

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-05 Medicare Secondary Payer	Centers for Medicare & Medicaid Services (CMS)
Transmittal 13981	Date: October 2, 2026
	Change Request 14603

SUBJECT: Federal Annuitants Under the Federal Employees Health Benefit Program (FEHBP) Receiving Federal Workers' Compensation (WC) Benefits

I. SUMMARY OF CHANGES: The purpose of this Change Request (CR) is to provide our Medicare Administrative Contractors (MACs) with the Centers for Medicare & Medicaid Services's policy position regarding Medicare's order of insurance coverage for Federal annuitants under the Federal Employees Health Benefits Program (FEHBP) who are also receiving Federal workers' compensation benefits.

EFFECTIVE DATE: November 2, 2026

**Unless otherwise specified, the effective date is the date of service.*

IMPLEMENTATION DATE: November 2, 2026

Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual is not updated)

R=REVISED, N=NEW, D=DELETED-Only One Per Row.

R/N/D	CHAPTER / SECTION / SUBSECTION / TITLE
R	2/50/ Workers' Compensation (WC)

III. FUNDING:

For Medicare Administrative Contractors (MACs):

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

IV. ATTACHMENTS:

**Business Requirements
Manual Instruction**

Attachment - Business Requirements

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II. GENERAL INFORMATION

A. Background: During 2022, the Office of Personnel Management (OPM) applied a minor change to its annual benefits booklet with respect to Federal annuitants who also have Federal workers' compensation coverage through the Office of Workers' Compensation Programs (OWCP). The change, which reversed all OPM direction for 2021 and prior, indicated that, for Federal annuitants with FEHBP coverage and who also have Federal workers' compensation benefits through OWCP, Medicare is now the secondary payer to FEHBP coverage. This position contradicts CMS's regulatory guidance in 42 CFR 411.104 with respect to the definition and application of an individual having "current employment status." After thorough internal deliberations, CMS has decided it needs to publish its guidance concerning Medicare's primary status relative to FEHBP for annuitants who also have Federal workers' compensation benefits. CMS accomplishes this objective through this instruction.

B. Policy: Medicare is the primary payer relative to FEHBP coverage for Federal annuitants who also have Federal workers' compensation benefits through OWCP.

III. BUSINESS REQUIREMENTS TABLE

"Shall" denotes a mandatory requirement, and "should" denotes an optional requirement.

Number	Requirement	Responsibility								
		A/B MAC			DME MAC	Shared-System Maintainers				Other
		A	B	HHH		FISS	MCS	VMS	CWF	
14603.1	For questions or inquiries regarding whether Medicare is the primary payer for Federal annuitants (retirees) with FEHBP coverage who also have Federal workers' compensation coverage, all MAC personnel and others designated as impacted entities shall refer to the	X	X	X	X					BCRC, CRC

Number	Requirement	Responsibility								
		A/B MAC			DME MAC	Shared-System Maintainers				Other
		A	B	HHH		FISS	MCS	VMS	CWF	
	updated Internet Only Manual section to obtain the information needed to respond to these queries.									

IV. PROVIDER EDUCATION

None

Impacted Contractors: None

V. SUPPORTING INFORMATION

Section A: Recommendations and supporting information associated with listed requirements: N/A

"Should" denotes a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:

Section B: All other recommendations and supporting information: N/A

VI. CONTACTS

Post-Implementation Contact(s): Contact your Contracting Officer's Representative (COR).

VII. FUNDING

Section A: For Medicare Administrative Contractors (MACs):

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ATTACHMENTS: 0

50 - Workers' Compensation (WC)

(Rev. 13981; Issued: 10-02-2026; Effective: 11-02-2026; Implementation: 11-02-2026)

A - General

Under §1862(b)(2) of the Act, (42 U.S.C. 1395y(b)(2)), and outlined in 42 CFR § 411.40, payment under Medicare may not be made for any items and services to the extent that payment has been made or can reasonably be expected to be made for such items or services under a WC law or plan of the United States or any State. If it is determined that Medicare has paid for items or services that can be or could have been paid for under WC, the Medicare payment constitutes an overpayment.

This limitation also applies to the WC plans of the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands. It also applies to the Federal WC plans provided under the Federal Employees' Compensation Act, the U.S. Longshoremen's and Harbor Workers' Compensation Act and its extensions, and the Federal Coal Mine Health and Safety Act of 1969 as amended (the Federal Black Lung Program).

These Federal programs provide WC protection for Federal Civil Service employees and certain other categories of employees not covered, or not adequately covered, under State WC programs, for example:

- Coal miners totally disabled due to pneumoconiosis;
- Maritime workers (with the exception of seamen);
- Employees of companies performing overseas contracts with the United States government;
- Employees of American companies who are injured in an armed conflict;
- Employees paid from non-appropriated Federal funds (such as employees of post-exchanges);
- Offshore oil field workers; and
- Qualified claimants under the Department of Labor's Energy Employees Occupational Illness Compensation Program.

The Federal Employers' Liability Act, which covers merchant seamen and employees of interstate railroads, is not a WC law or plan for purposes of this exclusion. Similarly, some States have employers' liability acts. These also are not considered WC acts for purposes of this exclusion. However, they are considered liability insurance, and the MSP liability rules apply.

All WC acts require that the employer furnish the employee with necessary medical and hospital services, medicines, transportation, apparatus, nursing care, and other necessary restorative items and services. However, in some States there are limits to the amount of medical and hospital care provided. For specific information regarding the WC plan of a particular State or territory, contact the appropriate agency of that State or territory. If payment for services cannot be made by WC because they were furnished by a source not authorized by WC, such services can be paid for by Medicare.

The beneficiary is responsible for taking whatever action is necessary to obtain payment under WC where payment under that system can reasonably be expected (e.g., timely filing a claim, furnishing all

necessary information). If failure to take proper and timely action results in a loss of WC benefits, Medicare benefits are not payable to the extent that payment could reasonably have been expected under WC.

Federal Annuitants Under the Federal Employees Health Benefit Program (FEHBP) Receiving Federal Workers' Compensation (WC) Benefits as a Compensationner

Pursuant to 5 CFR § 809.101, a "compensationner" is an employee or former employee who is entitled to compensation and whom the Department of Labor determines is unable to return to duty. 5 U.S.C. § 8901(3) further defines a "compensationner" as an annuitant for purposes of coordination of benefits insofar as Medicare is concerned. 42 CFR § 411.104 clarifies that such an individual is not expected to return to work and thus he or she no longer has FEHB coverage "by nature of his or her employment." Therefore, in such situations, when a beneficiary who maintains FEHB coverage, and who is receiving Federal WC benefits, and who is deemed unable to return to work after six (6) months, Medicare is the primary payer while the FEHB plan is the secondary payer.