Compliance Bulletin

Medicare Part D Changes May Impact Creditable Coverage Status of Employer Plans for 2026 and 2027

The Inflation Reduction Act of 2022 (IRA) includes several cost-reduction provisions affecting Medicare Part D plans, which may impact the creditable coverage status of employer-sponsored prescription drug coverage for 2026 and 2027.

Employers that provide prescription drug coverage to individuals who are eligible for Medicare Part D must inform these individuals and the Centers for Medicare and Medicaid Services (CMS) whether their prescription drug coverage is **creditable**, meaning that the employer's prescription drug coverage is at least as good as Medicare Part D coverage.

In its Final Part D Redesign Program Instructions, CMS **revised one of the methods for determining whether coverage is creditable** (the "simplified determination" method) to better reflect actuarial equivalence with the enhanced Part D benefit design under the IRA.

For calendar year 2026 only, group health plan sponsors who are not applying for the retiree drug subsidy (RDS) are permitted to 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 beyond, non-RDS plans can no longer use the prior simplified determination methodology and must use the revised simplified methodology.

Action Items

Employers should become familiar with the revised creditable coverage determination method applicable for 2026 and 2027, and confirm whether their health plans' prescription drug coverage is creditable or non-creditable **as soon as possible** to prepare and distribute the appropriate Medicare Part D disclosure notices.

Highlights

Creditable Coverage

- Employers with prescription drug coverage must determine whether their coverage is creditable.
- Medicare Part D requires employers to disclose to CMS and to Medicare Part D-eligible individuals whether their prescription drug coverage is creditable.
- These disclosures must be provided on an annual basis and at certain other designated times.

Determination Methods

- Ask the health insurance carrier (for insured coverage).
- Simplified determination (for certain plan designs). For 2026 only, non-RDS plans may use either the prior or revised simplified determination method. For 2027 and later years, only the revised simplified determination method may be used.
- Actuarial determination (for all other plans).

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Creditable Coverage Determination

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,** as demonstrated through the use of generally accepted actuarial principles and in accordance with CMS guidelines. 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. For plans that have multiple benefit options (for example, PPOs, HDHPs and HMOs), 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.

Under existing CMS guidance, there are a few different ways for an employer to determine whether its prescription drug coverage is creditable:

- ☑ As a first step, employers with insured prescription drug plans should ask their carriers whether they have determined whether the plan's coverage is creditable.
- ☑ For self-insured plans, or where the carrier for an insured plan has not made a determination about whether the plan is creditable, employers may use a **simplified determination**—as long as the coverage meets certain design requirements. If it doesn't, the employer must use an **actuarial determination method**.

For calendar year 2026 only, non-RDS group health plans are permitted to use either the prior simplified determination methodology or the revised simplified determination methodology to determine whether their prescription drug coverage is creditable. Under the revised simplified determination methodology, the group health plan coverage must be designed to pay, on average, at least 72% of participants' prescription drug expenses (versus 60% under the prior methodology) to be considered creditable coverage.

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.

More information and resources on the IRA's changes to Medicare Part D are available on CMS' Part D Improvements webpage.

Disclosure to Individuals

Plan sponsors must provide creditable coverage disclosure notices to individuals each year **before Oct. 15**—the start date of the annual enrollment period for Medicare Part D. The disclosure notice alerts individuals as to whether their plan's prescription drug coverage is creditable. Model notices are available for employers to use.

Disclosure to CMS

The disclosure to CMS is due within **60 days** after the start of each plan year. For calendar year plans, this deadline is **March 1** of each year (Feb. 29 for leap years). Plan sponsors are required to use CMS' online disclosure form.

Enforcement

There is no penalty or fee for the employer for offering prescription drug coverage that is non-creditable. Non-creditable prescription drug coverage can still be a valuable benefit for employees. However, individuals need to know whether their prescription drug coverage is creditable or non-creditable. If the coverage is non-creditable and Medicare-eligible individuals fail to enroll in Part D during their initial enrollment period, they can be subject to a higher Part D premium if they enroll in Part D at a later date.

There are also no specific penalties for employers that fail to comply with the Medicare Part D disclosure requirements, except for employers that are claiming the Retiree Drug Subsidy. However, by not providing creditable coverage disclosure notices, employers may trigger adverse employee relations issues. In addition, noncompliant employers may indirectly face consequences under other federal laws (such as the Employee Retirement Income Security Act's fiduciary duty provisions).