



# Medicare Secondary Payer End Stage Renal Disease (ESRD) course

Version 1.0, 1/13/2014

Note: CMS reserves the right to modify this presentation. To ensure you have the most current version, verify that the version and date on this page match the version and date on the corresponding page of the PDF currently available at <http://go.cms.gov/cobro>.

Welcome to the Medicare Secondary Payer (MSP) End Stage Renal Disease (ESRD) course.

## Disclaimer

While all information in this document is believed to be correct at the time of writing, this Computer Based Training (CBT) is for educational purposes only and does not constitute official Centers for Medicare & Medicaid Services (CMS) instructions. All affected entities are responsible for following the instructions found at the following link:  
<http://www.cms.gov/>.

While all information in this document is believed to be correct at the time of writing, this Computer Based Training (CBT) is for educational purposes only and does not constitute official Centers for Medicare & Medicaid Services (CMS) instructions. All affected entities are responsible for following the instructions found at the following link: <http://www.cms.gov/>.

## Course Overview

- MSP Guidelines for ESRD
- ESRD Examples
- Dual Entitlement Guidelines
- Dual Entitlement Examples



This course will provide an in-depth discussion of the MSP guidelines for persons entitled to Medicare because of ESRD. Multiple examples of ESRD MSP situations are provided. The course then addresses MSP as it relates to those individuals that have dual entitlement to Medicare, (i.e., entitled to Medicare for more than one reason), e.g., ESRD and Age, or ESRD and Disability. Again, multiple examples are provided to assure clarity of the guidelines.

## MSP Guidelines for ESRD

Medicare is the secondary payer under the ESRD provisions of MSP if all of the following are true:

1. Beneficiary is on Medicare solely due to ESRD (Dual entitlement is addressed later in the course)
2. Beneficiary is covered by a Group Health Plan
3. Beneficiary is within a 30-month coordination period

The MSP provisions of the Social Security Act require Group Health Plans (GHPs) to make payments before Medicare under certain circumstances. Medicare is the secondary payer under the ESRD provisions of MSP if all of the following conditions are met:

The beneficiary is on Medicare solely due to ESRD. Dual entitlement situations are discussed later in this course. Second, the beneficiary is covered by a GHP. Third, the beneficiary is within a 30-month coordination period. Next, we will provide greater detail on each of the three requirements.

## MSP Guidelines for ESRD

### Beneficiary is on Medicare solely due to ESRD

- Eligible for Medicare under ESRD
  - Regular course of dialysis has been prescribed by a physician when the person has reached that stage of renal impairment that a kidney transplant or regular course of dialysis is necessary to maintain life
- Enrolling in Medicare
  - Once eligible for Medicare, a person must apply for Medicare
  - If the application is accepted, Medicare coverage may begin

The first requirement we will examine is that the beneficiary is on Medicare solely due to ESRD. Typically the beneficiary will be under age 65, however, it is possible, although rare, for a beneficiary to be age 65 or older and on Medicare due solely to ESRD.

A person is eligible for Medicare under ESRD if a regular course of dialysis has been prescribed by a physician when the person has reached that stage of renal impairment, that a kidney transplant or regular course of dialysis is necessary to maintain life.

To obtain Medicare coverage, once a person is eligible for Medicare, he/she must apply for enrollment in Medicare. If the application for enrollment is accepted, Medicare coverage may begin.

## MSP Guidelines for ESRD

### Beneficiary is on Medicare solely due to ESRD

- Coverage for people with ESRD begins at different times depending on the circumstances
  - Usually starts the first day of the third month after the month in which a course of regular dialysis begins
  - All, or a portion of, the waiting period may be waived if:
    - The patient participates in a self-dialysis training program
    - The patient has a kidney transplant within the three-month waiting period
- If an individual fails to submit timely application for Medicare or chooses not to apply for Medicare
  - 30-month coordination period calculated with a start date based on the month in which he/she could have been enrolled had an application for Medicare been made

Under the law, when a beneficiary is on Medicare solely due to ESRD, Medicare coverage begins at different times for different people depending on the circumstances. Medicare coverage usually starts the first day of the third month after the month in which a course of regular dialysis begins. All, or a portion of, the three-month waiting period may be waived if the individual participates in a self-dialysis training program, or if the individual has a kidney transplant within the three-month waiting period.

