

ALERT

CMS Updates Guidance on the Medicare Prescription Payment Plan: What Part D Plans Should Be Doing Now

March 28, 2024

The Centers for Medicare & Medicaid Services (CMS) updated its guidance on the Inflation Reduction Act of 2022's (P.L. 117-169) (IRA) Medicare Prescription Payment Plan (M3P) with its release of the Final Part One Guidance on February 29, 2024, and the Draft Part Two Guidance on February 15, 2024. The Final Part Two Guidance will be released in summer 2024.

Updated M3P Implementation Timeline

The next steps of the M3P program implementation are as follows:

- Spring 2024: CMS expects to issue updated Evidence of Coverage (EOC), Annual Notice of Change (ANOC), and Explanation of Benefits (EOB) model documents that will include information on the Medicare Prescription Payment Plan.
- Summer 2024: CMS expects to (1) publish the Final Part Two guidance, addressing comments received during the 30-day comment period on the Draft Part Two Guidance; and (2) issue newly developed model materials for the Medicare Prescription Payment Plan following the ICR comment process.
- October 15, 2024: During Medicare Open Enrollment, Medicare Part D enrollees will be able to opt in to the Medicare Prescription Payment Plan for the 2025 plan year. Part D enrollees will also have the opportunity to opt in throughout the year.
- January 1, 2025: The Medicare Prescription Payment Plan launches.

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Health Care
Medicare Drug Pricing
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What Part D Plans Should Be Doing Now

Part D plans are required to meet various responsibilities under the M3P program, including member outreach and enrollment, billing and claims processing, and certain reporting requirements. As CMS prepares to release its Final Part Two Guidance in summer 2024, Part D plans are encouraged to review their current pharmacy benefit management (PBM) agreements to consider whether any contract changes are necessary to ensure both the Part D plan and their PBM are prepared to implement the M3P program beginning in 2025. Here are some areas in your PBM agreement to look out for:

- **Financial Terms.** There certainly will be administrative costs associated with implementing most aspects of the M3P requirements, including specific outreach and communication to members regarding the program. Consider how your financial terms are structured to determine how implementation of the M3P program will be paid under your PBM agreement. Will implementation efforts be covered under your base administrative fees or the additional administrative/optional fees? Perhaps a reevaluation of your financial terms is necessary to ensure implementation efforts are fully contemplated under your PBM agreement.
- **Performance Guarantees.** Typically, your PBM will be required to implement CMS requirements to ensure full compliance with the M3P program. Assess the historical performance level of your PBM. Consider what additional performance standards, if any, might need to be incorporated into your PBM agreement to ensure compliance with the evolving CMS obligations.
- **Member Communications and Notice.** Part D plans are required to notify and educate members about the benefits of the M3P program according to specific requirements and timelines outlined by CMS. Consider whether your current communication and notice requirements under your PBM agreement satisfy CMS's obligations for the M3P program.
- **Reports.** Part D plans will be required to report information related to the M3P program to CMS on Prescription Drug Event (PDE) records and through annual reports. Consider whether you need to incorporate additional reporting requirements in the PBM agreement to ensure PBM cooperation in providing the required reports and information under the M3P program.
- **Change Order/Amendment.** If you are considering incorporating additional program services that are either within the general scope of your PBM agreement, or perhaps outside the scope of your PBM agreement but necessary to ensure compliance with the M3P program, pay close attention to both your change order and amendment contract terms to determine which course of action is best suited to modify your PBM agreement.

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Wiley's multidisciplinary Medicare Drug Pricing team of experienced attorneys and advisors is closely monitoring the M3P program and is available to assist with contract review, contract amendments or change orders, or any questions regarding implementation of the program. For more information about the M3P or the IRA generally, please contact one of the attorneys listed on this alert.