

Medicare Secondary Payer Disability Introduction

Slide 1 of 22 - Medicare Secondary Payer Disability Introduction

CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES

COB&R
Coordination of
Benefits and Recovery

Medicare Secondary Payer (MSP)

MSP Disability Introduction

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Slide notes

Welcome to the Electronic Correspondence Referral System Medicare Secondary Payer Disability course.

Slide 2 of 22 - Disclaimer

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 in the ECRS Web User guide found at the following link: <https://go.cms.gov/>.

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Slide 3 of 22 - Course Overview

Course Overview

- MSP Guidelines for Disability
 - Employer Size
 - Examples
 - Employer Guidelines
 - GHP Guidelines

**Slide notes**

This course will provide an overview on the MSP provisions of the Social Security Act for beneficiaries entitled to Medicare based on a disability. It will provide guidelines in regard to employer size considerations,

examples showing when Medicare would be secondary payer, and employer and Group Health Plan (GHP) guidelines.

Slide 4 of 22 - MSP Guidelines for Disability

MSP Guidelines for Disability

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

- 1 Beneficiary is under age 65 and on Medicare because of disability
- 2 Insured person is the beneficiary or family member
- 3 GHP coverage based on current employment status of insured person
- 4 **Employer Size**
 - Employer providing coverage must employ at least 100 employees, OR
 - If GHP is part of a multi-employer/multiple-employer plan, at least one employer must employ 100 or more employees

Slide notes

The MSP provisions of the Social Security Act require GHPs to make payments before Medicare under certain circumstances.

Medicare is the secondary payer under the Disability provisions of MSP if all of the following conditions are met. First, the beneficiary must be under age 65 and on Medicare because of a disability. Second, the insured person under the GHP must be either the beneficiary or family member.

A family member is any individual covered by the GHP based upon current employment status. Third, the GHP coverage must be based upon the current employment status of the insured person.

Fourth, the employer providing the GHP coverage must have 100 or more employees, or if the GHP is part of a multi-employer/multiple-employer plan, at least one of the employers in the multi-employer/multiple employer plan must employ 100 or more people.

Slide 5 of 22 - Medicare Beneficiary Under the Age of 65

Medicare Beneficiary Under the Age of 65

Beneficiary on Medicare because of Disability

Medicare entitlement commences after Social Security Disability benefits have been paid for 24 months (exception: ALS)

Note: When beneficiary turns 65, he/she is considered enrolled on the basis of age; therefore, the Working Aged MSP rules begin to apply

Slide notes

The first requirement we will examine is that the beneficiary must be under the age of 65 and be covered by Medicare because of a disability. Medicare entitlement commences after Social Security Disability benefits have been paid for 24 months.

An exception to the 24-month rule occurs if the beneficiary suffers Amyotrophic Lateral Sclerosis, also known as ALS or Lou Gehrig's disease. Persons with ALS become entitled to Medicare the same month they start receiving Social Security Disability benefits.

The Disability provisions of MSP cease to apply as of the first day of the month the beneficiary turns age 65.

Note: When the beneficiary turns 65, he/she is considered enrolled in Medicare on the basis of age; therefore, the Working Aged MSP rules begin to apply.

Slide 6 of 22 - Insured Person is Beneficiary or Family Member

Insured Person is Beneficiary or Family Member

- Disability provision broader than Working Aged provision
- Disability provision applies when GHP coverage is through a family member

**Slide notes**

The second requirement is that the insured person under the GHP must be either the beneficiary or another family member. This aspect of the Disability provisions of Medicare Secondary Payer is broader than that of the Working Aged provisions.

Under the Working Aged provisions, the GHP policyholder must be the beneficiary or the spouse. A family member includes anyone who is covered on the basis of someone else's enrollment.

Slide 7 of 22 - Current Employment Status

Current Employment Status

A person entitled to Medicare on the basis of Disability has current employment status if he/she is

- Actively working as an employee, is the employer (including a self-employed person), or is associated with the employer in a business relationship; or
- Not actively working and is receiving disability benefits from an employer for up to 6 months (the first 6 months of employer disability benefits are subject to FICA taxes); or
- Not actively working but meets all of the following conditions on the next slide

Slide notes

The third requirement for Medicare to be the secondary payer under the Disability provisions, is that the insured person under the GHP must have current employment status with the employer that offers the GHP.

A person entitled to Medicare on the basis of Disability has current employment status if the person fits the following criteria.

That person must be actively working as an employee, is the employer (including a self-employed person), or is associated with the employer in a business relationship.

The person might also be the insured person, is not actively working and is receiving disability benefits from an employer for up to 6 months.

