BENEFITS BUZZ

Medicare Part D Notices Are Due Before Oct. 15, 2025

Each year, Medicare Part D requires group health plan sponsors to disclose to individuals who are eligible for Medicare Part D and to the Centers for Medicare and Medicaid Services (CMS) whether the health plan's prescription drug coverage is creditable. Plan sponsors must provide the annual disclosure notice to Medicare-eligible individuals **before Oct. 15, 2025**—the start date of the annual enrollment period for Medicare Part D. CMS has provided model disclosure notices for employers to use.

This notice is important because Medicare beneficiaries who are not covered by creditable prescription drug coverage and do not enroll in Medicare Part D when first eligible will likely pay higher premiums if they enroll at a later date. Although there are no specific penalties associated with the notice requirement, failing to provide the notice may be detrimental to employees.

Employers should confirm whether their health plans' prescription drug coverage is creditable or noncreditable and prepare to send their Medicare Part D disclosure notices before Oct. 15, 2025.

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. 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.

The creditable coverage disclosure notice must be provided to Medicare Part D-eligible individuals who are covered by, or who apply for, the health plan's prescription drug coverage. Medicare Part D-eligible individuals may include active employees, disabled employees, COBRA participants and retirees, as well as covered spouses and dependents. As a practical matter, plan sponsors often provide the creditable coverage disclosure notices to all plan participants.

Pay-or-Play Penalties Will Increase for 2026

Applicable large employers (ALEs) that do not offer affordable, minimum-value (MV) health coverage to their full-time employees may be subject to increased penalties under the Affordable Care Act's (ACA) employer mandate for 2026. ALEs are employers with 50 or more full-time employees (FTEs), including full-time equivalent employees, on business days during the preceding calendar year.

Depending on the circumstances, one of two penalties may apply under the pay-or-play rules, the 4980H(a) penalty or the 4980H(b) penalty, as follows:

1. Under Section 4980H(a), an ALE will be subject to a penalty if it does not offer coverage to substantially all FTEs and any one of its FTEs receives a subsidy for purchasing individual health coverage through an Exchange. This monthly penalty is equal to the ALE's number of FTEs (minus 30) multiplied by one-twelfth of $2,000 (as adjusted) for any applicable month. **For 2026, the penalty increases to $3,340** (up from $2,900 for 2025); and
2. Under Section 4980H(b), ALEs that offer coverage to substantially all FTEs may still be subject to a penalty if at least one FTE obtains a subsidy through an Exchange because the ALE did not offer coverage to all FTEs, or the ALE's coverage is unaffordable or does not provide MV. The monthly penalty assessed on an ALE for each FTE who receives a subsidy is one-twelfth of $3,000 (as adjusted) for any applicable month. **For 2026, the penalty increases to $5,010** (up from $4,350 for 2025). However, the total penalty for an ALE is limited to the 4980H(a) penalty amount.

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