

Medicare beneficiaries may incur a late enrollment penalty (LEP) if there is a continuous period of 63 days or more at any time after the end of the individual's Part D initial enrollment period during which the individual was eligible to enroll, but was not enrolled in a Medicare Part D plan and was not covered under any creditable prescription drug coverage.

“Creditable prescription drug coverage” is coverage that meets Medicare's minimum standards since it is expected to pay, on average, at least as much as Medicare's standard prescription drug coverage. Creditable prescription drug coverage includes, but is not limited to: some employer-based prescription drug coverage, including the Federal Employees Health Benefits Program; qualified State Pharmaceutical Assistance Programs (SPAPs); military-related coverage (e.g., VA, TRICARE); and certain Medicare supplemental (Medigap) policies. As outlined at 42 CFR 423.56(c) and (d), with the exception of Prescription Drug Plan (PDP) Sponsors, Medicare Advantage (MA) Organizations, §1876 Cost-Based Contractors, and PACE organizations offering prescription drug plans, entities that offer prescription drug coverage must make an annual determination of creditable coverage status and provide a disclosure notice to Medicare eligible individuals.

With limited exceptions (for example, beneficiaries who are receiving “extra help” from Medicare), the Part D LEP remains with the beneficiary for as long as he/she has Medicare prescription drug coverage.