

The Part D late enrollment penalty

Have you received a notice from your prescription drug plan telling you that your monthly Part D premium will go up due to a penalty? If so, you may be subject to the late enrollment penalty (LEP). The penalty is 1% of the national base beneficiary premium (\$34.70 in 2024) for every month you did not have Part D or certain other types of drug coverage while eligible for Part D. This amount is added to your monthly Part D premium.

Why did I get a notice about the LEP?

If you have been without creditable drug coverage for more than 63 days while eligible for Medicare, you may face an LEP. The purpose of the LEP is to encourage Medicare beneficiaries to maintain adequate drug coverage.

What if I had prescription drug coverage? Should I still have an LEP?

The LEP is calculated based on the number of months you were eligible to enroll in Medicare Part D but did not, **and did not have prescription drug coverage that Medicare considers creditable**. Creditable drug coverage is coverage that is considered to be as good as or better than Medicare Part D. Some examples of creditable drug coverage include:

- Medicare Advantage Plans with drug coverage
- TRICARE for life
- Some retiree or current employer drug plans

Check with your former plan to find out whether or not it was creditable. Typically, plans or your employer send you a notice each year letting you know if the plan is creditable. You can also call 1-800-MEDICARE to get information on Medicare's record of your coverage history.

Know that Medicare's prescription drug program began in 2006. Your LEP will be calculated for any periods of more than 63 days that you did not have creditable drug coverage since your initial eligibility, going back to June 1, 2006.

Can I eliminate my Part D LEP?

For most people, the LEP will stay with them as long as they are enrolled in the Medicare prescription drug benefit. There are some exceptions:

- If you receive Extra Help, your penalty will be permanently erased
- If you are under 65 and have Medicare, your LEP will end when you turn 65

- If you qualify for a state pharmaceutical assistance program (SPAP), it may pay your penalty for you

Can I appeal my Part D LEP?

Everyone has the right to file an appeal regarding their LEP determination with C2C Innovative Solutions, the company contracted by Medicare to handle these appeals. You can appeal the penalty (if you think you were continuously covered) and/or its amount (if you think it was calculated incorrectly). To appeal, complete the appeal form from your plan, include any evidence you have, and send everything to:

C2C Innovative Solutions, Inc.
Part D LEP Reconsiderations
P.O. Box 44165
Jacksonville, FL 32231-4165

Toll free fax: (833) 946-1912
Customer service: 833-919-0198

If you do not have an appeal form from your plan, you can also use this form:

<https://www.cms.gov/files/document/part-d-lep-reconsideration-request-form-c2c.pdf>

Unfortunately, the fact that you were not aware of the requirement to have prescription drug coverage is unlikely to be a successful basis for your appeal. However, the following are good reasons to appeal and may result in the elimination or reduction of your penalty:

- You have Extra Help
- You had creditable drug coverage during the time period in question
 - Call your former plan and ask for a letter proving that you were enrolled in creditable drug coverage. Make sure to include this letter with your appeal form. Your employer or union may also be able to confirm the fact that you had creditable drug coverage.
- You had non-creditable drug coverage, but your or your spouse's employer or insurer told you it was creditable or they did not inform you that it was non-creditable
- You were ineligible for Medicare's prescription drug program (e.g., if you were living outside the U.S.)
- You could not enroll in creditable drug coverage because of a serious medical emergency

The appeal deadline is 60 days from the date you received the letter informing you about the penalty. If you miss this deadline, you can write a letter explaining why you had good cause, or a good reason—like serious illness—that prevented you from appealing on time. Include this letter with your appeal. Once your appeal is submitted, you can expect a determination from C2C Innovative Solutions within 90 days. In the meantime, pay the LEP to your plan along with your premium. If your appeal is successful, your plan has to pay you back for the LEP payments you made while your appeal was pending.