# Medicare Part D Creditable Coverage: Your Compliance Roadmap

If your company offers prescription drug coverage, you're required by law to send Medicare Part D creditable coverage notices. These notices inform Medicare-eligible employees whether your plan meets Medicare's standards. Failure to do so can trigger penalties for both your organization and your employees.

The stakes just got higher for 2026. The **Inflation Reduction Act** has changed the rules, and HR teams need to act now to remain compliant.

This guide walks you through what you need to know: who receives notices, when to send them, what to include, and how to document your compliance efforts.

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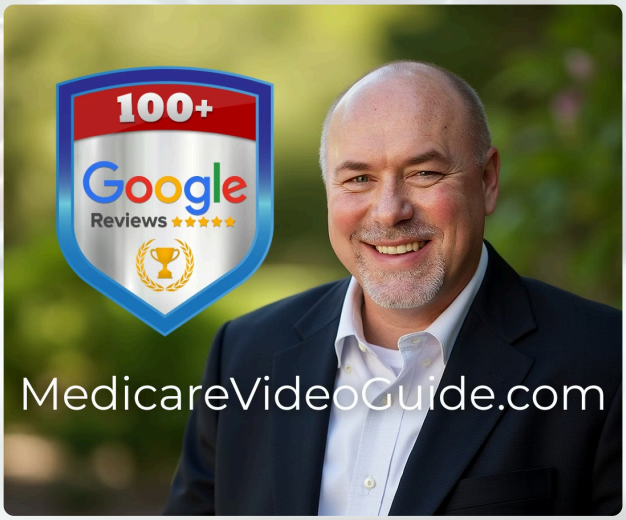

# What Changed for 2026: The New 72% Threshold

Starting in 2026, the Centers for Medicare & Medicaid Services (CMS) implemented stricter standards for determining whether your prescription drug coverage is creditable. Under the revised simplified determination method, your coverage must now pay at least **72% of participants' average prescription drug expenses**, up from the previous 60% threshold.

This change reflects the enhanced Medicare Part D benefits under the Inflation Reduction Act. If your plan doesn't meet this new standard, it's considered non-creditable — and your employees need to know.

**Good news for 2026:** You can choose to use either the existing 60% methodology or the new 72% methodology for this year only. However, starting in 2027, the 72% threshold becomes mandatory for all simplified determinations.

**What this means for you:**

- Review your prescription drug plan design immediately to determine which method applies
- Consult with your insurance carrier (for insured plans) or your actuary (for self-funded plans) to confirm creditable status
- Update your notices to reflect the correct determination for 2026
- Plan ahead—the 72% threshold will be the only option next year

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# Who Must Receive Notices: Covering All Your Bases

You need to distribute creditable coverage notices to all Medicare Part D eligible individuals covered under your prescription drug plan. This includes:

### Active Employees

Active employees who are Medicare-eligible and their Medicare-eligible dependents

### Retirees

Retirees enrolled in your prescription drug coverage

### COBRA Participants

COBRA participants who qualify for Medicare

### Disabled Individuals

Disabled individuals covered under your plan who are eligible for Medicare

### Spouses & Dependents

Spouses and dependents who are Medicare-eligible

Your obligation applies whether your plan is primary or secondary coverage for Medicare. Many HR teams simplify this process by sending notices to all plan participants rather than trying to identify who's Medicare-eligible. This approach reduces the risk of missing anyone and ensures complete compliance.

# Critical Deadlines: When to Send Notices

Timing matters. You must provide creditable coverage notices at these specific times:

### 1 Annual Notice (Most Important)

**Before October 15 each year** — This is the start of Medicare's Annual Election Period. Your notice must reach Medicare-eligible individuals before they make enrollment decisions for the next year.

### 2 Initial Enrollment Period

Before an individual's initial enrollment period for Medicare Part D begins

### 3 New Participants

Before coverage starts for newly Medicare-eligible participants who join your plan

### 4 Coverage Changes

Within 30 days when your prescription drug coverage ends or changes from creditable to non-creditable status (or vice versa)

### 5 Upon Request

Upon request from any Medicare-eligible individual at any time

**Pro tip:** Set calendar reminders now for early September to prepare your October 15 distribution. Missing this deadline exposes your organization to penalties and puts your employees at risk of late-enrollment penalties.

