

Medicare Requirements

Employers that offer group health insurance benefits to Medicare-eligible individuals generally must comply with 3 key Medicare requirements:

- [Medicare Part D Notice Requirements](#)
- [Medicare Secondary Payer Requirement](#)
- [Medicare Nondiscrimination Requirements](#)

Medicare Part D Notice Requirements

Medicare generally requires employers that offer prescription drug coverage to Medicare-eligible individuals to satisfy two notice requirements:

1. Prior to October 15 each year, the employer must provide Medicare-eligible individuals with a **Medicare Part D Creditable or Non-Creditable Coverage Notice**. These notices serve to notify the individuals whether the employer-offered prescription drug coverage is "creditable" under law. Coverage is generally "creditable" if it is expected to pay, on average, as much as the standard Medicare prescription drug coverage. [Click here to download model notices pertaining to this requirement.](#)
2. Within **60 days** of the beginning of each plan year (generally **March 1** for calendar-year plans), the employer must complete an **online disclosure** to the Centers for Medicare and Medicaid Services (CMS) to report whether the coverage offered is "creditable." [Click here to complete an online disclosure.](#)

Additional requirements may apply. [Click here](#) for more information on the Medicare Part D notice requirements.

Medicare Secondary Payer Requirement

When an individual is covered by both an employer-sponsored group health plan and Medicare, it can be confusing as to who should pay for the individual's medical claims. In general, the employer-sponsored group health plan is the primary payer of these claims, while Medicare is the secondary payer. **However, exceptions do apply, including for employers with less than 20 employees.** The chart below lists some common situations where a beneficiary has both Medicare and other coverage, and lists which entity pays first. For more information, please see read [this publication](#) or contact CMS at 1-800-MEDICARE.

Individual	Condition	Pays First	Pays Second
Is age 65 or older, and covered by a group health plan through current employment or spouse's current employment	Employer has less than 20 employees	Medicare	Group health plan
	Employer has 20 or more employees (or the employer is part of a multi-employer group with at	Group health plan	Medicare

	least one employer employing 20 or more individuals)		
Has an employer retirement plan and is age 65 or older	Individual is entitled to Medicare	Medicare	Retiree Coverage
Is under age 65, disabled, and covered by a group health plan through his or her current employment or through a family member's current employment	Employer has less than 100 employees	Medicare	Group health plan
	Employer has 100 or more employees (or the employer is part of a multi-employer group with at least one employer employing 100 or more individuals)	Group health plan	Medicare
Is age 65 or older or is disabled and covered by Medicare and COBRA continuation coverage	Individual is entitled to Medicare	Medicare	COBRA
Is covered under Workers' Compensation because of a job-related illness or injury	Individual is entitled to Medicare	Workers' Compensation, for health care items or services related to the job-related illness or injury (Note: Medicare may make a conditional payment , which it has the right to recover)	Medicare
Has End-Stage Renal Disease and group health plan coverage	Individual is in the first 30 months of	Group health plan	Medicare

	Medicare eligibility or entitlement		
	After 30 months of Medicare eligibility or entitlement	Medicare	Group health plan
Has End-Stage Renal Disease and COBRA continuation coverage	Individual is in the first 30 months of Medicare eligibility or entitlement	COBRA	Medicare
	After 30 months of Medicare eligibility or entitlement	Medicare	COBRA

Medicare Nondiscrimination Requirements

Medicare-eligible employees are generally protected against discrimination in group health insurance benefits in two ways:

1. Employers with **20 or more employees** are [required](#) by law to offer workers and their spouses who are age 65 or older the same health benefits that are offered to younger employees.
2. Employers are generally [prohibited](#) from encouraging or offering incentives to individuals to enroll in Medicare instead of a group health plan. However, the Equal Employment Opportunity Commission (EEOC) has [stated](#) that offering Medicare-eligible employees a choice between either group health insurance coverage or the reimbursement of Medicare Part B premiums is generally lawful as long as the choice creates an advantageous option available only to the Medicare-eligible employees.