

## EMPLOYEE BENEFITS

# CMS Finalizes Two Significant Medicare Part D Creditable Coverage Changes for 2027

April 2026

## Summary

On April 2, 2026, the Centers for Medicare and Medicaid Services (CMS), the federal agency governing Medicare, released a [final rule](#) for plan years beginning in calendar year 2027 impacting the Medicare Part D prescription drug benefit program (“final rule”). Click [here](#) for a CMS fact sheet summarizing the final rule.

Employers sponsoring group health plans should pay attention to two specific provisions within the final rule, outlined below:

1. Excluding account-based plans from the Notice of Creditable Coverage disclosure requirement for the following account-based plans:
  - » Health reimbursement arrangements (HRAs), including individual coverage HRAs (ICHRAs)
  - » Flexible spending accounts (FSAs)
  - » Health savings accounts (HSAs)
2. Retiring the use of the current simplified determination method and codifying the revised simplified determination method, starting in 2027, for creditable coverage determination purposes.

Read on for more information and employer plan sponsor considerations.

## Creditable Coverage Background

Prescription drug coverage is considered “creditable” when its actuarial value equals or exceeds the actuarial value of defined standard Medicare Part D prescription drug coverage. Generally, 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. It is considered “non-creditable” when it does not provide, on average, as much coverage as Medicare’s standard Part D plan.

Employer group health plan sponsors are not required to offer prescription drug coverage to their employees. However, they are required to annually notify Medicare Part D-eligible plan participants of their prescription drug plans’ creditable coverage status (typically referred to as the Notice of Creditable/Non-Creditable Coverage).

Individuals eligible for Medicare Part D who fail to maintain creditable coverage for a period of 63 continuous days or more will face a late enrollment penalty when they eventually enroll in Part D.

Consequently, the Notice of Creditable/Non-Creditable Coverage serves an important purpose for these individuals to prove they maintained creditable coverage and avoid late enrollment penalties when they ultimately enroll in Part D. Click [here](#) for a Brown & Brown article with more details.

CMS provides model notices ([accessed here](#)), available in both English and Spanish, which employer group health plan sponsors can leverage to satisfy their notice distribution requirements.

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# CMS Final Rule for 2027 Calendar Year

CMS released the final rule<sup>1</sup> for calendar year 2027 on April 2, 2026. The CMS proposed rule was released on November 28, 2025.

The final rule contains two noteworthy provisions directly impacting employer sponsored group health plans outlined below<sup>2</sup>:

## 1. Exclude Account-Based Plans from the Notice of Creditable Coverage Disclosure Requirement

CMS finalized the provision to exclude account-based plans from the definition of “group health plan” required to provide a Notice of Creditable (or Non-Creditable) Coverage to plan participants.<sup>3</sup> CMS specifically lists the following health plans as “account-based” plans in the final rule<sup>4</sup>:

- » Health Reimbursement Arrangements (HRAs), including individual coverage HRAs (ICHRAs)
- » Flexible Spending Accounts (FSAs)
- » Health Savings Accounts (HSAs)

**CMS Commentary:** For this particular change in the final rule (mirroring language in the proposed rule), CMS acknowledges that these account-based plans “do not actually offer prescription drug coverage; rather, they are arrangements created by employers and designed to provide individuals savings on healthcare costs through pre-tax contributions and reimbursements, that are often provided to supplement other coverage, such as another group health plan or individual market coverage. Therefore, the benefit design of account-based plans makes concepts, such as disclosure of creditable coverage, inapplicable to those arrangements.”

CMS further states that comparing an account-based plan generally only providing a financial benefit to employees (such as an HRA) against a prescription drug plan is not an “apples to apples” comparison “because account-based plans are fundamentally different from prescription drug plans.”

This final change is intended to reduce administrative burden for employer plan sponsors as well as “provide clarity for Medicare-eligible individuals regarding whether their coverage is creditable.” In a similar vein, it is also intended to reduce the risk of plan participants “receiving potentially contradictory and confusing information.” CMS asserts that “this confusion disadvantages the Part D Medicare-eligible individual in their ability to make an informed choice about their prescription drug coverage.”

