

Information partners can use on:

## The Part D Late Enrollment Penalty

### What's the Part D late enrollment penalty?

The late enrollment penalty is an amount that's added to a person's monthly Part D premium. A person enrolled in a Medicare drug plan may owe a late enrollment penalty if he or she goes without Part D or creditable prescription drug coverage for any continuous period of 63 days or more after the end of his or her Initial Enrollment Period for Part D coverage.

The late enrollment penalty (also called the "LEP" or "penalty") is added to the person's monthly Part D premium for as long as he or she has Medicare prescription drug coverage. The late enrollment penalty amount changes each year. The person will have to pay it each month as long as he or she has Medicare prescription drug coverage, even if the person changes his or her Medicare drug plan. The cost of the late enrollment penalty depends on how long the person went without Part D or creditable prescription drug coverage.

### What's creditable prescription drug coverage?

Creditable prescription drug coverage (also called "creditable coverage") is coverage that's expected to pay, on average, at least as much as Medicare's standard prescription drug coverage. Most plans that offer prescription drug coverage, like plans from employers or unions, must send their members an annual notice explaining how their prescription drug coverage compares to Medicare prescription drug coverage and if it's creditable coverage. If a person with Medicare doesn't get a separate written notice, the person's plan may provide this information in its benefits handbook. If the person doesn't know if the prescription drug coverage he or she has is creditable, the person should contact the plan.

## How's the late enrollment penalty calculated?

Medicare, not the plan, calculates the late enrollment penalty when a person subject to the penalty first joins a Medicare drug plan. The late enrollment penalty amount typically is 1% of the national base beneficiary premium (also called “base beneficiary premium”) for each full, uncovered month that the person didn't have Part D or creditable coverage. The monthly penalty is rounded to the nearest \$0.10 and added to the monthly Part D premium. The national base beneficiary premium for 2016 is \$34.10.

### Example 1

Mr. Ray joined a Medicare drug plan before the end of his Part D Initial Enrollment Period in February 2013. However, he disenrolled from that Medicare drug plan effective December 31, 2013. He later joined another Medicare drug plan in December 2015 during the Open Enrollment Period and his coverage with his new plan was effective January 1, 2016. Since leaving his last Medicare drug plan and joining the new Medicare drug plan, there was a period of 24 full months in which he didn't have other creditable coverage (January 1, 2014–December 31, 2015). Therefore, starting January 1, 2016, he has to pay 24% (1% for each full, uncovered month that he was without creditable coverage since leaving his first Medicare drug plan and joining his current drug plan) of the base beneficiary premium for 2016 (\$34.10). Mr. Ray's penalty amount is \$8.18 each month. Since the monthly penalty is always rounded to the nearest \$0.10, he'll pay \$8.20 each month in addition to his plan's monthly premium in 2016.

### Here's the math:

**.24 (24% penalty) x \$34.10 (2016 base beneficiary premium) = \$8.18**

**\$8.18 rounded to the nearest \$0.10 = \$8.20**

**\$8.20 = Mr. Ray's late enrollment penalty for 2016**

The base beneficiary premium changes each year. Medicare uses the current coverage year's amount to calculate a person's new penalty amount. In 2015, the base beneficiary premium was \$33.13. In 2016, the base beneficiary premium is \$34.10.

### Example 2

Mrs. Martinez is currently eligible for Medicare, and her Initial Enrollment Period ended on May 31, 2012. She doesn't have prescription drug coverage from any other source. She didn't join by May 31, 2012, and instead joined during the Open Enrollment Period that ended December 7, 2014. Her drug coverage was effective January 1, 2015.

## Example 2 (continued)

### 2015

Since Mrs. Martinez was without creditable prescription drug coverage from June 2012–December 2014, her penalty in 2015 was 31% (1% for each of the 31 months) of \$33.13 (the national base beneficiary premium for 2015) or \$10.27. Since the monthly penalty is always rounded to the nearest \$0.10, she paid \$10.30 each month in addition to her plan's monthly premium in 2015.

#### Here's the math:

$$.31 \text{ (31\% penalty)} \times \$33.13 \text{ (2015 base beneficiary premium)} = \$10.27$$

$$\$10.27 \text{ rounded to the nearest } \$0.10 = \$10.30$$

$$\$10.30 = \text{Mrs. Martinez's late enrollment penalty for 2015}$$

### 2016

In 2016, Medicare recalculated Mrs. Martinez's penalty using the 2016 base beneficiary premium (\$34.10). Therefore, Mrs. Martinez's new monthly penalty in 2016 is 31% of \$34.10 or \$10.57 each month. Since the monthly penalty is always rounded to the nearest \$0.10, she'll pay \$10.60 each month in addition to her plan's monthly premium.

#### Here's the math:

$$.31 \text{ (31\% penalty)} \times \$34.10 \text{ (2016 base beneficiary premium)} = \$10.57$$

$$\$10.57 \text{ rounded to the nearest } \$0.10 = \$10.60$$

$$\$10.60 = \text{Mrs. Martinez's late enrollment penalty for 2016}$$

In general, once Medicare determines a person's penalty amount, the person will continue to owe a penalty for as long as he or she is enrolled in a Medicare drug plan. This means that even if the person decides to join another Medicare drug plan, he or she will still have to pay the penalty once enrolled in a new plan. This also means that if a person joins a plan that has a \$0 monthly premium, he or she will still owe a penalty.

