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### **Medicare Part D: Maintaining creditable coverage may prove difficult for some employer sponsored plans in 2025**

The Inflation Reduction Act of 2022 (IRA) provided for gradual improvements to Medicare Part D benefits beginning in 2023. A \$2,000 cap on out-of-pocket expenses for prescription drugs will apply, effectively making the benefit available through Medicare more generous and potentially impacting the creditable status of employer sponsored plans.

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#### Background

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 requires group health plan sponsors that provide prescription drug coverage to inform individuals eligible for Medicare Part D whether the plan's coverage is "creditable" or "non-creditable." Prescription drug coverage is creditable when it is at least actuarially equivalent to Medicare's standard Part D coverage and non-creditable when it does not provide, on average, as much coverage as Medicare's standard Part D plan.

Knowing if their prescription drug coverage is creditable allows Medicare-eligible participants and retirees to make informed decisions about whether to remain in their current prescription drug plan or enroll in Medicare Part D during the Part D annual enrollment period. Individuals who do not enroll in Medicare Part D during their initial enrollment period (IEP) and who subsequently go at least 63 consecutive days without creditable coverage (e.g., because they dropped their creditable coverage or have non-creditable coverage) generally will be subject to higher premiums if they enroll in a Medicare drug plan at a later date.

The improvement to Medicare Part D benefits forthcoming in 2025 in the form of a \$2,000 out-of-pocket limit will improve the actuarial value of the Medicare Part D standard plan, effectively raising the bar for employer sponsored plans. Plan sponsors will need to review their prescription drug benefits and determine if what they offer is equivalent to or better than the newly enriched Part D benefit.

## CMS draft instructions for calendar year 2025

The Centers for Medicare and Medicaid Services (CMS) released Draft CY 2025 Part D Redesign Program Instructions on January 31. Importantly, these instructions noted that one of the methods previously used by a majority of plan sponsors to determine the creditable nature of their plans, the creditable coverage simplified determination methodology, would no longer be a “valid methodology to determine whether an entity’s prescription drug coverage is creditable or not.” This may be problematic for plan sponsors who rely on this methodology to demonstrate the creditable disposition of their plans.

Absent the availability of the simplified determination method, a more complex process referred to as the “gross test” method would need to be used to determine the actuarial value of the plan’s prescription drug benefit and attest that it is likely to pay at least as much as Medicare Part D would if the Part D eligible participant enrolled in the employer’s plan.

**Buck comment.** It is important to note that the instructions provided by CMS are in draft form, and comments were requested by interested parties by March 1. Plan sponsors and concerned industry groups have suggested to CMS that it develop a new simplified determination method to aid plan sponsors in valuing their plans.

## Implications for plan sponsors

Many plan sponsors today offer high deductible health plans (HDHPs), which require medical and prescription drug expenses to be paid out-of-pocket before meeting the annual deductible. Given the improvements in Medicare Part D, notably the reduced out-of-pocket limit, some plans may have difficulty demonstrating that the prescription drug benefit they offer will provide at least as good a benefit as the newly improved Medicare Part D prescription drug benefit.

Additionally, plan sponsors that offer retirees prescription drug benefits and participate in the Retiree Drug Subsidy (RDS) program will need to carefully consider how the redesign may impact their ability to continue to qualify for the subsidy.

Importantly, plan sponsors are obligated to provide a notice of creditable or non-creditable coverage to Part D eligible individuals by October 15 to coincide with the beginning of the Medicare Part D annual enrollment period. Employers will want to inform their health plan participants by that time of the creditable nature of the plan for the calendar year 2025 so that they can determine if they should enroll in Part D or continue with their employer-sponsored coverage. This could particularly be an issue for the working aged, who may believe they can enroll in Medicare when they stop working in 2026 (and later), but find out they are subject to late enrollment penalties because their employer plan was not creditable in 2025.

**Buck comment.** Plan sponsors will want to determine if their 2025 health plan offerings will be creditable as early as possible. This will allow time to make design changes to non-creditable plans, should the plan sponsor wish to improve the benefit to preserve creditability. An early

determination of creditable coverage status will also allow for thoughtful communication to employees and retirees. While CMS may develop a new simplified creditable coverage determination method, the timing is uncertain, and it may not be available in time for plan sponsors to use in developing their 2025 plan offerings.

## In closing

Plan sponsors that offer prescription drug coverage will need to determine whether their drug plan satisfies CMS's new creditable coverage standard, given the improvements to Medicare Part D beginning in 2025. In the absence of a new simplified determination method, sponsors will need to assess the actuarial value of their plans to determine the plan's creditable or non-creditable status.

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