

Summary of Significant Changes to Chapter 4: Creditable Coverage Period Determinations and the Late Enrollment Penalty

Chapter 4	Description	Clarifications
<p>This chapter has undergone significant format changes and has been revised to clarify our policies in a number of areas, as well as incorporate previously released guidance pertaining to CC/LEP. This update supersedes the following HPMS Memoranda: “<i>Updated Guidance on Creditable Coverage Period Determinations and the Late Enrollment Penalty</i>” (April 11, 2008); “<i>Reporting Creditable Coverage Information for Former Plan Members</i>” (November 26, 2008); and “<i>Updated Attestation Forms for Reporting Creditable Coverage</i>” (January 14, 2009).</p> <p>This updated guidance is effective with enrollment applications received on or after April 1, 2010. However, Part D plan sponsors may, at their discretion, implement any aspect of this guidance prior to the required effective date.</p>		
Table of Content		<ul style="list-style-type: none"> Created table of content
10. PROCESS FOR MAKING A CREDITABLE COVERAGE PERIOD DETERMINATION	<p>This section provides the statutory and regulatory requirements for imposing a late enrollment penalty and defines creditable coverage. It explains the steps the Part D plan sponsor must take to determine whether there is a gap of 63 days or more in which the beneficiary went without creditable prescription drug coverage; and when the part D plan sponsor must not initiate or continue a creditable coverage period determination.</p>	<ul style="list-style-type: none"> Clarified that the Part D plan sponsor must determine the appropriate period to review when looking for a qualifying gap in creditable prescription drug coverage. The Part D plan sponsor will look at either: (1) end of Part D/RDS coverage; (2) end of the beneficiary’s IEP; or (3) end of the beneficiary’s subsequent IEP. Clarified that the Part D plan sponsor must have a process in place for identifying members who have a subsequent IEP because of financial ramifications. Revised the steps to making a creditable coverage period determination in light of “incremental reporting.” Clarified the circumstances under which the Part D plan sponsor must not make a creditable coverage period determination: (1) disenrolled beneficiaries; (2) LIS at time of enrollment; (2) deceased beneficiaries; (3) dual-eligibles in the PACE and U.S. Territories
20. ATTESTATION OF CREDITABLE PRESCRIPTION DRUG COVERAGE	<p>This section explains the attestation process and appropriate notices the Part D plan sponsor must use when soliciting information about the beneficiary’s creditable prescription drug coverage when a qualifying gap in creditable coverage is identified.</p>	<ul style="list-style-type: none"> Clarified that the Part D plan sponsor <i>must</i> follow-up with the beneficiary (via telephone or in writing) in cases where the beneficiary fails to provide creditable coverage information or fails to return a completed attestation form. Clarified that the Part D plan sponsor must report its creditable coverage period determination to CMS within 14 calendar days even if it is unable to obtain the beneficiary’s creditable coverage information after performing

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		<p>the required follow-up.</p> <ul style="list-style-type: none"> In cases where the Part D plan sponsor chooses to follow-up via notice, clarified that the Part D plan sponsor must mail the follow-up attestation documents with a deadline return date that will allow the plan enough time to meet CMS's reporting timeframe.
30. REPORTING CREDITABLE COVERAGE PERIOD DETERMINATIONS TO CMS	<p>This section provides a detailed explanation of when and how the Part D plan sponsor must report an initial and adjusted creditable coverage period determination to CMS. It further explains the notification and reporting responsibilities of a beneficiary's current and former Part D plan sponsor when an adjustment to a previously reported NUNCMO must be made.</p>	<ul style="list-style-type: none"> Clarified that the Part D plan sponsor can receive late attestation of creditable prescription drug coverage up to 60 days past the return deadline on the attestation form and must make an adjustment to any previously reported NUNCMO to CMS. Further clarified that it must notify the beneficiary (telephonically or in writing) that such attestation will not be reviewed if received beyond 60 days past such timeframe. Clarified that in all cases where a Part D plan sponsor imposed the NUNCMO to be adjusted; such plan must notify the beneficiary of the adjustment. Clarified that the Part D plan sponsor that submits the adjustment to a creditable coverage period determination will receive a TRC on the TRR. However, the other affected plans will receive this information on the LIS/LEP and MPWRD Reports for beneficiaries in direct bill and premium withhold statuses respectively, not on the TRR.
40. CMS CALCULATION & REPORTING LEP TO PART D PLAN SPONSORS	<p>This section explains how the LEP is calculated, where the Part D plan sponsor can locate various information about its' beneficiary's LEP, and an explanation of the yearly changes affecting the LEP.</p>	<ul style="list-style-type: none"> Deleted the PCUG Appendix column since it is updated several times a year and the location of the various reports may change. Maintained our current policy that the Part D plan sponsor shall not provide an estimate of the LEP to its member.
50. NOTIFICATION TO BENEFICIARIES OF THE LATE ENROLLMENT PENALTY	<p>This section explains the requisite elements that an LEP notice must have when the Part D plan sponsor notifies its beneficiary of an imposition of or increase to an existing LEP. It further explains the responsibility of the plan when the member's employer or union sponsor opts to pay the member's LEP.</p>	<ul style="list-style-type: none"> Clarified that in cases where a member's prior Part D plan sponsor adjusts the member's uncovered months and such adjustment impacts the LEP the member was assessed in the subsequent plan(s), the subsequent plan(s) shall notify the member that it either owes the member a refund or that the member owes the subsequent plan(s) additional payment as a result of the adjustment.
60. BILLING,	<p>This section explains the role of the Part D</p>	<ul style="list-style-type: none"> We clarified that the LEP is part of the Part D premium and the Part D plan

