

## EBIA Weekly Archives

### Do We Need to Make Medicare Part D Creditable Coverage Disclosures If We Don't Provide Health Coverage to Retirees?

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**QUESTION:** Our company does not offer retiree health coverage. Do we need to make Medicare Part D creditable coverage disclosures?

**ANSWER:** If any of your active employees or their spouses or dependents have Medicare Part A or Part B coverage, the Medicare Part D creditable coverage disclosure rules may apply, even though your company does not offer retiree health coverage. The Medicare Part D disclosure rules apply to group health plans that provide prescription drug coverage to "Part D eligible individuals," which can include active employees and their spouses and dependents, as well as retirees. "Part D eligible individuals" are individuals who satisfy two requirements. They must have coverage under Medicare Part A or Part B. And they must live in a "service area" of a Medicare Part D plan—i.e., a location that meets certain pharmacy access standards (most individuals will meet this second requirement).

Under the disclosure rules, group health plans offering prescription drug coverage must disclose to CMS and to all eligible individuals enrolled in or seeking to enroll in the plan whether such coverage is creditable. (There is no small-employer exception to this requirement.) Coverage is creditable if its actuarial value equals or exceeds the actuarial value of standard prescription drug coverage under Medicare Part D. This disclosure is intended to provide Medicare Part D eligible individuals with sufficient information to avoid unwittingly incurring late enrollment penalties (in the form of higher premiums) because of a break in creditable prescription drug coverage for a continuous period of 63 days or more after the end of the initial Medicare Part D enrollment period. Thus, if your company's prescription drug coverage isn't creditable, then the notice must state that it isn't creditable, that there are limitations on when individuals may enroll in Medicare Part D plans, and that a late enrollment penalty may apply. The notices must be provided (1) prior to an individual's initial enrollment period for Medicare Part D; (2) prior to the effective date of enrollment in your company's prescription drug coverage and upon any change in its creditable status; (3) prior to the annual coordinated election period (ACEP) for Medicare Part D (which begins each October 15); and (4) upon the individual's request. Notice may be provided with other plan participant information materials, such as SPDs, so long as certain formatting and content requirements are met.

For more information, see EBIA's [Group Health Plan Mandates](#) manual at Section XXV ("Medicare Part D: Creditable Coverage Disclosures"). You may also be interested in our recorded web seminar "[Avoiding Medicare Mistakes: What Group Health Plan Sponsors and Advisors Need to Know.](#)"

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