Medicare Creditable Coverage Notice Requirements

The Medicare Modernization Act (MMA) mandates that group health plan sponsors must inform all their Medicare-eligible members who have prescription drug coverage, whether or not their coverage is creditable. The MMA imposes a late-enrollment penalty on individuals who do not maintain creditable coverage for any period of 63 days or longer following their initial enrollment period for the Medicare prescription drug benefit. The late-enrollment penalty is a key factor in the decision that retirees make to enroll in a Part D plan. Therefore, it is important that plan sponsors provide this information to retirees to help them make informed Medicare Part D enrollment decisions.

Creditable Coverage Notice to Medicare-eligible individuals:

The Medicare Modernization Act (MMA) requires accounts with policies that include prescription drug coverage to notify their Medicare-eligible policyholders whether their coverage is creditable. Creditable coverage means that the coverage is expected to pay on average as much as the standard Medicare prescription drug coverage. There are two disclosure requirements:

1. Accounts must provide an annual written disclosure notice to all Medicare-eligible individuals who are covered under their prescription drug plan prior to October 15th each year, including Medicare-eligible individuals who are joining the plan.

- **This disclosure must be provided to:**
  - a) Medicare-eligible active working individuals and their dependents
  - b) Medicare-eligible individuals on COBRA and their dependents
  - c) Medicare-eligible disabled individuals covered under the prescription drug plan, and any retirees and their dependents

2. Accounts must complete the Online Disclosure to CMS Form to report the creditable coverage status of their prescription drug plan.

- **The Disclosure form should be completed annually:**
  - a) No later than 60 days from the beginning of a plan year (contract year, renewal year)
  - b) Within 30 days after termination of a prescription drug plan
  - c) Within 30 days after any change in creditable coverage status

This requirement does not pertain to the Medicare beneficiaries for whom entities are receiving the Retiree Drug Subsidy (RDS).

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How does an employer determine if a plan meets creditable coverage?

The employer can determine that its prescription drug plan's coverage is creditable if the plan design meets all four of the following criteria:

1. Provides coverage for brand-name and generic prescriptions
2. Provides reasonable access to retail providers and, optionally, for mail order coverage
3. Is designed to pay on average at least 60 percent of participants' prescription drug expenses
4. Satisfies the following:

For employers that have a stand-alone prescription drug plan:

- The prescription drug coverage has no annual benefit maximum benefit or a maximum annual benefit payable by the plan of at least $25,000.

OR

- The prescription drug coverage has an actuarial expectation that the amount payable by the plan will be at least $2,000 per Medicare-eligible individual.

For employers that have integrated health coverage:

- The integrated health plan has no more than a $250 deductible per year, has no annual benefit maximum or a maximum annual benefit payable by the plan of at least $25,000, and has no less than a $1,000,000 lifetime combined benefit maximum.

Plans that meet these criteria are deemed to be creditable. Your plan may be creditable even if it doesn't meet the criteria. An actuarial gross value test of your claims experience would be required to determine your status.

In general, plans with deductibles that apply to prescription drugs have a greater likelihood of being non-creditable. Employer contributions to a Health Reimbursement Account (HRA) are considered when determining creditability status. Depending on the employer contribution amount, a non-creditable deductible plan, when paired with an HRA, may be considered creditable coverage.

What is the Part D Late Enrollment Penalty?

The Medicare Modernization Act (MMA) imposes a late-enrollment penalty on individuals who do not maintain creditable coverage for a period of 63 days or longer following their initial enrollment period for the Medicare prescription drug benefit. The late-enrollment penalty, which changes each year, is added to the person's monthly Part D premium for as long as he or she has Medicare prescription drug coverage. The person will have to pay it each month as long as he or she has Medicare prescription drug coverage, even if the individual changes his or her Medicare drug plan. The cost of the penalty depends on how long the person went without Part D or creditable prescription drug coverage.

How is the late enrollment penalty calculated?

Medicare, not the plan, calculates the late-enrollment penalty when a person subject to the penalty first joins a Medicare drug plan. The penalty amount typically is one percent of the national base beneficiary premium for each full, uncovered month that the person did not have Part D or creditable coverage. The monthly penalty is rounded to the nearest $0.10 and added to the monthly Part D premium. The national base beneficiary premium for 2016 is $34.10. The national base beneficiary premium for 2017 is $35.63. Since the national base beneficiary premium increases each year, the late-enrollment penalty amount would also increase each year.

Source: https://www.cms.gov

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