

CMS Proposes Eliminating Creditable Coverage Disclosure Obligation for Account-based Plans

The Centers for Medicare and Medicaid Services (CMS) has released a [proposed rule](#) that would exempt account-based plans such as health reimbursement arrangements (HRAs), health flexible spending accounts (FSAs) and health savings accounts (HSAs), from creditable coverage disclosure requirements. Public comments on the proposal are due by Jan. 26, 2026.

Background

Employers with group health plans that provide prescription drug coverage to individuals who are eligible for Medicare Part D must inform both those individuals and CMS whether that coverage is creditable. 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; coverage that does not meet this standard is deemed non-creditable.

For this purpose, the term "group health plan" includes account-based medical plans such as HRAs, health FSAs or HSAs, to the extent they are subject to the Employee Retirement Income Security Act as employee welfare benefit plans that provide medical care.

Proposed Exemption

The CMS proposal introduces changes aimed at reducing administrative burden by eliminating duplicative or outdated requirements. As part of this effort, CMS proposes exempting account-based plans—such as HSAs, health FSAs and HRAs (including individual coverage HRAs)—from the creditable coverage disclosure requirements.

According to CMS, these account-based plans do not actually offer prescription drug coverage; rather, they are designed to provide savings on health care costs through pre-tax contributions and reimbursements to supplement other coverage, such as another group health plan. CMS explains that requiring these plans to determine if their coverage is creditable and report that status unduly increases administrative burden and could result in confusion for beneficiaries. For example, if an account-based plan discloses that it does not offer creditable coverage (because it does not directly offer prescription drug coverage) and the individual's plan that directly offers the prescription drug benefit coverage discloses that the benefit is creditable, the individual could receive potentially contradictory and confusing information. CMS notes that this contradiction may ultimately disadvantage Part D Medicare-eligible individuals in making informed choices about their prescription drug coverage.

Employer Takeaway

Until the rule is finalized, **employers should continue to comply with existing creditable coverage disclosure requirements and monitor developments closely.** Even if the proposed exemption is finalized, it will only apply to account-based plans such as HRAs, health FSAs and HSAs. Group health plans that offer prescription drug coverage remain subject to the disclosure requirements, so employers should ensure those notices continue to be provided.