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Medicare Part D Common Questions: Administration

Does Medicare Part D affect an employer that does not provide retiree health coverage and does not apply for the Retiree Drug Subsidy?

Yes, it could. Even if an employer does not provide retiree health coverage, certain Medicare Part D requirements may apply to group health plans that provide prescription drug coverage to Part D eligible individuals. If an employer has any active employees, disabled individuals, retirees or spouses/dependents who are eligible for Medicare, the Part D Creditable Coverage Disclosure Notice and the Coordination of Benefits requirements could apply.

Why must plan sponsors tell Part D eligible individuals whether their prescription drug coverage is creditable?

Plan sponsors must tell Part D eligible individuals whether their prescription drug coverage is creditable so that the Medicare-eligible individuals can compare their existing coverage with the coverage provided under a Part D plan. Part D eligible individuals who are not covered under creditable prescription drug coverage may be subject to a substantial permanent Late Enrollment Penalty in the form of higher premiums in the event they choose to enroll in Part D coverage at any time after the end of their Initial Enrollment Period.

Under Medicare Part D, how does a plan sponsor determine whether prescription drug coverage is creditable for purposes of the Creditable Coverage Disclosure Notice requirement?

Before preparing Creditable Coverage Disclosure Notices, a plan sponsor must make an actuarial determination. A health plan's prescription drug coverage is creditable if the actuarial value of the coverage equals or exceeds the actuarial value of standard Medicare prescription drug coverage, as demonstrated through the use of generally accepted actuarial principles and in accordance with guidelines developed by the Centers for Medicare & Medicaid Services (CMS). In general, to be creditable, the expected amount of paid claims under the plan sponsor's prescription drug coverage must be at least as much as the expected amount of paid claims under the standard Medicare prescription drug benefit.

For plans that have multiple benefit options, the plan sponsor must apply the actuarial value test separately for each benefit option. A benefit option is defined as a particular benefit design, category of benefits or cost-sharing arrangement offered within a group health plan.

There is no exception from the actuarial equivalence requirement for small employers. However, certain plan designs may qualify for a simplified determination of creditable coverage status without having to perform the actuarial determination.

The determination of creditable coverage status does not require an attestation by a qualified actuary unless the plan sponsor is an employer or union electing the Retiree Drug Subsidy.

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What benefit designs qualify for a simplified determination of creditable coverage status?

If a plan sponsor is not an employer or union that is applying for the Retiree Drug Subsidy, the sponsor may be eligible to use a simplified determination that its prescription drug plan's coverage is creditable. The standards for the simplified determination are described below. However, the standards listed under 4(a) and 4(b) may not be used if the sponsor's plan has prescription drug benefits that are integrated with benefits other than prescription drug coverage (for example, medical or dental benefits). Integrated plans must satisfy the standard in 4(c).

A prescription drug plan is deemed to be creditable if it:

1) Provides coverage for brand-name and generic prescriptions;

2) Provides reasonable access to retail providers;

3) Is designed to pay on average at least 60 percent of participants' prescription drug expenses; and

4) Satisfies at least one of the following*:

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

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

   c) For entities 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.

*The Affordable Care Act (ACA) prohibits health plans from imposing lifetime and annual limits on the dollar value of essential health benefits. This mandate became effective for plan years beginning on or after Sept. 23, 2010. However, “restricted annual limits” were permitted for essential health benefits for plan years beginning before Jan. 1, 2014.

If an entity is applying for the Retiree Drug Subsidy, it cannot use the simplified determination of creditable coverage status. It must instead consult with an actuary to perform an actuarial equivalence determination before preparing its Creditable Coverage Disclosure Notices.

Under Medicare Part D, are there any consequences to an employer for failing to provide Creditable Coverage Disclosure Notices or for failing to comply with Coordination of Benefits requirements?

There are currently no direct penalties or other sanctions available to CMS in the event an employer fails to provide the required Creditable Coverage Disclosure Notices or to comply with Coordination of Benefits requirements. However, employers who are also claiming the Retiree Drug Subsidy will not qualify for the subsidy unless they provide compliant Disclosure Notices. Further, other federal laws such as ERISA may indirectly provide consequences to a noncompliant employer. Also, failing to comply with these requirements may have a negative impact on employee relations, especially if an individual later incurs a Late Enrollment Penalty because he or she was unaware that their prescription drug coverage through the employer was not creditable.

Under Medicare Part D, when is an employer eligible for the Retiree Drug Subsidy*?

The Retiree Drug Subsidy is a tax-free subsidy designed to encourage employers to maintain or begin offering retiree prescription drug coverage. An employer is eligible for the Retiree Drug Subsidy upon meeting the following requirements:

- The employer's plan must provide coverage of retiree health care costs, including prescription drugs, under a group health plan;

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- The plan's retiree prescription drug coverage must be creditable coverage (and Medicare beneficiaries must be notified about this fact); and
- The employer must submit an attestation that the actuarial value of the plan's retiree prescription drug coverage is at least equal to the actuarial value of the defined standard prescription drug coverage under Part D.

*Under the ACA, effective for 2013, employers that receive the subsidy cannot take a tax deduction for the subsidy amount.

Under Medicare Part D, what is required of an employer who wishes to apply for the Retiree Drug Subsidy?

Each plan sponsor that seeks the Retiree Drug Subsidy must electronically complete the application through the RDS Center at www.rds.cms.hhs.gov. Applications for the Retiree Drug Subsidy are due at least 90 days before the beginning of the plan year, unless CMS approves a request for a 30-day application deadline extension. Plan sponsors must apply each year they wish to claim this subsidy.

Under Medicare Part D, what information must a plan sponsor include in its application for the Retiree Drug Subsidy?

A plan sponsor must submit the following information in its application for the Retiree Drug Subsidy:

- Employer Tax ID number (if applicable);
- Plan sponsor name and address;
- Contact name and e-mail address;
- Actuarial attestation that satisfies the standards specified by CMS and any other supporting documentation required by CMS for each qualified retiree prescription drug plan for which the sponsor seeks subsidy payments;
- A list of all individuals the plan sponsor believes are qualifying covered retirees enrolled in each prescription drug plan (including spouses and dependents, if Medicare-eligible), along with personally identifying information about each person (that is, full name, health insurance claim number or social security number, date of birth, gender and relationship to the retired employee);*
- A signed sponsor agreement (agreeing to comply with the Retiree Drug Subsidy provisions); and
- Any other information specified by CMS.

*A plan sponsor may satisfy this requirement by entering into a voluntary data sharing agreement with CMS, or any other arrangement CMS may make available,

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