Note: the first 6 months of employer disability benefits are subject to Federal Insurance Contributions Act (FICA) taxes.

Lastly, the person might not be actively working but meets all of the following conditions on the next slide.

Slide 8 of 22 - Current Employment Status

Current Employment Status

- Retain employment rights in the industry
- Employment has not been terminated by employer if the employer provides coverage, or
 - Membership in the employee organization has not been terminated if the employee organization provides the coverage
- Not receiving disability benefits from an employer for more than 6 months
- Not receiving Social Security Disability benefits
- Must have employment-based GHP coverage that is not COBRA continuation coverage

Slide notes

If the insured person is not actively working, he/she must meet all the following conditions for Medicare to be the secondary payer under the Disability provisions. The insured person must retain employment rights in the industry.

The insured person must not have had his/her employment or employee organization membership terminated by the employer or employee organization if the employer or employee organization provides the coverage.

The insured person must not be receiving disability benefits from an employer for more than 6 months.

The insured person must not be receiving Social Security Disability benefits, and finally, the insured person must have employment-based GHP coverage that is not Consolidated Omnibus Budget Reconciliation Act (COBRA) continuation coverage.

Slide 9 of 22 - Employer Size Guidelines for Disability MSP

Employer Size Guidelines for Disability MSP

Medicare is secondary to the GHP of a single employer that

- Employs 100 or more employees 50% or more of its business days during the previous calendar year
- Business days do not have to be consecutive
- An individual does not have to be working on a particular day in order to be counted as an employee

Slide notes

The final requirement for Medicare to be the secondary payer under the Disability provisions concerns employer size.

Under these provisions, Medicare is secondary to the GHP benefits when a single employer employs 100 or more full-time and/or part-time employees, during 50 percent or more of its business days during the previous calendar year.

The business days do not have to be consecutive, and an individual does not have to be working on a particular day in order to be counted as an employee. Medicare is secondary to an employer's GHP that is not considered to be a multi or multiple-employer GHP.

Slide 10 of 22 - Single Employer 100 or More Employee Example

Single Employer 100 or More Employee Example

Calendar Year	Number of Employees	Medicare Primary	Medicare Secondary
2006	100 or more for more than 50% of business days	Dependent on 2005 employee count	Dependent on 2005 employee count
2007	Fewer than 100 for more than 50% of business days		X
2008	100 or more for more than 50% of business days	X	
2009			X

Slide notes

This slide illustrates how the 100 or more employee rule works. Assume an employer employed 100 or more employees for more than 50 percent of its business days in 2006 and 2008.

During 2007, the number of employees was fewer than 100 for over 50 percent of its business days.

Medicare would be the secondary payer during calendar year 2007 because there were 100 or more employees on 50 percent or more of the business days in 2006. Medicare would be primary in 2008 because there were fewer than 100 employees during 2007.

Medicare would again become secondary for 2009 because the 100-employee threshold was satisfied in 2008.

Slide 11 of 22 - Multi-Employer/Multiple-Employer GHP

Multi-Employer/Multiple-Employer GHP

- Any trust, plan, association or any other arrangement that is sponsored jointly by two or more employers (sometimes called a multiple employer plan) or by employers and unions (as under the Taft-Hartley law), where they
 - Contribute, sponsor, directly provide health benefits, or
 - Facilitate directly or indirectly the acquisition of health insurance by an employer member
- If such facilitation exists, the employer is a participant in a multi-employer/multiple employer GHP even if it has a separate contract with an insurer

**Slide notes**

A multi-employer/multiple employer plan is defined as, any trust, plan, association or any other arrangement that is sponsored jointly by two or more employers or by employers and unions (as under the Taft-Hartley law),

where they contribute, sponsor, directly provide health benefits, or facilitate, directly or indirectly the acquisition of health insurance by an employer member.

If such facilitation exists, the employer is a participant in a multi-employer/multiple employer GHP even if it has a separate contract with an insurer.

Slide 12 of 22 - Size Guidelines for a Multi-Employer/Multiple-Employer GHP Under Disability MSP

Size Guidelines for a Multi-Employer/Multiple-Employer GHP Under Disability MSP

Medicare is secondary to GHP for all individuals enrolled in a multi-employer/multiple-employer plan where

- At least one employer employed 100 or more employees on 50% or more of its business days during the previous calendar year

Under Working Aged guidelines, a GHP may request a Small Employer Exception

- No Small Employer Exception exists for Disability

Slide notes

If the GHP is a multi-employer/multiple-employer plan, Medicare is secondary for all individuals enrolled in the GHP or Prescription Drug Plan, as long as at least one of the employers meets the 100-or-more-employee requirement,