It is important to note that the 30 month coordination period always begins on the date the individual is first eligible to enroll in Medicare due to ESRD. If for example, an individual fails to submit a timely application for Medicare or chooses not to apply for Medicare, the 30-month coordination period will be calculated with a start date based on the month in which he/she could have been enrolled, had an application for Medicare been made. This will be discussed in more detail later in the course.

## MSP Guidelines for ESRD

### The beneficiary is covered by a Group Health Plan

- Any Group Health plan is primary to Medicare
- Current employment status is not a consideration
- Applies to anyone covered by a GHP on any basis, including current and former employees
- Employer size is not a consideration

The second requirement for Medicare to be the secondary payer under ESRD is that the beneficiary be covered by a Group Health Plan. Any Group Health Plan the beneficiary is covered by is primary to Medicare. The insured person under the Group Health Plan does not need to have current employment status in order for the GHP to be primary. The ESRD guidelines apply to anyone covered by a GHP on any basis, including current and former employees. If a person has GHP coverage as a retiree, the GHP can be primary to Medicare. Employer size is not a consideration under the ESRD guidelines. A Group Health Plan that covers an employer of a single employee would be primary to Medicare.

## MSP Guidelines for ESRD

### The beneficiary is within a 30-month coordination period

- 30-month period begins the date the individual becomes entitled to enroll in Medicare because of ESRD
  - If enrollment in Medicare does not occur, 30-month period begins on the date the individual was first entitled to enroll in Medicare due to ESRD
- Medicare is primary after the 30-month coordination period, as long as the individual retains eligibility based on ESRD
- Individual may have more than one 30-month coordination period
- Medicare entitlement ends if
  - Individual is without dialysis for 12 months, or
  - 36 months have passed since a successful kidney transplant

The third requirement for Medicare to be the secondary payer under ESRD is that the beneficiary is within a 30-month coordination period. The period of time in which Medicare is the secondary payer is limited to 30 months. As addressed on slide 6, the 30-month coordination period always begins on the date the individual first becomes entitled to enroll in Medicare because of ESRD. As stated previously, if timely application for Medicare benefits does not occur, and thus, coverage under Medicare is delayed, or if the individual chooses not to apply for Medicare, the 30-month period begins on the date the individual was first eligible to enroll in Medicare.

Medicare becomes the primary payer of benefits after the 30-month coordination period ends, as long as the individual retains Medicare eligibility based on ESRD. A beneficiary may have more than one 30-month coordination period. Also, Medicare entitlement for an individual will end if he/she and has not received dialysis for 12 months or if 36 months have passed since the beneficiary has had a successful kidney transplant.

## MSP Guidelines for ESRD

### Example 1 – Medicare due to ESRD only

Mr. Rose	Age 40
	Started regular dialysis 10/2004
	Enrolled in Medicare 01/01/2005
Mr. Rose's spouse is actively employed and covers Mr. Rose with her GHP	
30-month coordination period:	01/01/2005 through 06/30/2007
Medicare becomes primary:	07/01/2007

Note: When the GHP is primary, it is primary for all services, not just those related to ESRD

In this first example, Mr. Rose is age 40 and started a regular course of dialysis in October 2004. After the three-month waiting period, he enrolled in Medicare on January 1, 2005. Mr. Rose's spouse is actively employed and covers him with her Group Health Plan. The 30-month coordination period when Group Health Plan coverage is primary runs from January 1, 2005 through June 30, 2007. On July 1, 2007, Medicare becomes the primary payer of benefits.

It should be noted that when the Group Health Plan is the primary payer of benefits, it is primary for all services rendered, not just those that are related to ESRD.