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# What Your Notice Must Include: Content Requirements

CMS provides model notices you can customize with your plan information. Your notice must clearly communicate the following:

## For Creditable Coverage

- Your prescription drug coverage is creditable (as good as or better than Medicare Part D)
- What creditable coverage means for enrollment decisions
- Advice to keep the notice as proof of prior creditable coverage
- Contact information for questions

## For Non-Creditable Coverage

- Your prescription drug coverage is non-creditable (not as good as Medicare Part D)
- There are limited enrollment periods during the year
- Individuals may face a late enrollment penalty if they delay enrolling in Medicare Part D
- The penalty is 1% of the national base premium for each month of delayed enrollment, and it lasts as long as they have Part D coverage

> **Example:** If someone goes 14 months without creditable coverage, they'll pay a 14% monthly penalty added to their Part D premium for life.

Download the latest model notices from the **CMS Creditable Coverage website** and customize them with your plan details. Your legal team should review any modifications before distribution.

# How to Distribute Notices: Acceptable Methods

You have flexibility in how you deliver notices, but you must document everything:

## Acceptable Distribution Methods

### First-Class Mail

First-class mail to employees' home addresses

### Email

Email (if the recipient has agreed to electronic delivery)

### Hand Delivery

Hand delivery during enrollment meetings or benefits presentations

### Included Materials

Included with other materials such as open enrollment packets or Summary Plan Descriptions

## Electronic Delivery Requirements

For employees with regular work-related access to your electronic information system, you may provide electronic notice. However, you must inform them that they're responsible for providing notices to any Medicare-eligible dependents covered under your plan.

For employees without regular computer access, retirees, and COBRA beneficiaries, you need:

- A valid email address
- Their prior consent to electronic delivery
- Documentation that you informed them of their right to receive a paper copy
- Confirmation that they can withdraw consent and update contact information
- Verification of hardware/software requirements to access and save the notice

# Your Disclosure Obligation to CMS: The Second Requirement

Notifying your employees is only half the job. You also must disclose your plan's creditable coverage status directly to CMS using the online Disclosure to CMS Form.

### Annually

No later than 60 days from the beginning of your plan year (usually by March 1 for calendar-year plans)

### Plan Termination

Within 30 days if your prescription drug plan terminates

### Status Changes

Within 30 days if your creditable coverage status changes

## What to Include in Your CMS Disclosure

- Plan sponsor name and contact information
- Type of plan (active employee, retiree, COBRA)
- Number of Medicare-eligible participants
- Coverage start and end dates
- Creditable or non-creditable status for each plan option you offer

Access the disclosure form on the **CMS Creditable Coverage Disclosure page**. If you offer multiple plan options (PPO, HDHP, HMO, etc.), you must report each option separately — some may be creditable while others are not.

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# Recordkeeping Requirements: Protect Your Organization

Documentation is your best defense in an audit. Maintain comprehensive records of:

- Copies of all notices sent to Medicare-eligible individuals
- Distribution lists with names and addresses
- Dates of delivery for every notice
- Email confirmations or tracking records for electronic delivery
- Signed acknowledgments for hand-delivered notices
- Creditable coverage determinations and the methodology used (simplified or actuarial)
- CMS disclosure form submissions and confirmation receipts

**Critical requirement:** Keep all records for at least six years. Some compliance experts recommend 10 years for extra protection.

If an employee incurs late-enrollment penalties because they didn't receive proper notice, you could face ERISA-related legal action. Your documentation shows you fulfilled your obligations.

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# Penalties and Consequences: What's at Risk

Non-compliance carries serious consequences for both employers and employees.

## Employer Penalties

CMS can impose civil monetary penalties of up to **$1,000 per day** for each individual who didn't receive required notices. These penalties add up quickly across your workforce.

Beyond financial penalties, non-compliance can trigger:

- Department of Labor investigations into your benefit plan operations
- ERISA breach of fiduciary duty claims from affected employees
- Increased scrutiny of other compliance areas
- Reputation damage and employee trust issues

## Employee Impact

When employees don't receive proper notices, they may make uninformed decisions that cost them money for the rest of their lives. If a Medicare-eligible individual goes 63 days or longer without creditable prescription drug coverage after their initial enrollment period, they'll pay a late enrollment penalty.

This penalty is 1% of the national base premium for each month they delayed enrollment, and it continues for as long as they have Medicare Part D coverage. That's a permanent increase to their monthly premiums — and it's avoidable with proper notification.