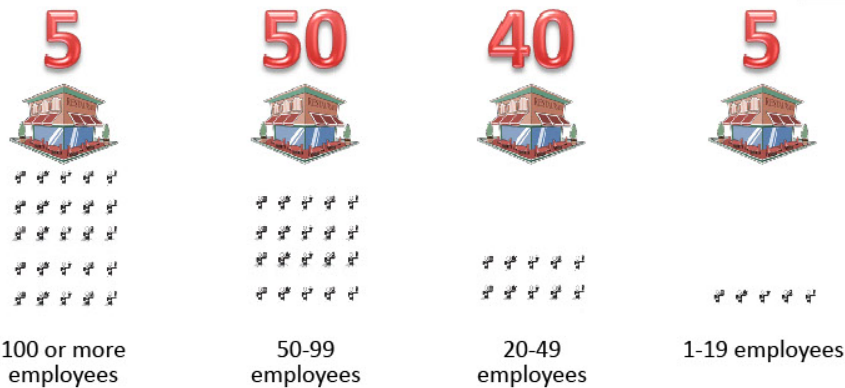
(i.e., at least one employer employed 100 or more employees on 50% or more of its business days during the previous calendar year).

Note: Under the Working Aged guidelines, a GHP may request an exception for small employers. This exception does not exist under the Disability guidelines.

Slide 13 of 22 - Multi-Employer/Multiple-Employer 100 or More Employee Example

Multi-Employer/Multiple-Employer 100 or More Employee Example

- Upper Midwest Restaurant Owners Association has 100 restaurants in a multi-employer/multiple-employer GHP



- Number of employees on 50% or more of business days in the previous
- Medicare is secondary for all disabled individuals enrolled in this plan

Slide notes

For example, assume the Upper Midwest Restaurant Owners Association has 100 restaurants that participate in a multi-employer/multiple-employer GHP.

Five of the restaurants have 100 or more employees, 50 restaurants have between 50 - 99 employees, 40 restaurants have between 20 - 49 employees, and 5 restaurants have between 1 - 19 employees.

Since five of the restaurants in the multi-employer/multiple-employer GHP employed 100 or more employees on 50% or more of their business days in the prior calendar year,

Medicare is the secondary payer for all disabled individuals under the Disability guidelines for all restaurants, even those that have fewer than 100 employees during the current calendar year.

Next, are examples that illustrate how the Disability provision of Medicare Secondary Payer work.

Slide 14 of 22 - Disability MSP - GHP Primary Example

Disability MSP - GHP Primary Example	
Beneficiary:	Age 39, Construction worker
Employer:	None, receives Social Security Disability payments
Insurance:	Medicare & CIGNA through spouse
Spouse:	Age 41, Registered Nurse
Employer:	State of New York
Insurance:	CIGNA
Primary Insurance:	CIGNA

Slide notes

Assume we have a 39-year-old construction worker who is on Medicare because of a disability. He has no GHP coverage through his former employer.

His spouse, age 41, is employed by the State of New York and she covers him with her CIGNA insurance that is offered by the State.

CIGNA would be primary. All of the criteria for Medicare to be secondary has been met. The beneficiary is under age 65 and on Medicare because of disability.

The GHP coverage is through a family member. The CIGNA coverage is due to the current employment status of his spouse, and the State of New York does employ 100 or more full and/or part-time employees.

Slide 15 of 22 - Disability MSP - Medicare Primary Example

Disability MSP - Medicare Primary Example

Beneficiary:	Age 56, Investment Banker
Employer:	Goldman Sachs (has not actively worked for 3 years), receives Social Security Disability benefits
Insurance:	Medicare & Blue Cross Blue Shield through Goldman Sachs
Spouse:	None
Employer:	N/A
Insurance:	N/A
Primary Insurance:	Medicare

Slide notes

In this example, we have a 56-year-old investment banker who draws Social Security Disability benefits. He is on Medicare and has Blue Cross and Blue Shield coverage through Goldman Sachs, where he used to actively work. He has no spouse.

The primary insurer is Medicare. Medicare is primary because the Blue Cross and Blue Shield coverage is not based upon current employment status.

The beneficiary does not meet all the conditions for a person who is not actively working, as outlined on slide #8 in this presentation.

