

## Deadline for Medicare Part D Notices is Oct. 15, 2023

Each year, Medicare Part D requires group health plan sponsors to disclose whether the health plan's prescription drug coverage is creditable to individuals eligible for Medicare Part D and the Centers for Medicare and Medicaid Services (CMS).

Plan sponsors must provide the annual disclosure notice to Medicare-eligible individuals before **Oct. 15, 2023**—the start date of the annual enrollment period for Medicare Part D. CMS has provided [model disclosure notices](#) for employers to use.

### Notice Requirement

This notice is important because Medicare beneficiaries who do not have creditable prescription drug coverage and do not enroll in Medicare Part D when first eligible will likely pay higher premiums if they enroll at a later date. Although no specific penalties are associated with the notice requirement, failing to provide the notice

may be detrimental to employees.

Employers should confirm whether their health plans' prescription drug coverage is creditable or non-creditable and prepare to send their Medicare Part D disclosure notices before Oct. 15, 2023. To make the process easier, employers often include Medicare Part D notices in open enrollment packets they send out prior to Oct. 15.

### 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.

## Employer Mandate Penalties Will Increase for 2024

Applicable large employers (ALEs) that do not offer affordable, minimum-value health coverage to their full-time employees may be subject to increased penalties under the Affordable Care Act's (ACA) employer mandate for 2024. ALEs are employers with 50 or more full-time employees (including full-time equivalent employees) on business days during the preceding calendar year.

Two separate penalties can apply under the ACA's employer mandate—the Section 4980H(a) penalty and the Section 4980H(b) penalty.

- The Section 4980H(a) penalty can apply when an ALE does not offer coverage to "substantially all" full-time employees. The annual Section 4980H(a) penalty is calculated as the ALE's number of full-time employees (minus 30) x \$2,000 (as

adjusted). For 2024, the adjusted penalty amount is **\$2,970**.

- The Section 4980H(b) penalty can apply when an ALE does not offer coverage to all full-time employees, or the ALE's coverage is unaffordable or does not provide minimum value. The annual Section 4980H(b) penalty is calculated as \$3,000 (as adjusted) x the number of the ALE's full-time employees who receive an Exchange subsidy. For 2024, the adjusted penalty amount is **\$4,460**. However, the total penalty for an ALE is limited to the Section 4980H(a) penalty amount.

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