## **If Medicare's systems show that a person has a break in creditable coverage, will the person have a chance to tell the plan about his or her prior drug coverage?**

When a person joins a Medicare drug plan, the plan will review Medicare's systems to see if the person had a break in creditable coverage for 63 days or more in a row. If so, the Medicare drug plan will send the person a notice asking for information about prior prescription drug coverage. **It's very important that the person complete this form and return it by the date on the form, because this is the person's chance to let the plan know about prior coverage that might not be in Medicare's systems.** The person can also send any proof of his or her prior coverage, like a copy of the notice of creditable prescription drug coverage from an employer or union health plan. If the plan allows the person to provide this information over the phone instead, he or she must do so by the date on the form.

The information provided helps the plan tell Medicare whether there was a gap in creditable coverage of 63 days or more in a row. If the person doesn't provide this information to the plan by the date on the form, the plan will tell Medicare how many full, uncovered months the person was eligible to join a Medicare drug plan and didn't. Then Medicare, not the plan, will determine the penalty amount using the calculation method described on pages 2 and 3.

## **Is there a late enrollment penalty if a person waits one month after he or she was first eligible to enroll in a Medicare drug plan?**

No. A person must be without creditable coverage 63 days or more in a row any time after he or she was first eligible to enroll to be charged a late enrollment penalty. Since the person had only one month without Part D or creditable coverage, he or she wouldn't have to pay a penalty.

## **Is there a late enrollment penalty if a person gets Extra Help and had a break in coverage?**

No. People who qualify for Extra Help under Part D won't be charged a late enrollment penalty when they enroll in a Medicare drug plan. If an individual disenrolls from his or her Medicare drug plan and goes at least 63 days in a row without other creditable coverage, Medicare may charge a late enrollment penalty if he or she later joins a Medicare drug plan **and is no longer eligible for Extra Help.** However, when Medicare determines the person's late enrollment penalty, Medicare won't count any uncovered months from before the person became eligible for Extra Help.

## Is there a late enrollment penalty if a person gets Extra Help and had a break in coverage? (continued)

### Example 3

Mrs. Kim didn't join a Medicare drug plan before her Initial Enrollment Period ended in July 2014. In December 2014, she enrolled in a Medicare drug plan (effective January 1, 2015). She qualified for Extra Help, so she wasn't charged a late enrollment penalty for the uncovered months in 2014. However, Mrs. Kim disenrolled from her Medicare drug plan effective June 30, 2015. She later joined another Medicare drug plan in December 2015 during the Open Enrollment Period, and her coverage with the new plan was effective January 1, 2016. She didn't qualify for Extra Help when she enrolled in December 2015.

Since leaving her first Medicare drug plan in June 2015 and joining the new Medicare drug plan in December 2015, she didn't have other creditable coverage for 6 full months (July 1–December 31, 2015). Therefore, effective January 1, 2016, she pays 6% of the base beneficiary premium for 2016 (1% for each full, uncovered month that she was without creditable coverage since leaving her first Medicare drug plan and joining her current drug plan). When Medicare determines her late enrollment penalty, Medicare doesn't count the uncovered months from 2014, before Mrs. Kim became eligible for Extra Help. The base beneficiary premium for 2016 is \$34.10, so Mrs. Kim's penalty amount is \$2.05 each month. Since the monthly penalty is always rounded to the nearest \$0.10, she pays \$2.10 each month in addition to her plan's monthly premium in 2016.

### Here's the math:

**.06** (6% penalty) x **\$34.10** (2016 base beneficiary premium) = **\$2.05**

**\$2.05** rounded to the nearest \$0.10 = **\$2.10**

**\$2.10** = Mrs. Kim's late enrollment penalty for 2016

## **What if a person doesn't agree with the late enrollment penalty?**

If a person doesn't agree with the late enrollment penalty, he or she may be able to ask Medicare to review its decision. This is called a "reconsideration." The person's drug plan will send information about how to request a reconsideration. The form lists the reasons a person can ask for and get a review of his or her case.

If the person wants a review of his or her case, the person should complete the form and return it to the address or fax number listed on the form, and a Medicare contractor will review the case. The person must mail or fax the form within 60 days from the date on the letter stating that the person had to pay a late enrollment penalty. The person should also send any proof that supports his or her case, like information about previous creditable coverage. For example, if the person had drug coverage from an employer or union plan, he or she may provide a copy of the notice of creditable prescription drug coverage from the employer or union plan.

## **Can a person who doesn't agree with the late enrollment penalty pay only the premium and ignore the penalty?**

According to Medicare law, the late enrollment penalty is part of the premium, so a person who has a penalty must pay it with the premium. A person with a penalty must also pay the penalty even if he or she asked Medicare's contractor to review its decision. Medicare drug plans can disenroll members who don't pay their premiums, including the late enrollment penalty portion of the premium.

## **How soon will a person get a reconsideration decision?**

In general, Medicare's contractor makes reconsideration decisions within 90 days. The contractor will try to make a decision as quickly as possible. However, an enrollee may request an extension, or Medicare's contractor can, for good cause, take an additional 14 days for a person's case to be resolved.

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## **What happens if the late enrollment penalty reconsideration decides the penalty is wrong?**

If Medicare's contractor reviews a case and decides that all or part of the late enrollment penalty is wrong, the Medicare contractor will send the person and his or her drug plan a letter explaining its decision. The Medicare drug plan will remove or reduce the late enrollment penalty and will send the person a letter that shows the correct premium amount and explains whether there will be a refund.

## **What happens if the late enrollment penalty reconsideration decides the penalty is correct?**

If Medicare's contractor reviews a case and decides that the late enrollment penalty is correct, the Medicare contractor will send a letter explaining the decision, and the person must pay the penalty.

