

Annual CMS Medicare Part D Disclosure Due for Calendar-Year Plans

Reporting Creditable or Non-Creditable Status to CMS

As part of the annual notification requirements under the Medicare Modernization Act (MMA), employer-sponsored group health plans that provide prescription drug coverage are required to disclose the plan's creditable or non-creditable coverage status to the Centers for Medicare & Medicaid Services (CMS). This online disclosure is due sixty (60) days after the first day of each plan year, and for calendar year plans it should be made by **February 29, 2020** (but see *Timing of the Disclosure to CMS Form* below).

This alert provides a summary of the Medicare Part D disclosure requirements including a review of:

- The employers subject to Medicare Part D disclosure,
- The timing of the Disclosure to CMS Form,
- The general contents of the [Disclosure to CMS Form](#), and
- Available [CMS guidance and instructions](#).

If you have any questions or need further details about the creditable coverage disclosure requirements, please contact your client service team.

Employers Subject to Medicare Part D Disclosure

Employers who offer group health plans with prescription drug coverage that cover Medicare eligible employees, retirees, spouses, or dependents are subject to the Medicare Part D disclosure (and notification¹) requirements. The disclosure is required whether the coverage is primary or secondary to Medicare.

A Safe Assumption – If you are an employer sponsoring a group health plan with prescription drug coverage, this disclosure requirement likely applies to you.

Timing of the Disclosure to CMS Form

There are three events which trigger submission of the disclosure. The disclosure must be completed:

1. Within sixty (60) days after the first day of the plan year (this is **February 29, 2020** for calendar-year plans, but this falls on a Saturday and CMS will likely accept a filing by March 2, 2020 as timely);

¹Distributing Medicare Part D notices is a separate employer responsibility in which the employer notifies the participants of the creditable status of the drug plan(s).

2. Within thirty (30) days of a mid-year change in the prescription drug plan's status (from creditable to non-creditable or vice versa); and
3. Within thirty (30) days of the termination of the plan.

Believe It or Not: There are no enforcement penalties or sanctions for failing to timely file this disclosure with CMS or even for failing to file it at all. We do recommend applicable employers complete this filing, but it's little surprise that non-compliance is high.

The General Contents of the Disclosure to CMS Form

Employers sponsoring at least one prescription drug plan in which a Medicare eligible individual is enrolled (or could be enrolled), are required to complete the [online](#) disclosure. No other filing methods are allowed.

The contents of the disclosure include:

- General employer information – Employers should report using the name and federal ID number (EIN) of the plan sponsor. If multiple employers within a controlled group are covered under the same plan, the EIN for the parent company (or other entity if it is the plan sponsor) may be used. If each individual entity reports separately, each should report using its own EIN. The EIN of the insurance carrier or third party administrator should not be used.
- The type of coverage (“Group Health Plan: Employer Sponsored Plan”).
- Plan option information – Employers must report the number of prescription drug options offered and the creditable or non-creditable coverage status for each.² This is based on the number of group health plan options offered with different prescription drug benefits.
- The estimated number of Medicare Part D individuals covered under each plan.

How Accurate Do I Have to Be? CMS will accept a reasonable estimate of how many Medicare eligible individuals are covered. Remember that individuals can be Medicare eligible based on age, disability, or end-stage renal disease.

- The most recent date (MM/DD/YYYY) that the required annual creditable or non-creditable [Medicare Part D Notice](#) was distributed to participants

Available CMS Guidance and Instructions

CMS provides instructions in its [Creditable Coverage Disclosure to CMS Form Instructions and Screen Shots](#). Information regarding the creditable coverage requirements under the Medicare Prescription Drug, Improvement, and Modernization Act is available on the [CMS website](#).

² Employers should exclude options receiving a Medicare retiree drug subsidy.

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