

COMPLIANCE OVERVIEW

Provided by Cowden Associates, Inc.

Determining Whether Prescription Drug Coverage Is Creditable

Employers that provide prescription drug coverage to individuals who are eligible for Medicare Part D must inform these individuals and the Centers for Medicare and Medicaid Services (CMS) whether their prescription drug coverage is “creditable.”

A group health plan’s prescription drug coverage is considered creditable if its actuarial value equals or exceeds the actuarial value of standard Medicare Part D prescription drug coverage. Prescription drug coverage that does not meet this standard is called “non-creditable.”

There are a few different ways for employers to determine whether their prescription drug coverage is creditable. Employers with insured plans should ask their health insurance carriers if they have made this determination for the insured product. If an employer must make the determination itself, it may be able to use a simplified method, depending on the plan’s design. When a plan’s design is not eligible for the simplified method, an actuarial determination must be made.

LINKS AND RESOURCES

CMS’ [Creditable Coverage web page](#) includes information and resources about the Medicare Part D disclosure requirements, including:

- [Model creditable coverage notices](#) for individuals
- The [online disclosure form](#) for CMS

HIGHLIGHTS

CREDITABLE COVERAGE

- Employers with prescription drug coverage must determine whether their coverage is creditable.
- Medicare Part D requires employers to disclose to CMS and to Medicare Part D-eligible individuals whether their prescription drug coverage is creditable.
- There is no employer fee or penalty for offering prescription drug coverage that is non-creditable.

DETERMINATION METHODS

- Ask the health insurance carrier (for insured coverage)
- Simplified determination (for certain plan designs)
- Actuarial determination (for all other plans)

This Compliance Overview is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.

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CREDITABLE COVERAGE

Employers with group health plans that provide prescription drug coverage to individuals who are eligible for Medicare Part D must comply with certain disclosure requirements. Employers must inform these individuals and CMS whether their prescription drug coverage is “creditable,” meaning at least as good as Medicare Part D coverage. These disclosures must be made on an annual basis and at certain other designated times.

There is no penalty or fee for the employer for offering prescription drug coverage that is non-creditable. Non-creditable prescription drug coverage can still be a valuable benefit for employees. However, individuals need to know whether their prescription drug coverage is creditable or non-creditable. If the coverage is non-creditable and Medicare-eligible individuals fail to enroll in Part D during their initial enrollment period, they can be subject to an additional Part D premium if they enroll in Part D at a later date.

Employers with insured health plans should ask their carriers whether the plan’s coverage is creditable or non-creditable.

CREDITABLE COVERAGE DETERMINATION

A group health plan’s prescription drug coverage is considered creditable if **its actuarial value equals or exceeds the actuarial value of standard Medicare Part D prescription drug coverage**, as demonstrated through the use of generally accepted actuarial principles and in accordance with CMS guidelines. In general, this actuarial determination measures whether the expected amount of paid claims under the group health plan’s prescription drug coverage is at least as much as the expected amount of paid claims under the Medicare Part D prescription drug benefit.

For plans that have multiple benefit options (for example, PPO, HDHP and HMO), the creditable coverage test must be applied separately for each benefit option.

There are a few different ways for an employer to determine whether its prescription drug coverage is creditable.

- ✓ As a first step, employers with insured prescription drug plans should **ask their carriers** whether they have made a determination about whether the plan’s coverage is creditable.
- ✓ For self-insured plans, or where the carrier for an insured plan has not made a determination about whether the plan is creditable, employers may use a **simplified determination**—as long as the coverage meets certain design requirements. If it doesn’t, the employer must use an **actuarial determination method**.

SIMPLIFIED DETERMINATION

Employers whose prescription drug coverage meets certain design requirements may be eligible to use a simplified determination that the coverage is creditable. The standards for the simplified determination,

described below, vary based on whether the employer’s prescription drug coverage is “integrated” or “non-integrated” with other types of benefits, such as medical benefits.

Employers that apply for the [retiree drug subsidy](#) cannot use the simplified determination method.

Integrated Plans

An integrated plan combines the prescription drug benefit with other coverage (for example, medical, dental or vision) and has all of the following plan provisions:

- A combined plan year deductible for all benefits under the plan;
- A combined annual benefit maximum* for all benefits under the plan; and
- A combined lifetime benefit maximum* for all benefits under the plan.

**The Affordable Care Act (ACA) prohibits health plans from imposing lifetime and annual limits on the dollar value of essential health benefits.*

An integrated plan’s prescription drug coverage will be deemed creditable if it satisfies **all of the following criteria**:

1	It provides coverage for brand and generic prescriptions;
2	It provides reasonable access to retail providers;
3	It is designed to pay, on average, at least 60 percent of participants’ prescription drug expenses; and
4	It has no more than a \$250 deductible per year, has no annual benefit maximum (or a maximum annual benefit of at least \$25,000), and has no less than a \$1 million lifetime combined-benefit maximum.

Non-integrated Plans

A non-integrated prescription drug plan is deemed to be creditable if it **satisfies the criteria in 1, 2 and 3 above**, and it satisfies **at least one** of the following:

- The prescription drug coverage has no maximum annual benefit or a maximum annual benefit 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 annually per Medicare-eligible individual.

ACTUARIAL DETERMINATION

If a plan sponsor cannot use the simplified determination method to evaluate the creditable coverage status of the prescription drug coverage it offers, then it must make an annual actuarial determination.

This determination must assess whether the expected amount of paid claims under the prescription drug coverage is at least as much as the expected amount of paid claims under the standard Medicare prescription drug benefit.

The actuarial determination does not require an attestation by a qualified actuary, unless the plan sponsor is an employer or union electing the retiree drug subsidy. However, an employer may need to hire an actuary to make the determination.