## MSP Guidelines for ESRD

### Example 2 – Medicare due to ESRD only

Mr. Rose is age 40 and became enrolled in Medicare due to ESRD: 01/01/2005			
30-month coordination period:		01/01/2005 through 06/30/2007	
Medicare becomes primary:		07/01/2007	
Transplant:	03/22/2005	ESRD-based eligibility ends:	03/31/2008
Transplant fails and Mr. Rose starts dialysis:		02/15/2009	
Second 30-month coordination period:		02/01/2009 through 07/31/2011 (Spouse's GHP coverage remains in effect)	

This second example is a continuation of the first. In the first example, it was stated that Medicare became the primary payer of benefits July 1, 2007. We will assume that Mr. Rose had a kidney transplant March 22, 2005. When a patient has a kidney transplant, ESRD-based Medicare coverage continues for 36 months after the month of the successful transplant. Mr. Rose's Medicare coverage based on ESRD would continue through the end of March 2008, i.e., 36 months after the transplant. If the transplant continued functioning and Mr. Rose did not require further dialysis, as of April 1, 2008, Mr. Rose would lose his eligibility to Medicare based upon ESRD.

If Mr. Rose's transplant failed on February 15, 2009, and he started having dialysis treatments, he would again be entitled to enroll in Medicare based upon ESRD starting February 1, 2009. Note that there is no three-month waiting period applied when a person goes back on Medicare because of ESRD, and a second 30-month coordination period is applicable. The second 30-month period where the GHP pays as primary would run from February 1, 2009 through July 31, 2011.

## MSP Guidelines for ESRD

### Example 3 – Medicare due to ESRD only

Ms. Olive is age 55 and enrolled in Medicare due to ESRD 09/01/2008

Ms. Olive retired 01/01/2007, has GHP as a retiree, & employer has fewer than 20 employees

30-month coordination period:	09/01/2008 through 02/28/2011
-------------------------------	-------------------------------

Medicare becomes primary:	03/01/2011
---------------------------	------------

In this example, Ms. Olive is age 55 and first became eligible to enroll in Medicare because of ESRD on September 1, 2008. Ms. Olive is retired from active employment and she is covered on the Group Health Plan as a retiree. Also, the employer for whom she used to work has always employed fewer than 20 employees. The 30-month coordination period when Group Health Plan coverage is primary runs from September 1, 2008 through February 28, 2011. Medicare will become the primary payer of benefits on March 1, 2011.

The fact that Ms. Olive was retired at the time she enrolled in Medicare does not make a difference. The fact that the employer has always employed fewer than 20 employees also does not make a difference. There are no employer size limitations or restrictions under the MSP guidelines for ESRD.

## MSP Guidelines for ESRD

Beneficiary enrolled in Medicare due to ESRD, obtains GHP coverage during 30-month coordination period

- If beneficiary is enrolled in Medicare solely on the basis of ESRD
  - 30-month coordination period applies
- If beneficiary does not have GHP coverage at start of the 30-month coordination period
  - Medicare pays as primary (There is no other coverage)
- If beneficiary obtains GHP coverage at anytime during 30-month coordination period
  - Medicare becomes secondary payer for balance of coordination period

Another situation we will address involves a beneficiary who is enrolled in Medicare based on ESRD and then obtains GHP coverage in the middle of a 30-month coordination period.

If a person is enrolled in Medicare solely on the basis of ESRD, a 30-month coordination period applies. If the individual does not have GHP coverage at the start of the 30-month coordination period, Medicare pays primary, as there is no other coverage. If the individual obtains GHP coverage at anytime during the 30-month coordination period, Medicare becomes the secondary payer for the balance of the coordination period.

## MSP Guidelines for ESRD

### Example 4 – GHP starts during 30-month coordination period

Mr. Gray is age 44 and enrolled in Medicare due to ESRD on December 1, 2008. He has no GHP coverage

30-month coordination period is:	12/01/2008 – 05/31/2011
----------------------------------	-------------------------

Mr. Gray marries and gets GHP coverage through his spouse, effective:	07/01/2009
---	------------

Medicare is primary:	12/01/2008 through 06/30/2009 (No GHP Coverage)
----------------------	--

Medicare is secondary:	07/01/2009 through 05/31/2011 (GHP coverage now exists)
------------------------	--

In this example, Mr. Gray is age 44 and was first eligible to enroll in Medicare due to ESRD on December 1, 2008. He had no GHP coverage at that time. The 30-month coordination period starts December 1, 2008, and runs through May 31, 2011.