Finally, CMS asserts that this proposed change “aligns with the President’s January 31, 2025, Executive Order (E.O.), titled Unleashing Prosperity Through Deregulation, as, if finalized, it would eliminate the need to acquire and maintain resources and expertise to comply with federal regulations to provide creditable coverage disclosures.”

As a reminder, this final rule provision exempts only account-based plans (HRAs, including ICHRAs, FSAs and HSAs) from the creditable coverage disclosure requirements in 2027. Group health plans that provide prescription drug coverage are still required to comply with these disclosure requirements.

On a practical level, the Notice of Creditable Coverage disclosure requirement generally affects ICHRAs more than FSAs, HSAs and otherwise integrated HRAs. As a result, this final rule provision presents a welcome development for ICHRA plan sponsors in particular, easing their administrative burden with respect to this disclosure requirement.

<sup>1</sup> Final rule titled “Contract Year 2027 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, and Medicare Cost Plan Program.”

<sup>2</sup> And generally aligns with the proposed rules regarding these two provisions.

<sup>3</sup> Section 1860D–13(b)(4)(C) & Section 1860D–13(b)(6)(B) of the Social Security Act.

<sup>4</sup> Archer MSAs are also included in the list of account-based plans in the final rule.

## 2. Retiring the use of the Current Simplified Determination Method and Codifying the Revised Simplified Determination Method, Starting in 2027

For purposes of creditable coverage determinations, CMS is finalizing the retirement of the current simplified determination method and codifying the revised simplified determination method, starting in 2027.

As a result, non-RDS group health plans may **not** use the current simplified determination method for plan years beginning in calendar year 2027 (meaning beginning January 1, 2027, and going forward) to determine whether their prescription drug is considered creditable. Rather, non-RDS plans must choose either the revised simplified determination method or the actuarial determination method for plan years beginning in 2027.

Additionally, CMS is modifying, from **72% to 73%**, the percentage of prescription drug costs the non-RDS group health plan must cover compared with coverage under a Part D defined standard plan. This means that the revised simplified determination method for 2027 will contain a slight change to the third element of the criteria where the plan is designed to pay on average at least 73%<sup>5</sup> of participants' prescription drug expenses, instead of the 2026 element valued at 72%.

Listed below are the elements of the revised simplified determination method for plan years beginning in calendar year 2027:

- » The plan provides reasonable coverage for brand name and generic prescription drugs and biological products
- » The plan provides reasonable access to retail pharmacies
- » The plan is designed to pay on average a minimum percentage (**73%** for 2027) of participants' prescription drug expenses

*Note: For 2028 and going forward, CMS intends to release the percentage of prescription drug costs to use in the creditable coverage methodology with "enough time for group health plan to take into account when designing their plan benefits."*

## Employer Group Health Plan Sponsor Considerations

Now that CMS released this final rule, employer group health plan sponsors may begin to consider their 2027 prescription drug plan design for creditable coverage determination purposes, taking into account the final changes to the determination methods detailed above.

Employers sponsoring account-based plans, particularly ICHRAs, will no longer be required to provide the Notice of Creditable Coverage to plan participants (or be required to report to CMS whether such coverage qualifies as creditable coverage) starting in 2027 – a welcome development for these plan sponsors that will likely lighten their administrative burden in this realm.

**Contact the Brown & Brown team with any questions.**

<sup>5</sup> CMS states that "in subsequent years, this value is projected to increase, ultimately reaching 75 percent in 2030 and stabilize thereafter." CMS also states that "we would update this figure for future years in a time and manner as we determine, consistent with the actuarial equivalence requirements in section 1860D-13(b)(5) of the Act and the methodology described earlier in this section. We intend to update the percentage via subregulatory guidance, such as a memo issued by the Health Plan Management System (HPMS)."



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