

# Client Alert

Applies To: Self-Funded, Fully-Funded, Large Group, and Small Group



SEPTEMBER 23RD, 2024

## 2024 Medicare Creditable Coverage Notice Deadline Approaching

Employers whose group health plans include prescription drug coverage must provide a notice of creditable or non-creditable coverage status to all Medicare-eligible participants (employees and their dependents) no later than October 15<sup>th</sup>, 2024. For purposes of Medicare, creditable coverage means that on average the plan will pay as much as the standard Rx drug plan under Medicare Part D. These notices help individuals decide whether or not they should remain in their current plan or enroll in Medicare Part D during the annual open enrollment period. Providing these notices is important, as individuals that delay enrollment in Medicare Part D past their initial eligibility date and go 63 days or longer without creditable coverage face a penalty. If your group health plan is fully insured, your carrier should be able to assist you in determining the creditable status of your prescription drug benefit.

Technically, the notice need only be provided to Medicare-eligible individuals (whether by reason of age or disability) who are covered under or are eligible for the employer's prescription drug plan. However, rather than try to determine the Medicare eligibility of employees and/or dependents, employers generally send the notice to all eligible or enrolled individuals.

Model notices (in English and Spanish) can be found on the [Centers for Medicare and Medicaid Services \(CMS\) website](#). As long as the October 15<sup>th</sup> deadline is met, the required notices may be included in annual enrollment materials, sent through a separate mailing, or provided electronically if the employer satisfies the Department of Labor's safe harbor rules for electronic distribution.

Remember that group health plan sponsors must also notify CMS of the creditable coverage status of the plan's prescription drug benefit. This notification must be provided annually within 60 days after the beginning of the plan year. In addition, a notification must be made within 30 days after termination of the prescription drug benefit or within 30 days after any change in the creditable status of the prescription drug benefit. The disclosure must be made electronically on the [CMS website](#).

Plan sponsors should be aware that due to recent legislation, beginning January 1, 2025, the benefit offered by the standard Part D plan will significantly increase. As noted in Moreton & Company's client alert dated August 8, 2024, given the improved Rx coverage under Medicare beginning in 2025, maintaining creditable status may become somewhat more difficult. (Moreton's recent client alert can be accessed on the [Moreton & Company website](#).) While the Medicare creditable coverage notice due by October 15<sup>th</sup> will address the status of the employer's plan as of the 2024 plan year, plan sponsors will need to retest their plan in 2025 under the new standards.

In connection with the upcoming creditability notice, employers (particularly those whose plans have fairly high deductibles or came close to failing creditability in the past) may want to provide a cover letter or other language in the notice about the potential creditability change for 2025. Below is some sample language:

### Sample Language for Cover Letter or Email

Enclosed is a Creditable Coverage Disclosure Notice. This notice provides you with the Medicare creditable status of your current health plan Rx coverage, determined under 2024 creditability standards. Please be aware that beginning January 1, 2025, Medicare's standard Rx coverage will be improved and will provide a more generous Rx benefit. This change to the standard Medicare Rx benefit may affect the creditability of the Rx coverage under your health plan. Your health plan will notify you if your plan's creditability status will change January 1, 2025. Please contact \_\_\_\_\_ with questions.

### Sample Language for Creditability Notice

*Where creditability will be lost effective January 1, 2025 (to be added after paragraph 2 of the standard creditability notice, which states the coverage is creditable).*

While the prescription drug coverage offered by the [NAME OF PLAN] is currently Creditable Coverage, please be aware that beginning January 1, 2025, the prescription drug coverage offered by the [NAME OF PLAN] will no longer be creditable. This is important because, most likely, you will get more help with your drug costs if you join a Medicare drug plan than if you only have prescription drug coverage from the [NAME OF PLAN]. This also is important because it may mean that you may pay a higher premium (a penalty) if you do not join a Medicare drug plan when you first become eligible.

You can keep your current coverage from [NAME OF PLAN]. However, because your coverage will be non-creditable as of January 1, 2025, you have decisions to make about Medicare prescription drug coverage that may affect how much you pay for that coverage, depending on if and when you join a drug plan. When you make your decision, you should compare your current coverage, including what drugs are covered, with the coverage and cost of the plans offering Medicare prescription drug coverage in your area. Read this notice carefully; it explains your options.

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