Amwins Connect Brief

# Medicare Part D Creditable Coverage Notice & Reporting April 2024

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# Medicare Part D Creditable Coverage Notice & Reporting

## Background

Employers sponsoring a group health plan that provides prescription drug coverage are required to determine whether the prescription drug coverage is creditable and then must communicate creditable or non-creditable coverage status annually to eligible employees and their family members and to the Centers for Medicare & Medicaid Services (CMS). The information assists individuals in making an informed decision about whether to enroll in Medicare Part D. Individuals who delay enrollment may face late enrollment penalties for failing to enroll in Part D when they are first eligible if it turns out that the employer's prescription drug plan is not creditable. The information reported to CMS helps them to determine when there might be other creditable coverage available to individuals who are eligible for Medicare.

## Plans Required to Comply

Any group health plan that provides prescription drug coverage is required to determine the plan's creditable status, provide the required notice, and report to CMS. There is no exception for small employers.

## Determining Whether an Employer's Prescription Drug Coverage Is Creditable

Prescription drug coverage is creditable if the actuarial value of the coverage equals or exceeds the actuarial value of standard prescription drug coverage under Medicare Part D. In other words, coverage is creditable if the expected amount of paid claims for prescription drugs under the coverage is at least as much as the expected amount of paid claims under the standard Medicare Part D benefit. Often an insurance carrier or third-party administrator will provide information to a plan sponsor detailing whether a plan's drug coverage is creditable. But if a plan sponsor does not receive this information from the carrier or administrator, the plan sponsor (e.g., the employer) is responsible for making the determination, or for hiring an actuary to help with the determination. Medicare Part D prescription drug coverage will expand in 2025 as required under the Inflation Reduction Act (IRA), which could impact whether an employer's group health plan provides creditable prescription drug coverage.

### Simplified Method for Determining Creditable Status – Changes in 2026

Guidance issued in 2009 provided a "simplified method" for determining whether the prescription drug coverage in a plan is creditable. The method was available so long as the plan sponsor was not applying for the subsidy available to sponsors of a qualified retiree prescription drug plan. Plans meeting the simplified method were considered creditable. Due to the stringent requirements, many plans did not satisfy the simplified method (e.g., HDHPs) and were then forced to instead turn to carrier/administrator or actuarial determinations. [Details for the simplified method description.](#)

CMS guidance indicates that the simplified method will continue to be available for 2025, but that it may be changed or no longer available in 2026. [Final CY 2025 Part D Redesign Program Instructions.](#)

## Required Disclosure of Creditable Coverage to Eligible Plan Participants

[Detailed guidance from CMS on Disclosures.](#)

### *Content of the Disclosure*

Disclosures of creditable (or non-creditable) coverage must address the following:

- That the employer has determined that the prescription drug coverage is creditable (or non-creditable);
- The meaning of creditable coverage;
- That an individual generally may only enroll in a Part D plan from October 15 through December 7 of each year; and
- Why creditable coverage is important and that the individual could be subject to payment of higher Part D premiums if there is a break in creditable coverage of 63 days or longer before enrolling in a Part D plan.

CMS makes model notices available in both English and Spanish for purposes of the disclosure requirement. [CMS Model Notices.](#)

### *Timing of the Disclosure*

The notice is required to be provided to Medicare Part D eligible individuals at the following times:

1. Prior to commencement of the annual enrollment period for Medicare Part D (Oct. 15);
2. Prior to an individual's initial enrollment period (IEP) for Medicare Part D;
3. Prior to the effective date of coverage for any Medicare Part D eligible individual who enrolls in the plan sponsor's prescription drug coverage;
4. Whenever the employer no longer offers prescription drug coverage or changes it so that it is no longer creditable or becomes creditable; and
5. Upon request by a Medicare Part D eligible individual.

#### Tip for Distribution Timing

The first three occasions use the term "prior to", which according to CMS means within the last 12 months, so the employer can meet the first three timing requirements by providing the notice at the following times:

- Each year during the employer's open enrollment period, or in late September/early October to coincide with the Medicare Part D open enrollment period; and
- When individuals are first eligible for the prescription drug coverage (e.g., new hires).

### *Who Is Entitled to Receive the Disclosure*

The notice must be provided to Medicare Part D eligible individuals who are eligible to enroll in the plan sponsor's prescription drug plan. This includes employees, COBRA participants, and retirees, as well as their spouses and dependents. Individuals are eligible for Medicare Part D if they are enrolled in either Medicare Part A or Medicare Part B and live in the service area of a Medicare Part D plan. In

other words, if somebody is both Medicare Part D eligible AND eligible to enroll in the plan sponsor's prescription drug plan, a notice is required.

Since it may be difficult for a plan sponsor to identify which individuals are eligible for Medicare Part D (e.g., spouses or disabled dependents), many plan sponsors choose to provide the disclosure notice to everyone who is eligible to enroll in their prescription drug plan.

#### *Method of Delivery for the Disclosure*

When providing the notices, CMS prefers using paper documents because Medicare Part D eligible individuals are more likely to receive and understand them, and because it is easier to ensure that paper documents have been received by both employees and eligible spouses and dependents. However, although paper notices sent by mail are preferred, the notices may be sent electronically in accordance with the Department of Labor's (DOL's) electronic delivery safe harbor for required ERISA disclosures. The safe harbor allows for electronic distribution to those who have access to the employer's electronic system as an integral part of their daily duties at their regular workplace, and to those who provide consent to an electronic distribution.

CMS has indicated that a plan sponsor providing a disclosure notice may generally provide a single notice to both the eligible individual and all his or her eligible dependents. However, a separate disclosure notice must be provided if the plan sponsor knows that any eligible spouse or dependent resides at a different address from the participant.

#### **Required Reporting to CMS**

In addition to the disclosure requirements to eligible individuals, plan sponsors of prescription drug plans are also required to report to CMS annually, within 60 days after the beginning of the plan year. For example, for a 2023 calendar year plan, the employer should report by early March 2023 on whether the coverage offered for 2023 is creditable or non-creditable. Note that this reporting requirement is also separate and distinct from the Medicare Secondary Payer reporting requirements under Section 111 that are due to CMS on a quarterly basis and typically handled by the insurance carrier or administrator. Reporting to CMS on the creditable status of the prescription drug coverage is generally the responsibility of the employer. This reporting is done electronically. [CMS Instructions and Online Form for Reporting Creditable Status.](#)