Slide 16 of 22 - Disability MSP - Beneficiary Covered Under 3 Policies

Disability MSP - Beneficiary Covered Under 3 Policies

Beneficiary:	Age 60, Real Estate Agent
Employer:	Century 21 (has not actively worked for 6 years), receives Social Security Disability benefits
Insurance:	Medicare, Humana through Century 21 & Kaiser Permanente through his spouse
Spouse:	Age 66, Postal Inspector
Employer:	United States Postal Service
Insurance:	Kaiser Permanente
Primary Insurance:	Kaiser Permanente
Secondary Insurance:	Medicare

Slide notes

In this example, the beneficiary is 60 years old and has Humana insurance from his previous employer. He also receives Social Security Disability benefits and has Medicare coverage.

His spouse is age 66. She works for the Post Office and provides coverage for her spouse with her Kaiser Permanente insurance. The beneficiary in our example has coverage under three policies: Medicare, Humana, and Kaiser Permanente.

Medicare Secondary Payer guidelines require that Kaiser Permanente pays before Medicare. The fact that the spouse is over age 65 has no bearing. Disability guidelines apply because it is the beneficiary who is under age 65.

The Kaiser Permanente insurance coverage is due to current employment status. It is through a family member and the Post Office has more than 100 employees.

Under the Medicare guidelines, Humana is not required to pay before Medicare because the beneficiary does not have current employment status with his employer, Century 21.

