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Is My Plan's Coverage Creditable? Creditable Coverage Determinations Following the Inflation Reduction Act

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Changes to Medicare Part D (Part D) under the Inflation Reduction Act of 2022 (IRA) could complicate group health plan sponsors' Part D creditable coverage determinations going forward. Thankfully, sponsors received much needed guidance in the form of the Centers for Medicaid and Medicaid Services' (CMS) final Calendar Year 2025 Part D redesign program instructions (the 2025 Program Instructions), which included several changes that should assist plan sponsors in maintaining their plans' creditable coverage status for 2025.

This article provides an overview of the Part D creditable coverage requirements, changes to the Part D program under the IRA and some key considerations for sponsors as we near open enrollment.

Background – Creditable Coverage

Under the implementing regulations for Part D, group health plan sponsors must provide a creditable coverage notice to Medicare eligible covered individuals and to CMS that specifies whether their plans' prescription drug coverage is creditable. This requirement applies to self funded and fully insured medical and prescription drug plans and notice to covered individuals must be provided by October 15 each year. The purpose of the notice is to assist Medicare eligible individuals avoid late enrollment penalties when they eventually enroll in Part D coverage.

For a plan to provide creditable coverage, the Part D regulations require that the actuarial value of the coverage meet or exceed the actuarial value of defined standard Part D coverage, as determined under CMS guidelines. Put more simply, the coverage offered by the plan must be expected to pay, on average, at least as much as standard Part D drug coverage.

Sponsors that have multiple plans or benefit options, such as PPOs, HDHPs and HMOs, must apply the creditable coverage test separately for each plan. There are two ways to determine if coverage is creditable:

- Simplified Determination Method: If the plan design meets the safe harbor rules described in CMS guidance, the plan sponsor can use the "simplified determination," which considers factors such as annual benefit maximums, deductibles and actuarial expectations. The safe harbor factors differ based on whether the plan is "integrated" (meaning that prescription drug benefits are combined with other benefits, such as medical, dental or vision) or whether prescription drug coverage is offered on a stand alone basis.

- Actuarial Method: Under the actuarial method, coverage is deemed creditable if the actuarial value of the coverage equals or exceeds the "defined standard" prescription drug coverage under CMS guidelines.

Plan sponsors typically opt for the simplified determination method, only turning to the actuarial method if they fail to meet the safe harbor criteria or receive Retiree Drug Subsidy funds.

Part D Changes Under the IRA

Intended to lower prescription drug costs for Medicare beneficiaries and reduce federal prescription drug spending, the IRA enacted the most significant overhaul of Part D since its inception. Several of the most significant changes are expected to increase the actuarial value of Part D coverage by shifting certain liabilities from Medicare beneficiaries to plan sponsors:

- New Out of Pocket Maximum: The out of pocket maximum for Medicare beneficiaries under Part D decreased to $2,000 in 2025 (from $8,000).

- Eliminating the Coverage Gap: After meeting their deductible, Medicare beneficiaries now proceed through the initial coverage phase directly into the catastrophic phase, bypassing the coverage gap period. The IRA also eliminated the Coverage Gap Discount Program that applied for non low income beneficiaries.

- Increasing Sponsor Liability During Catastrophic Phase: Plan sponsor liability during the catastrophic phase increased from 20 percent for applicable and non applicable drugs in 2024 to 60 percent in 2025, as Medicare decreased the amount it would cover to 20 percent and 40 percent of those costs respectively (from 80 percent).

Impact for Plan Sponsors

When the changes to Part D under the IRA were initially announced, there was considerable commentary theorizing that these changes could overhaul creditable coverage determinations for plan sponsors, particularly those using the actuarial method to test their plans' coverage. However, those dire early predictions do not appear to have materialized, at least for 2025, in large part due to some helpful clarifications from CMS.

The CMS 2025 Program Instructions included two provisions that should assist plan sponsors with maintaining creditable coverage status for 2025. First, CMS clarified that plan sponsors can exclude prescription drug manufacturer discounts when calculating actuarial value. Second, while CMS considered removing the simplified determination method due to the changes to Part D under the IRA, the instructions clarified that the option remains available for sponsors for 2025 (although future guidance will determine whether the option remains available in future years).

Despite these clarifications, plan sponsors should be mindful of the IRA's impact on creditable coverage determinations moving forward. While plan sponsors are not required to maintain creditable coverage, they are required to provide participants and CMS with notice of their plans' status each year. Accordingly, sponsors of fully insured plans should request confirmation of the plan's coverage status from the issuer as early as possible. Sponsors of self funded plans should work with service providers, including their pharmacy benefit manager, legal counsel and health plan consultants, to monitor the effect of these changes and determine whether any plan design changes are necessary to maintain their plans' creditable coverage status.

For more information about the Inflation Reduction Act of 2022 and its implications on creditable coverage, please contact Paul Beery or another member of the Employee Benefits Practice.