

September 28, 2023

DEADLINE APPROACHING FOR MEDICARE PART D CREDITABLE COVERAGE NOTICES

By October 13, 2023, plan sponsors that offer prescription drug coverage must provide notices of creditable or non-creditable coverage to Medicare-eligible individuals. While plan sponsors are typically responsible for providing these notices by October 14th every year, this year's notice is due by October 13th because the 14th falls on a Saturday.

Creditable coverage is expected to cover, on average, at least as much as the standard Medicare Part D prescription drug plan, whereas non-creditable coverage falls below this threshold. Two methods are available to establish a prescription drug benefit's creditability status: a simplified determination or an actuarial determination of credibility.

The simplified determination method provides safe harbor rules that plan sponsors can use to establish if the coverage they provide is creditable; these safe harbors differ depending on whether the prescription drug benefit is integrated with other benefits the employer offers (e.g., medical, vision, or dental coverage) or a standalone offering. Standalone prescription drug benefits are creditable under this simplified determination method if they:

1. Provide coverage for brand-name and generic prescriptions.
2. Provide reasonable access to retail providers.
3. Are designed to pay, on average, at least 60% of participants' prescription drug expenses and
4. Either (1) have no annual benefit maximum or a benefit maximum of at least \$25,000 or (2) have an actuarial expectation that the amount payable by the plan will be at least \$2,000 annually per Medicare-eligible individual.

Integrated prescription drug plans are creditable according to this approach if they:

1. Satisfy items one through three in the above list.
2. Have a deductible that is no more than \$250/year.
3. Have no annual benefit maximum or a benefit maximum of at least \$25,000 and
4. Have a lifetime combined benefit maximum of at least \$1,000,000.

If a plan's prescription drug coverage does not qualify as creditable according to the simplified determination method, or if the plan sponsor chooses not to use this method, an actuarial determination is required to establish the benefit's creditable or non-creditable status.

Plan sponsors are required to provide notices of creditable or non-creditable coverage to the following individuals by the October 13 deadline:

- Retirees and their dependents
- Active employees who qualify for Medicare and their dependents
- COBRA participants who qualify for Medicare and their dependents

The Medicare Part D annual enrollment period begins October 15th and runs through December 7th for coverage starting on January 1, 2024. Before the enrollment period, plan sponsors must specify whether an individual's prescription drug coverage is creditable or non-creditable. The annual deadline to provide coverage notices applies to all plans that offer prescription drug coverage, regardless of plan size, employer size, or grandfathered status. Plan sponsors can provide the required notice and annual enrollment materials if the notice is "prominent and conspicuous." This can be a separate mailing or electronic notice if the participants have daily access to the plan sponsor's electronic information system as part of their work duties.

If the notices are mailed to participants, a single notice can be provided to a covered Medicare individual and their dependents unless it is known that a spouse or dependent resides at a different address than the participant. CMS has provided [model notices](#) on its website; plan sponsors should carefully review and customize them to ensure they accurately reflect plan provisions. In addition to providing Medicare-eligible individuals with annual notices of prescription drug coverage status, all plan sponsors are responsible for disclosing whether such plan is creditable or non-creditable to the Centers for Medicare and Medicaid Services (CMS). Plan sponsors have 60 days after the beginning of each plan year to complete the Creditable Coverage Disclosure Form on the CMS Creditable Coverage website.

Please note that MZQ Consulting automatically provides the required Medicare D notices to all clients using our Compass or Compass Plus products.

Kelly Benefits is not a law firm and cannot dispense legal advice. Anything contained in this communication is not and should not be construed as legal advice. If you need legal advice, please contact your legal counsel.