

# COMPLIANCE BULLETIN

## Medicare Part D Disclosures due by Feb. 29, 2024 for Calendar Year Plans

Group health plan sponsors are required to complete an online disclosure form with the Centers for Medicare & Medicaid Services (CMS) on an annual basis and at other select times, indicating whether the plan's prescription drug coverage is creditable or non-creditable. This disclosure requirement applies when an employer-sponsored group health plan provides prescription drug coverage to individuals who are eligible for coverage under Medicare Part D.

The plan sponsor must complete the online disclosure **within 60 days after the beginning of the plan year**. For calendar year health plans, the deadline for the annual online disclosure is Feb. 29, 2024 (since 2024 is a leap year).

### Action Steps

To determine if the CMS reporting requirement applies, employers should verify whether their group health plans cover any Medicare-eligible individuals (including active employees, disabled employees, COBRA participants, retirees, and their covered spouses and dependents) at the start of each plan year.

Employers that are required to report to CMS should work with their advisors to determine whether their prescription drug coverage is creditable or non-creditable. They should also visit CMS' creditable coverage [website](#), which includes links to the online [disclosure form](#) and related [instructions](#).

### Highlights

#### Covered Employers

Employers with health plans that provide prescription drug coverage to individuals who are eligible for Medicare Part D are subject to certain disclosure requirements.

#### CMS Disclosure Deadline

Plan sponsors must complete an online disclosure form with CMS within 60 days after the start of the plan year, or Feb. 29, 2024, for calendar year plans.

### Important Dates

#### Feb. 29, 2024

Deadline for sponsors of calendar year plans to complete an online disclosure form with CMS.

#### October 14, 2024

Deadline for group health plan sponsors to provide creditable coverage disclosures to Medicare-eligible individuals.



## Medicare Part D Disclosure to CMS

Group health plan sponsors are required to disclose to CMS whether their prescription drug coverage is creditable or non-creditable. This disclosure is required regardless of whether the health plan's coverage is primary or secondary to Medicare.

A group health plan's prescription drug coverage is considered creditable if its actuarial value equals or exceeds the actuarial value of the Medicare Part D prescription drug coverage. 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.

There are a few different ways for employers to determine whether their prescription drug coverage is creditable. Employers should keep in mind that the prescription drug cost reduction provisions of the [Inflation Reduction Act](#) may affect the analysis of 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.

- ☑ **Compliance Tip:** If an employer's group health plan does not offer prescription drug benefits to any Medicare Part D eligible individuals (including active employees, disabled employees, COBRA participants, retirees, and their covered spouses and dependents) as of the beginning of the plan year, the group health plan is not required to submit the online disclosure form to CMS for that plan year.

### Timing of Disclosures to CMS

The disclosure must be made to CMS on an annual basis and whenever any change occurs that affects whether the coverage is creditable. More specifically, the Medicare Part D disclosure notice must be provided within the following time frames:

- Within 60 days after the beginning date of the plan year for which the entity is providing the disclosure to CMS;
- Within 30 days after the termination of a plan's prescription drug coverage; and
- Within 30 days after any change in the plan's creditable coverage status.

### Online Disclosure Method

Plan sponsors are required to use the online disclosure form on the CMS creditable coverage website. This is the sole method for compliance with the disclosure requirement, unless the entity does not have internet access.

The disclosure form lists the required data fields that must be completed in order to generate the disclosure notice to CMS, such as types of coverage, number of options offered, creditable coverage status, period covered by the disclosure notice, number of Part D-eligible individuals covered, date the creditable coverage disclosure notice is provided to Part D-eligible individuals, and change in creditable coverage status.

CMS has also provided [instructions](#) and guidance on how to complete the form.



## Disclosures to Individuals

In addition to the annual disclosure to CMS, group health plan sponsors must disclose to individuals who are eligible for Medicare Part D whether the plan's prescription drug coverage is creditable. At a minimum, creditable coverage disclosure notices must be provided to individuals at the following times:

1	2	3	4	5
Prior to the Medicare Part D annual coordinated election period—beginning Oct. 15 through Dec. 7 of each year	Prior to an individual's initial enrollment period for Part D	Prior to the effective date of coverage for any Medicare-eligible individual who joins the plan	Whenever prescription drug coverage ends or changes so that it is no longer creditable or becomes creditable	Upon a beneficiary's request

If the creditable coverage disclosure notice is provided to all plan participants annually, before Oct. 15 of each year, items (1) and (2) above will be satisfied. "Prior to," as used above, means the individual must have been provided with the notice within the past 12 months. In addition to providing the notice each year before Oct. 15, plan sponsors should consider including the notice in plan enrollment materials provided to new hires.

CMS has provided model disclosure notices for plan sponsors to use when disclosing their creditable coverage status to Medicare beneficiaries. The model disclosure notices are available on CMS' [website](#).