

February 7, 2022

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 **March 2, 2022** (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 and you should try to comply with both disclosure and notice requirements.

¹Distributing Medicare Part D notices is a separate employer responsibility through which the employer notifies the participants of the creditable status of the drug plan(s). See our [Alert](#) for details.

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 **March 2, 2022** for calendar-year plans);
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 under a single filing. 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

² Employers should exclude options receiving a Medicare retiree drug subsidy.
Employee Health & Benefits

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](#).

About the author



Andie Schieler, J.D., CEBS is an Employee Health & Benefits Senior Compliance Consultant for Marsh McLennan Agency's Compliance Center of Excellence.

The information contained herein is for general informational purposes only and does not constitute legal or tax advice regarding any specific situation. Any statements made are based solely on our experience as consultants. Marsh McLennan Agency LLC shall have no obligation to update this publication and shall have no liability to you or any other party arising out of this publication or any matter contained herein. The information provided in this alert is not intended to be, and shall not be construed to be, either the provision of legal advice or an offer to provide legal services, nor does it necessarily reflect the opinions of the agency, our lawyers or our clients. This is not legal advice. No client-lawyer relationship between you and our lawyers is or may be created by your use of this information. Rather, the content is intended as a general overview of the subject matter covered. This agency is not obligated to provide updates on the information presented herein. Those reading this alert are encouraged to seek direct counsel on legal questions. © 2022 Marsh McLennan Agency LLC. All Rights Reserved.