Mr. Gray got married, and on July 1, 2009, he got GHP coverage through his spouse.

Medicare is the primary payer of benefits from December 1, 2008 through June 30, 2009. Mr. Gray had no insurance other than Medicare during that time. Medicare became secondary to his wife's GHP coverage starting July 1, 2009. The GHP coverage would be primary for the remainder of the 30-month coordination period.

## Dual Entitlement

ESRD first, then Disability or Working Aged, ESRD MSP guidelines continue to apply

- 30-month coordination period continues uninterrupted
- Upon completion of the 30-month coordination period, Medicare becomes and remains the primary payer, as long as ESRD-based Medicare eligibility continues
- If ESRD-based eligibility ends, the Disability or Working Aged MSP guidelines begin to apply

Up to this point, the presentation has focused on individuals entitled and enrolled in Medicare based solely on ESRD. We will now examine how MSP guidelines are applied when a beneficiary becomes entitled to Medicare for more than one reason.

If a beneficiary first becomes eligible to enroll in Medicare because of ESRD and subsequently also becomes entitled to Medicare because of Disability or Age, the ESRD MSP guidelines continue to apply. The 30-month coordination period when Group Health Plan insurance is primary to Medicare continues uninterrupted. At the end of the 30-month coordination period, Medicare becomes the primary payer of benefits, even if Medicare would otherwise be secondary under the Working Aged or Disability guidelines.

If ESRD-based eligibility to Medicare would end at some point in the future, then the Disability or Working Aged MSP guidelines would begin to apply.

## Dual Entitlement

### Example 5 – ESRD first, then Disability or Working Aged

Mr. Green's Medicare is effective 06/01/2006 due to ESRD

Mr. Green is age 51, works full-time, and has GHP coverage

GHP is primary for 30 months:	06/01/2006 through 11/30/2008
-------------------------------	-------------------------------

Medicare primary:	12/01/2008
-------------------	------------

Mr. Green remains on dialysis for the remainder of his life

Medicare is primary for the remainder of Mr. Green's life

In this example, Mr. Green is age 51, works full-time, and has Group Health Plan coverage as the result of that employment. Mr. Green develops kidney failure, and on June 1, 2006, he enrolled in Medicare because of ESRD.

Mr. Green's Group Health Plan is primary to Medicare for 30 months, June 1, 2006 through November 30, 2008. Medicare becomes the primary payer at the end of the 30-month period, December 1, 2008. Mr. Green is not a suitable candidate for kidney transplant; thus, he remains on kidney dialysis for the remainder of his life.

Since Mr. Green remains on dialysis, he continues to be eligible for Medicare due to ESRD; thus, Medicare will remain the primary payer of benefits for the remainder of his life. Medicare remains primary, even if Mr. Green turns age 65 and would otherwise meet the criteria for Medicare being the secondary payer under the Working Aged guidelines.

## Dual Entitlement

### Example 6 – ESRD first, then Disability or Working Aged

Mrs. Gold is age 31 and has GHP coverage through her spouse, who works for a company that employs over 500 people

Mrs. Gold enrolled in Medicare 08/01/2006 due to ESRD; she also becomes entitled to Medicare due to Disability (diabetes) on 10/01/2007

GHP is primary for 30 months:	08/01/2006 through 01/31/2009
-------------------------------	-------------------------------

Medicare is primary:	02/01/2009
----------------------	------------

Mrs. Gold had successful kidney transplant 08/10/2006. ESRD-based Medicare entitlement ended 08/31/2009

Medicare is secondary under the Disability guidelines, commencing 09/01/2009

Mrs. Gold is age 31. She has Group Health Plan coverage as the result of her husband actively working for a company that has over 500 employees. Due to suffering from ESRD, Mrs. Gold first became entitled to and enrolled in Medicare August 1, 2006. She has been suffering from diabetes as well, and on October 1, 2007, she becomes entitled to Medicare due to Disability.

The Group Health Plan through her husband is primary to Medicare for the full 30-month coordination period, August 1, 2006 through January 31, 2009. The fact that she became entitled to Medicare due to Disability in the middle of the 30-month coordination period does not change this. Medicare became the primary payer on February 1, 2009.

