

Medicare Secondary Payer Rules & Medicare Interaction with COBRA

We are frequently asked about how Medicare coordinates with group medical plans and whether active employees should take or decline Medicare coverage. As plan sponsors, employers should be aware of the Medicare Secondary Payer (MSP) rules and how COBRA interacts with Medicare once an employee terminates active employment.

In general, when an active employee turns 65, he or she will automatically be enrolled in Part A (Hospital Insurance) of Medicare, at no cost. He or she will be given the option to enroll Part B (Medical Insurance) and Part D (Prescription Rx) at a monthly cost.

MSP Rules

MSP rules apply to group plans of employers with 20 or more employees (including part-time) for 20 or more weeks in the current or preceding calendar year.

- **For groups with 20 or more employees, the group health plan is the primary payer of benefits for active employees and their covered spouses (of any age) and Medicare is the secondary payer.** All medical claims should be filed with the group medical plan first, and any remaining amount of expenses filed with Medicare. Because the group medical plan is primary, it is not necessary for active employees and their spouses to enroll in Part B until the employee's employment terminates. An employee, or his or her spouse, may delay Part B enrollment until the end of active employment and then enroll in Part B enrollment period, without penalty.
- **For groups with less than 20 employees, Medicare acts as the primary payer of benefits.** All medical claims should be filed to Medicare first, and any remaining amount of expenses filed with the group medical plan. If enrollment in Part B is declined, the employer's group health plan may still coordinate benefits as if Part B is effective and primary, which will cause an employee to have uncovered medical expenses. *Therefore, employees should enroll in Part B when first eligible.*
- Alternate rules apply if the covered employee has end-stage renal disease (ESRD). The group medical plan is primary for the first 30 months of Medicare entitlement, regardless of the number employees employed by the employer or whether the employee is considered in active employment.
- Alternative rules apply if the covered employee is under 65 and is disabled. For groups with 100 or more employees, the group health plan is primary for as long as the employee is considered in active employment.

Additional Employee Considerations

Regardless of which plan is primary, it is typically recommended that employees retain employer sponsored group medical coverage even when they become entitled to Medicare benefits, because group medical plans often have more comprehensive coverage (e.g., prescription drug coverage) than Medicare and Medicare supplemental plans.

Employees entitled to Medicare should also consider whether they have a spouse (or children) who needs to retain group medical coverage and will not be able to do so unless the employee remains on the plan. Although a spouse (or children) may have COBRA continuation available at the time of the employee's Medicare entitlement, the maximum period of coverage under COBRA may not cover him or her until they are Medicare eligible.

Medicare and COBRA

Assuming the group medical plan does not offer retiree coverage when an employee age 65 or older terminates active employment, COBRA should be offered.

If an employee terminates group medical coverage because of Medicare entitlement, it is considered a qualifying event and the qualified beneficiaries (spouse & children) have a maximum period of coverage of 36 months from the Medicare entitlement date.

If the qualifying event is termination of employment or reduction in hours, an employee who is entitled to Medicare **prior** to his or her COBRA election date is still eligible to elect COBRA coverage. The maximum period of continuation coverage for the former employee is 18 months. For all affected qualified beneficiaries (covered spouse and children) the maximum period of continuation coverage is the longer of up to 36 months from the date of the earlier Medicare entitlement or 18 months from the later termination or reduction in hours of employment.

If an employee who has elected COBRA continuation coverage becomes entitled to Medicare **after** his or her COBRA election date, the entitlement to Medicare can be used as a COBRA cut-off event. When Medicare entitlement is treated as COBRA cut-off event, the maximum period of continuation coverage for all affected qualified beneficiaries (covered spouse and children) is at least up to 36 months from the earlier beneficiaries who would have received 36 months from the Medicare entitlement date if such date had been the original qualifying event.

When a former employee has both Medicare and COBRA coverage, Medicare is the primary payer of benefits.

For more detailed information regarding Medicare coverage, eligibility and enrollment, please refer to www.medicare.gov.