



Related MLN Matters Article #: MM3120

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Related CR #: 3120

*Application of the Medicare Secondary Payer for the Working Aged Provision to Former Spouses and the Medicare Secondary Payer for the Disabled Provision to Former Spouses and Certain Family Members with Coverage Under the Federal Employees Health Benefits (FEHB) Program*

### Key Words

MM3120, CR3120, FEHB, Spouse Equity Act, Primary Payer, Medicare Secondary, Working Aged Provision, Former Spouse, Former Employee, FEHB, Federal Employee

### Provider Types Affected

All Medicare providers

### Key Points

- The effective date of instruction is November 29, 2004.
- The implementation date is November 29, 2004.
- MM3120 alerts providers that former spouses of certain federal employees, former employees, or annuitants, may qualify to enroll in a health benefits plan under the FEHB and the correct order of payment.
- Certain former spouses of people who have Federal Employees Health Benefits are entitled to coverage under the Spouse Equity Act because their divorce decree gives them the right to a portion of a future retirement annuity and/or to a survivor annuity, and because their former spouse is either an active worker, someone who is entitled to a future annuity, or is an annuitant.
- Section 1862 (b)(1)(A) of the Social Security Act, states that Medicare is secondary payer for individuals age 65 or over who have group health coverage by virtue of their own or a spouse's current employment status.
- Under the Spouse Equity Act, the individual is no longer on the former spouse's policy.
- Coverage is considered a separate, self-only policy. That is, it is not dependent coverage but a policy separate from the former spouse. The employer makes no contributions to the coverage.

- Medicare is the primary payer for the former spouse, once they are entitled to Medicare under the working aged provision.
- Under the Medicare secondary for the disabled provision, Medicare would be primary for the former spouse as well as any covered family members since the coverage is not considered employment based.

### Important Links

The related MLN Matters article can be found at

<http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM3120.pdf> on the CMS website.

The official instructions (CR3120) issued can be found at

<http://www.cms.hhs.gov/Transmittals/downloads/R18MSP.pdf> on the CMS website.