

Medicare Part D: Late-Enrollment Penalty Premium

People who do not sign up for a Medicare Part D drug plan when first eligible for Medicare may have to pay a late enrollment penalty if they enroll later on. Generally, an enrollment is considered late if the person did not join within three months after first getting Medicare Part A or Part B.

Individuals will not be subject to the late enrollment penalty if they:

- Are eligible for Extra Help also known as Low-income Subsidy (LIS).
- Have other drug coverage called “creditable coverage”, coverage considered as good as Medicare drug coverage, at the time through their job or a spouse’s job, retiree coverage, or the Veterans Administration.

How is the late-enrollment penalty calculated?

The late-enrollment penalty is a monthly add-on premium calculated as 1% of the current national base beneficiary premium multiplied by the number of uncovered months, rounded to the nearest ten cents.

In 2020, the national base premium is \$32.74.

Below we offer a case study to help illustrate how the penalty is calculated. Keep in mind, the penalty amount is a lifetime penalty, meaning your client has to pay the penalty for as long as she is enrolled in Part D. However, the penalty amount is re-calculated each year based on the new base beneficiary premium amount, so it may go up or down each year.

Example: Ms. Smith turned 65 in April 2018. Her Initial Enrollment Period (IEP) began in January 2018 and ended in July 2018.

Ms. Smith didn’t sign up for a Medicare Part D plan during her IEP and did not have creditable coverage through employment.

In April 2019, she met a knowledgeable benefits counselor and decided to join a Part D plan. But she couldn’t do that until the 2019-20 Part D Annual Enrollment Period (AEP) (October 15 – December 7, 2019), with coverage taking effect January 1, 2020.

What does Ms. Smith need to know about the consequences of enrolling late, that is, after her IEP ended?

When Ms. Smith finally joins a Part D plan during the 2019-20 AEP, the plan must verify her prior creditable drug coverage status. The plan may do this by asking her to prove whether

she had creditable drug coverage prior to her Part D plan enrollment. She must respond within 30 days.

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	
2018	Ms. Smith's Initial Enrollment Period										Part D OEP Oct. 15- Dec 7		
2019												Part D OEP Oct. 15- Dec 7	
2020	Ms. Smith's Part D begins										Part D OEP Oct. 15- Dec 7		

The plan uses the information it receives to determine the number of months during which she had no creditable drug coverage. The Part D plan must report to the Centers for Medicare & Medicaid Services (CMS) that Ms. Smith had no drug coverage for the 17 months between August 2018 and December 2019 (red arrow). From here, CMS then calculates a late-enrollment penalty premium.

In 2020, Ms. Smith will likely pay a penalty premium of \$5.60 (17 months multiplied by 1% of \$32.74—the national base beneficiary premium in 2018—then rounded to the nearest tenth).

This add-on premium of \$5.60 will be charged by the plan in addition to her plan premium for the duration that Ms. Smith is in the plan. If she changes plans, her new plan must also collect the same late-enrollment penalty premium from her.

After calculating Ms. Smith's late-enrollment penalty premium, CMS advises her Part D plan to notify Ms. Smith by sending her a letter that explains the penalty premium. The letter also explains how Ms. Smith can appeal a decision if she does not agree with the calculation.

In 2021, Ms. Smith's late-enrollment penalty premium will be re-calculated again using the 2021 national base beneficiary premium amount. Her penalty amount may change, depending on whether the national base beneficiary premium increases or decreases.

Can a Medicare beneficiary appeal a late-enrollment penalty?

Part D plan members have a right to appeal decisions they believe to be incorrect about late-enrollment penalties. The letter they receive from the plan telling them about the late-enrollment penalty premium explains how to appeal. The letter includes a form that may be used to file the appeal as well.

Grounds for Appealing a Late-Enrollment Penalty Premium

Plan members might want to appeal a plan decision if they believe:

- They promptly submitted information about other creditable drug coverage, but the information was not taken into consideration;
- The plan miscalculated the number of months without creditable drug coverage;
- The end date of the Initial Enrollment Period (IEP) was not correctly identified;
- An LIS/Extra Help member's late-enrollment penalty premium was not correctly waived; or
- The member failed to enroll in a Part D plan sooner because they did not receive adequate notice that their other drug coverage was not creditable.

How to Appeal a Late-Enrollment Penalty Premium

The appeal is known as a "reconsideration" and must be requested by filing with the Medicare Independent Review Entity (IRE), currently an organization called MAXIMUS Federal Services. Reconsiderations must be filed within 60 days from the date on the letter from the plan telling members about a late-enrollment penalty premium.

All reconsideration requests regarding late-enrollment penalty premiums should be directed to:

MAXIMUS Federal Services
3750 Monroe Ave., Suite 704
Pittsford, NY 14534-1302

Toll-free customer service phone: (877) 456-5302

Fax: (585) 869-3330

Toll-free fax: (866) 589-5241

Email (for case status inquiries): medicareappeal@MAXIMUS.com

Website for Part D appeals: <http://www.medicarepartdappeals.com>

Website for Medicare Advantage appeals: <http://www.medicareappeals.com>

Note: For enrollees and enrollee representatives, MAXIMUS's Part D appeals website provides:

- Information about the Medicare Part D appeal process
- Answers to frequently asked questions
- Information and forms for Part D enrollees and representatives to complete when filing an appeal with MAXIMUS
- The ability to search for the status of their appeal by the Medicare appeal number that is provided in any correspondence mailed

MAXMIUS is required to make a decision within 90 days of receiving the request for reconsideration and to notify the member of the decision, which is final and cannot be appealed. However, if you can request the reconsideration be reopened if there was an error and there is new information that might change the Part D QIC's decision that was not been available before. You should submit a detailed written request for reopening within 180 days from the date of the reconsideration decision letter.

References

Centers for Medicare & Medicaid Services (CMS) July 30, 2019 [Memorandum](#) issued to all plans announcing the 2020 Part D national base beneficiary premium.

Centers for Medicare & Medicaid Services (CMS) Medicare Prescription Drug Benefit Manual, [Chapter 4 - Creditable Coverage and Late Enrollment Penalty](#), Section 40, for more info on how the late-enrollment penalty is calculated.

Centers for Medicare & Medicaid Services (CMS), [Parts C & D Enrollee Grievances, Coverage Determinations, and Appeals](#), Section 60.8, for more info on reconsideration of late-enrollment penalty determinations.