NIXON BENEFITS

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CMS Updates Creditable Coverage Rules

One of the annual reporting obligations for fully insured and self-funded health plans is the CMS Medicare Part D Creditable Coverage notice. This notice is due annually by October 15th. Creditable coverage relates to the prescription drug portion of a group health plan. To be creditable, a group health plan's prescription drug plan must be expected to pay as much (or more) for prescription drugs than the Medicare Part D plan would pay; if the plan does not pay as much as a Medicare Part D plan, the coverage is considered non-creditable.

The notice is important because late enrollees to Medicare Part D must prove that they had creditable coverage or pay a higher premium when they do eventually enroll. Late enrollees tend to be those remaining on an employer plan. Thus, accurately informing employees about whether their employer plan is creditable is crucial.

The Inflation Reduction Act of 2022 made changes to Medicare Part D coverage, coming into effect in 2026 and 2027 (for most employers). These changes mean that some employer-sponsored prescription drug coverage, previously calculated as creditable, may no longer be creditable.

Beginning in 2027, each plan must be individually evaluated and will only be creditable for Medicare Part D if the following are true:

- Offers coverage for brand, generic, and biological prescription drugs, and
- Offers reasonable access to retail pharmacies, and
- Pays, on average, at least 72% (up from 60% currently) of participants' prescription drug expenses.

Plans that receive the Retiree Drug Subsidy must use the new methodology in 2026.

Source: *International Foundation of Employee Benefit Plans*

ACA Affordability Percentage Rises to 9.96% for 2026

The IRS has announced that the Affordable Care Act (ACA) affordability percentage will increase to 9.96% for the 2026 plan year, up from 9.02% in 2025. This is the highest affordability percentage since the ACA began in 2015.

For employers classified as Applicable Large Employers (ALEs), this percentage is key to determining whether the health coverage you offer is considered "affordable" under the ACA.

Employers must confirm that an employee's share of the premium for the lowest-cost, employee-only plan does not exceed 9.96% of their household income. Because most employers do not have access to household income information, the ACA allows the use of three safe harbors:

- W-2 Safe Harbor: Compare the employee's contribution to their Box 1 W-2 wages.
- Rate of Pay Safe Harbor: Compare to the employee's monthly wage (hourly rate × 130 hours, or monthly salary).
- Federal Poverty Line Safe Harbor: Compare to the federal poverty level for a single individual.

Employers should review their 2026 health plan contributions now to ensure they meet the new affordability standard and avoid potential ACA penalties. Remember that items like flex credits and cash-in-lieu payments can affect the calculation.

Source: *Liebert Cassidy Whitmore*

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Court Upholds Denial of Life Insurance Benefits After Coverage Lapse

A recent federal court case highlights the importance of monitoring employee eligibility for group life insurance coverage.

An employee, Troy New, was injured on the job in April 2022 and never returned to work. More than a year later, he passed away in an unrelated ATV accident. His employer, Cleveland-Cliffs Princeton Coal, had continued paying premiums during his absence, believing his coverage remained in force while he received workers' compensation benefits.

When Troy's son filed a life insurance claim, MetLife denied benefits, explaining that coverage had ended six months after Troy stopped actively working—consistent with the plan's terms.

The court sided with MetLife, finding that the plan clearly limited continuation of coverage for employees on leave to six months and did not allow indefinite coverage. It also held that Cleveland-Cliffs' continued premium payments and support of the claim could not override MetLife's policy interpretation.

Additionally, the court ruled that West Virginia's law preventing cancellation of medical coverage during workers' compensation leave did not apply to life insurance benefits. Finally, the court found that MetLife had no duty to notify Troy of his right to convert to an individual policy because the insurer had not been informed that his coverage had lapsed.

This case underscores the need for careful administration of leave-related benefits. Employers should ensure they are tracking when employees' continuation periods end and provide timely communication about options, including conversion rights, when coverage terminates.

Compliance Tip:

Review your leave and benefit continuation procedures annually. Confirm that HR, payroll, and carriers are aligned on eligibility status and that employees receive required notices when coverage ends. This proactive step can help prevent disputes and ensure compliance with ERISA and plan terms.

Source: *Roberts Disability Law, P.C.*

Active Parents, Active Kids

Kids are more likely to become enthusiastically active — or couch potatoes — based on what they see their parents doing day-to-day. According to research, the example set by moms and dads appears to contribute to active or sedentary behavior in their children. When parents maintain a more active routine, their children are less likely to remain seated for long periods.

Mothers tended to have more influence over their child's physical activity than fathers. In fact, moms' influence was more than twice that of dads.

Physically active or sports-minded parents likely understand the benefits of exercise and encourage their children, researchers said in their paper. They also might be more likely to limit screen time and support activity by taking their kids to the park or paying for sports equipment, backyard swings and other active games or toys, researchers speculated. These results held even after they were adjusted for other factors like the family's socioeconomic status, parents' education and the children's sex and age.

Source: *Health Day*