

Proposed Regulation Would Exempt HRAs From Medicare Part D Creditable Coverage Disclosure Requirements

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Proposed Rule: Medicare Program; Contract Year 2027 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, and Medicare Cost Plan Program, 42 CFR Parts 422 and 423, 90 Fed. Reg. 54894 (Nov. 28, 2025)

Available at <https://www.govinfo.gov/content/pkg/FR-2025-11-28/pdf/2025-21456.pdf>

HHS's Centers for Medicare and Medicaid Services (CMS) has issued proposed regulations that would relieve health reimbursement arrangements (HRAs), including individual coverage HRAs (ICHRAs), of the obligation to provide notices of creditable coverage to Medicare Part D eligible individuals and CMS. As background, plan sponsors that provide prescription drug coverage through a group health plan must disclose to covered Part D eligible individuals and to CMS whether the value of the provided drug coverage equals or exceeds the actuarial value of defined standard prescription drug coverage under Medicare Part D. Under current requirements, account-based plans such as HRAs are subject to Part D reporting, although health FSAs are specifically exempted.

The proposal, if finalized, will formally exclude all account-based plans from the Part D creditable coverage disclosure requirements. CMS explains in the proposal's preamble that account-based plans are designed to provide cost savings through pre-tax contributions and reimbursements, and often supplement other coverage, rather than actually offering prescription drug coverage. Thus, the benefit design of account-based plans makes concepts such as the disclosure of creditable coverage inapplicable and unduly burdensome because comparing a reimbursement arrangement, such as an HRA, with the "intricacies" of Medicare Part D prescription drug coverage is "not an 'apples to apples' comparison." In addition, HRA participants may be confused by receiving seemingly inconsistent notices of non-creditable coverage from the HRA (because it does not directly provide prescription drug coverage) and notices of creditable coverage from their major medical plan, which does. CMS is accepting comments on the proposal through January 26, 2026.

EBIA Comment: HRA sponsors and their TPAs will welcome the potential relief from the Part D disclosure requirements but should continue to comply until the proposal is finalized. For more information, see EBIA's Group Health Plan Mandates manual at Section XXV.A ("What Are the Creditable Coverage Disclosure Requirements for Medicare Part D and Who Must Comply?") See also EBIA's Consumer-Driven Health Care manual at Section XXV.E ("HRAs and Medicare Part D").

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