Mrs. Gold had a successful kidney transplant on August 10, 2006. A person who has a successful kidney transplant is entitled to Medicare coverage for three years. At the end of the three-year period, if the patient has not had to restart dialysis or had another kidney transplant, entitlement to Medicare due to ESRD ends. Since Mrs. Gold had a transplant on August 10, 2006, and she did not have to restart dialysis or have another transplant, her Medicare ESRD-based eligibility ended August 31, 2009. As of September 1, 2009, she is still entitled to Medicare on the basis of Disability. Medicare is the secondary payer of benefits under the Disability provision of MSP, starting September 1, 2009. Mrs. Gold is on Medicare because of Disability, she is covered by the Group Health Plan of an actively working family member, and since the employer meets the 100 or more employer size requirement for Disability, Medicare will be the secondary payer under the Disability provision.

## Dual Entitlement

### Example 7 – Under age 65 retiree with GHP, develops ESRD

- Mr. Lavender retired from Acme Industries at age 55 with 30 years service
- Acme Industry policy allows retirees to keep GHP until they reach age 65 and become entitled to Medicare because of age
- Mr. Lavender turns age 65 on July 6, 2009

Mr. Lavender was eligible to enroll in Medicare due to ESRD on:	01/01/2009
30-month coordination period begins:	01/01/2009
Medicare is secondary for the 30-month coordination period: (Employer/GHP cannot terminate GHP coverage due to attainment of age 65 during the coordination period)	01/01/2009 through 06/30/2011

Mr. Lavender retired from Acme Industries at age 55 after working for them for 30 years. Acme Industries company policy allows retirees to keep their GHP coverage until they reach age 65 and become entitled to Medicare due to age. Mr. Lavender first became eligible to enroll in Medicare due to ESRD on January 1, 2009, just over 6 months before his 65<sup>th</sup> birthday, which occurred July 6, 2009. The 30-month ESRD coordination period begins January 1, 2009. Medicare will be the secondary payer of benefits for the full 30-month coordination period, i.e., January 1, 2009 through June 30, 2011. Even though Acme Industry company policy says coverage terminates upon attainment of age 65, the coverage must remain in effect and pay benefits primary to Medicare through the remainder of the 30-month coordination period. Medicare law prohibits the Employer or GHP from terminating the GHP coverage before the 30 month coordination period is completed.

## Dual Entitlement

### Age or Disability first, then ESRD

- If Medicare was properly the secondary payer of benefits under Working Aged/Disability guidelines immediately prior to ESRD-based eligibility, Medicare will be the secondary payer under ESRD for the 30-month coordination period
- If Medicare was primary payer under Working Aged or Disability guidelines immediately prior to ESRD-based eligibility, Medicare remains primary
- If eligible due to ESRD and Age or ESRD and Disability occurs simultaneously, ESRD provisions override; Medicare will be secondary for 30-month coordination

Next we will examine how the ESRD guidelines are applied when a person is first entitled to Medicare because of age or disability and then becomes eligible to enroll in Medicare because of ESRD. Assume Medicare is the secondary payer of benefits because of the Working Aged or Disability provisions, and then the person also becomes eligible to enroll in Medicare because of ESRD. If Medicare was already properly the secondary payer of benefits under the Working Aged or Disability guidelines immediately before the beneficiary also became eligible to enroll in Medicare because of ESRD, Medicare will be secondary under the ESRD provisions for 30 months. If Medicare was already the primary payer under the Working Aged or Disability guidelines immediately before the individual became eligible to enroll in Medicare because of ESRD, Medicare will remain the primary payer of benefits.

In the rare circumstance that eligibility for Medicare due to ESRD and Age or ESRD and Disability occur at the same time, the ESRD provisions take priority, and Medicare will be the secondary payer for the 30-month coordination period.