# Best Practices: Set Your HR Team Up for Success

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## Create a Compliance Calendar

Set recurring reminders for:

- Early September: Prepare October 15 annual notices
- February: File CMS annual disclosure (for calendar-year plans)
- Quarterly: Review for any coverage status changes

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## Maintain a Master Checklist

- ☐ Determine creditable status for each plan option
- ☐ Customize CMS model notices with plan details
- ☐ Get legal review of notice content
- ☐ Compile distribution list of all Medicare-eligible individuals
- ☐ Distribute notices by October 15
- ☐ Document delivery method and dates
- ☐ Submit CMS disclosure form
- ☐ Archive all records for six years minimum

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## Coordinate with Your Vendors

- For insured plans, confirm with your carrier whether they'll handle notice distribution (many offer this service for a fee)
- For self-funded plans, work with your third-party administrator (TPA) or actuary to verify creditable status
- Establish clear responsibility for who sends notices and files CMS disclosures

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## Communicate Proactively

Don't wait for employees to ask questions. Include creditable coverage information in:

- Open enrollment presentations
- Benefits fairs and HR webinars
- Your company intranet or benefits portal
- New hire orientation for Medicare-eligible employees

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## Document Everything

Create a compliance file for each plan year containing:

- Creditable coverage determination methodology and results
- Copies of notices sent
- Distribution lists and delivery confirmations
- CMS disclosure submissions and receipts
- Any employee inquiries and your responses

# Simplify Your Compliance and Support Your Employees

Medicare requirements are complex, but you don't have to handle it alone. An **Employer Medicare & Retiree Benefits Advisor** can ease your workload while helping ensure compliance.  Here's how an advisor supports your HR team:

- Educates your workforce with free presentations tailored to your employee population
- Answers individual employee questions about Medicare enrollment and transitions, so your HR staff doesn't have to become Medicare experts
- Guides employees through complex Medicare decisions, reducing confusion and bad choices
- Reduces your organization's healthcare costs by helping Medicare-eligible employees transition appropriately (employers may save as much as $18,000+ per Medicare-eligible employee who transitions)
- Provides zero-cost support to your employees — advisors are typically compensated by Medicare plans, not by employer fees

Your HR team can focus on core responsibilities while the advisor handles Medicare-specific concerns and compliance support.

**Ready to optimize your employee benefits, reduce risks, and lighten your workload ?**

> **Rodney Powell** is affiliated with Senior Health Services and popularly recognized as the "Medicare Video Guy." He specializes in employer Medicare and retiree benefits.
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> He serves as your risk-reduction partner, working with your HR team to provide support to your employees throughout the process. With over 300 educational videos, 16,000+ subscribers, and a #1 ranking on Medicare Agents Hub in Texas, he is licensed in 35+ states.
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# Frequently Asked Questions

**Q: Can I send one notice to all employees, even if not everyone is Medicare-eligible ?**
**A:** Yes. Many employers find this approach simpler and reduces the risk of missing someone. It also provides information to employees who may become Medicare-eligible soon or have Medicare-eligible family members.

**Q: What if I offer multiple prescription drug plan options ?**
**A:** You must determine creditable status separately for each option. One plan may be creditable while another is non-creditable. Your notices and CMS disclosures must reflect the status of each plan option accurately.

**Q: Do I need to hire an actuary to determine creditable coverage status ?**
**A:** Not necessarily. CMS provides a simplified determination method that you can use without actuarial certification. However, if your plan doesn't meet the simplified method standards, you'll need an actuarial analysis to demonstrate creditability. Many employers consult actuaries even when not required, to ensure accuracy and reduce liability risk.

**Q: What happens if an employee claims they never received the notice ?**
**A:** This is why documentation is critical. If you can provide proof of delivery (tracking information, email confirmation, signed acknowledgment), you've demonstrated compliance. Without documentation, you may face penalties and potential ERISA claims.

**Q: Can I provide the notice only in English ?**
**A:** The model notices are available in both English and Spanish on the CMS website. If you have a significant number of employees who speak other languages, consider translating the notice to ensure everyone understands their options.

**Q: What if my plan's creditable status changes mid-year ?**
**A:** You must notify affected individuals within 30 days and file an updated CMS disclosure within 30 days. The notice triggers a special enrollment period, allowing affected individuals to enroll in Medicare Part D without penalty.