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LEGAL UPDATE

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ENFORCEMENT

There is no penalty or fee for employers that offer 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.

CMS Resources

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

CMS Finalizes Revised Simplified Determination Method for 2026 Creditable Coverage Determinations

On April 7, 2025, the Centers for Medicare and Medicaid Services (CMS) issued Final Part D Redesign Program Instructions for calendar year 2026. The instructions contain a detailed description of, and guidance related to, changes to the Medicare Part D benefit made by the Inflation Reduction Act of 2022 (IRA) that are newly in place for calendar year 2026. Among other things, these changes impact the creditable coverage status of employer-sponsored prescription drug coverage.

Creditable Coverage

Employers that provide prescription drug coverage to individuals who are eligible for Medicare Part D must inform these individuals and 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.

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 if 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 creditable coverage determination, 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**.

Revised Simplified Determination Method

CMS is finalizing the **revised simplified determination method** with the parameters outlined in its Draft Part D Redesign Program Instructions, which it developed to better reflect actuarial equivalence with the richer Part D benefit under the IRA.

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 existing methodology) to be considered creditable coverage**.

Creditable Coverage Determinations for 2025 and 2026

CMS will continue to permit use of the simplified determination methodology, without modification, for calendar year 2025 for group health plan sponsors who are not applying for the retiree drug subsidy (RDS).

For calendar year 2026 only, non-RDS group health plans are permitted to use **either** the existing simplified determination methodology or the revised simplified determination methodology to determine whether their prescription drug coverage is creditable.

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