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<p>COLLECTING, AND REFUNDING THE LEP</p>	<p>plan sponsor with respect to providing billing options, making a reasonable attempt to collect the LEP, and refunding its beneficiary's LEP.</p>	<p>sponsor must make a reasonable attempt to collect the LEP even in cases where the Part D plan sponsor has a zero (\$0) premium or the beneficiary has requested a reconsideration of the LEP.</p> <ul style="list-style-type: none"> • Specified that the LEP can be billed on a separate invoice or itemized on the same invoice as the non-LEP premium; however, it must be billed and due at the same times as the non-LEP premium. • Clarified that in cases where the Part D plan sponsor has opted to have a policy of involuntary disenrollment for failure to pay premiums; it must disenroll its beneficiary if the beneficiary fails to pay the LEP portion of the premium. Further clarified that the Part D plan sponsor can set a threshold amount prior to disenrollment. • Clarified that in all cases where an adjustment to the NUNCMO results in a refund, all Part D plan sponsors that collected an LEP amount based on that NUNCMO, must notify the member of the amount to be refunded. • Specified where Part D plan sponsors can locate the member's LEP refund amounts.
<p>70. LEP RECONSIDERATION PROCESS</p>	<p>This section refers all Part D plan sponsors to the revised section <i>80.7.1.1 Reconsideration of Late Enrollment Penalty Determinations</i> for specific details regarding the LEP review process.</p>	<ul style="list-style-type: none"> • Specified that Part D plan sponsors must refer to Chapter 18 to obtain a detailed explanation of the LEP Reconsideration Process.
<p>80. INFORMATION RETENTION REQUIREMENTS</p>	<p>This section provides guidance on plan retention of all information collected concerning a beneficiary's creditable coverage period determination.</p>	<ul style="list-style-type: none"> • Provided the new regulatory authority (42 CFR 423.46(d)) for required plan retention of all information collected concerning creditable coverage period determinations.
<p>APPENDIX</p>	<p>Contains the two Appendices that serve as quick reference guides for plan transaction submission codes and flags, as well as use of model notices.</p>	<ul style="list-style-type: none"> • Revised <i>Appendix 1: Summary of MARx Transactions to Add, Change, or Remove the Number of Uncovered Months for an Enrolled Beneficiary</i> to incorporate the new Plan Change Transaction Code (73) and clarified the submission flags and correlating effective dates. • Developed new <i>Appendix 2: Creditable Coverage Period Determination/Late Enrollment Penalty Exhibits</i> that lists all of the model notices described in this Chapter as well as the LEP Reconsideration notices (Appendices 14 and

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<p>EXHIBITS</p>	<p>This section contains all of the model notices discussed in this chapter.</p>	<p>15) located in Chapter 18 of this Manual.</p> <ul style="list-style-type: none"> • Revised Exhibit 2—<i>Beneficiary Notice of Late Enrollment Penalty</i> to eliminate references to Hurricane Katrina and beneficiaries receiving extra help in 2006-2008. • Revised <i>Exhibit 4: Model Notice—Removal of Late Enrollment Penalty Due to Subsequent IEP</i> to account for situations where the Part D plan sponsor will owe a refund because of late reporting of the members subsequent IEP to CMS. • Revised Exhibit 6: <i>Model Notice—Informing Beneficiary of LEP Adjustment Due to Plan Error</i> to eliminate references to Hurricane Katrina and beneficiaries receiving extra help in 2006-2008. • Revised <i>Exhibit 7: Model Notice—Confirm Adjustment of Premium Based on Reconsideration of Late Enrollment Penalty</i> to account for situations where the enrollee is no longer in the Part D plan sponsor that imposed the NUNCMO to be adjusted based on a reconsideration decision. • Created <i>Exhibit 10: Model Notice—Creditable Coverage Information Received After Deadline</i> for plans to issue as described in Section 30. • Created <i>Exhibit 11: Model Notice—Beneficiary Notice of Late Enrollment Penalty Adjustment Reported</i>) for plans to issue as described in Section 50.
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