## Dual Entitlement

### Example 8 – Age first, then ESRD

Mr. Ivory is age 67 and is entitled to Medicare based on age. He has GHP coverage because of active employment with an employer of 30 employees

Subsequently Mr. Ivory becomes eligible to enroll in Medicare due to ESRD on:	06/01/2009
---	------------

GHP is primary under the Working Aged guidelines prior to:	06/01/2009
--	------------

GHP is also primary for the 30-month coordination period:	06/01/2009 through 11/30/2011
---	-------------------------------

Medicare becomes primary:	12/01/2011
---------------------------	------------

In this example, Mr. Ivory is 67 years old and is on Medicare due to age. He is actively working for an employer of 30 employees, and has Group Health Plan coverage as the result of this employment. Subsequently, Mr. Ivory became eligible to enroll in Medicare due to ESRD on June 1, 2009.

The Group Health Plan was the primary payer of benefits prior to June 1, 2009, under the Working Aged guidelines. Since the Group Health Plan was already primary when ESRD eligibility commenced, the Group Health Plan remains the primary payer of benefits during the 30-month coordination period that runs from June 1, 2009 through November 30, 2011. Medicare will become the primary payer of benefits on December 1, 2011.

## Dual Entitlement

### Example 9 – Disability first, then ESRD

- Mr. Silver is age 45
- Initially, he is entitled to Medicare because of Disability only
- GHP coverage through his spouse, who works for an employer that has fewer than 100 employees. (Medicare primary due to employer size under disability guidelines)

Subsequently, Mr. Silver becomes eligible to enroll in Medicare due to ESRD on:	11/01/2008
Medicare was primary under the Disability guidelines prior to:	11/01/2008
Medicare is also primary for the 30-month coordination period:	11/01/2008 through 04/30/2011

NOTE: When the 30-month coordination period ends, Medicare would continue to be primary as long as Mr. Silver remains eligible for Medicare due to ESRD

In this example, Mr. Silver is age 45 and is on Medicare because of Disability. Mr. Silver is covered by his spouse's Group Health Plan that is through an employer of fewer than 100 employees. Subsequently, Mr. Silver became eligible to enroll in Medicare due to ESRD on November 1, 2008.

Medicare was the primary payer of benefits under the Disability guidelines prior to November 1, 2008. Medicare was primary because the employer that offered the Group Health Plan had fewer than 100 employees and the GHP was not a multiple employer/multi-employer plan. Since Medicare was primary prior to the date he first became eligible to enroll in Medicare due to ESRD, Medicare would be primary during the 30-month coordination period (i.e., November 1, 2008 through April 30, 2011).

When the 30 month coordination period ends April 30, 2011, Medicare would continue to be primary for as long as Mr. Silver remains eligible for Medicare due to ESRD.

## Key Concepts

- 30-month coordination period applies for ESRD MSP
  - Beneficiary may have multiple coordination periods
- GHP coverage on any basis, including retirement
- No employer size limitations when determining primary or secondary payer for ESRD
- Special rules for dual entitlement
- ESRD-based Medicare entitlement can end
  - No dialysis for 12 months
  - 36-months after a successful kidney transplant

Key concepts that were addressed in this course include the fact that for ESRD MSP, a 30-month coordination period applies. A beneficiary may have multiple 30-month coordination periods. Medicare will be the secondary payer of benefits during the 30-month coordination period if the beneficiary has GHP coverage on any basis, including retirement. There are no employer size limitations imposed when determining if Medicare is primary or secondary for ESRD. Special rules are applied when a person is eligible to enroll in Medicare for more than one reason. ESRD-based Medicare entitlement can end. A beneficiary will lose ESRD-based Medicare entitlement if no dialysis was received for twelve months. The beneficiary will also lose ESRD-based Medicare entitlement thirty-six months after a successful kidney transplant.



You have completed the MSP End Stage Renal Disease course. Information in this course can be referenced by using the CMS Web site found at the following link: <http://www.cms.gov/>.

You have completed the MSP End Stage Renal Disease course. Information in this course can be referenced by using the CMS Web site found at the following link: <http://www.cms.gov/>.



If you have any questions or feedback on this material,  
please go the following URL:

<https://www.surveymonkey.com/s/MSPTrainingSurvey>.

If you have any questions or feedback on this material, please go the following URL:  
<https://www.surveymonkey.com/s/MSPTrainingSurvey>.