Slide 17 of 22 - Disability MSP - GHP Primary

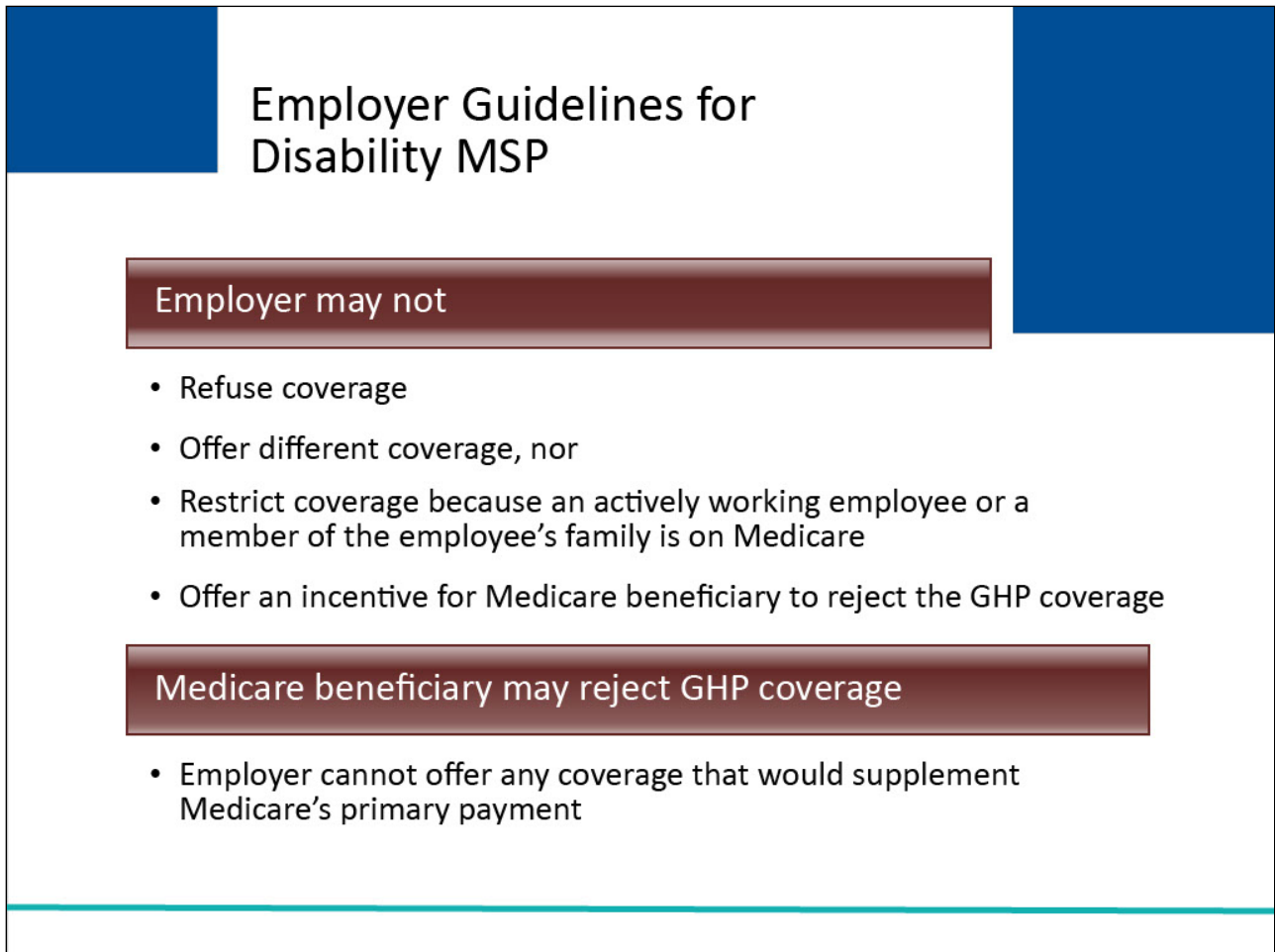
Disability MSP - GHP Primary

Beneficiary:	Age 26, Disabled Adult Child, Not Employed
Employer:	None
Insurance:	Medicare & Aetna his mother
Mother:	Age 67, Customer Service Representative
Employer:	Verizon
Insurance:	Aetna
Father:	Deceased
Primary Insurance:	Aetna

Slide notes

In this last example, the beneficiary is a 26-year-old disabled adult child. He has Medicare coverage based upon his deceased father’s earnings record. He is also covered by Aetna through his mother’s employment with Verizon.

In this example, Aetna would be the primary insurance. The beneficiary is under age 65 and on Medicare because of disability. The GHP coverage is due to the current employment status of a family member and Verizon has more than 100 employees.

Slide 18 of 22 - Employer Guidelines for Disability MSP

Employer Guidelines for Disability MSP

Employer may not

- Refuse coverage
- Offer different coverage, nor
- Restrict coverage because an actively working employee or a member of the employee's family is on Medicare
- Offer an incentive for Medicare beneficiary to reject the GHP coverage

Medicare beneficiary may reject GHP coverage

- Employer cannot offer any coverage that would supplement Medicare's primary payment

Slide notes

Employers must adhere to the following general guidelines regarding GHP coverage that is primary to Medicare.

An employer may not refuse coverage, offer different coverage, nor restrict coverage because an actively working employee or a member of the employee's family is on Medicare.

An employer may not offer an incentive for a Medicare beneficiary to reject the GHP coverage.

A Medicare beneficiary does have the right to decline GHP coverage that would otherwise be primary to Medicare.

However, if the GHP coverage is declined, the employer is prohibited from offering or sponsoring any coverage to that beneficiary that would supplement Medicare's primary payment, such as Medigap.

Slide 19 of 22 - GHP Guidelines for Disability MSP

GHP Guidelines for Disability MSP

- GHP may not consider that an actively working employee or a member of his/her family is entitled to Medicare
- When Medicare is secondary, GHPs may not
 - Offer coverage that pays after Medicare
 - Pay the provider a lesser amount
 - Impose limitations on benefits
 - Apply a higher deductible or coinsurance amount
 - Charge a higher premium because a person is on Medicare
 - Require a person on Medicare to wait longer for coverage to begin
 - Terminate coverage because a person became entitled to Medicare
 - Provide misleading/incomplete information causing Medicare beneficiary to reject coverage

**Slide notes**

When administering GHP benefits to an employer, the GHP cannot take into account the fact that an actively working individual or a member of his/her family is entitled to Medicare.

When Medicare is the secondary payer under the Disability guidelines, the GHP may not offer coverage that pays after Medicare. The GHP may not pay the provider of service a lesser amount, impose limitations on benefits, or apply a higher deductible or coinsurance amount.

The GHP may not charge a higher premium because a person is on Medicare or require a longer wait for the GHP coverage to become effective. The GHP may not terminate coverage of a person that became entitled to Medicare, except as provided in the COBRA law.

Finally, the GHP is prohibited from providing misleading or incomplete information that might induce a Medicare beneficiary to reject coverage under the employer plan.

Slide 20 of 22 - Key Concepts

Key Concepts

Medicare is the secondary payer when

- 1 Beneficiary is under age 65 and on Medicare because of disability
- 2 Insured person is the beneficiary or family member
- 3 Insured person has current employment status with the employer
- 4 Employer employs 100 or more employees or
 - GHP is part of a multi-employer/multiple-employer plan that has at least one employer with 100 or more employees

Slide notes



We have just covered a great deal of information regarding the Disability Medicare Secondary Payer guidelines.

To recap, Medicare is the secondary payer when the beneficiary is under the age of 65 and his/her Medicare entitlement is due to disability; the insured person under the GHP is the beneficiary or a family member of the beneficiary;

the insured person under the GHP has current employment status with the employer that offers the GHP; and the employer that offers the GHP employs 100 or more employees,

or the GHP is part of a multi-employer/multiple-employer plan that has at least one employer with 100 or more employees.

Slide 21 of 22 - Medicare Secondary Payer Disability Conclusion





You have completed the Medicare Secondary Payer Disability course. Information in this course can be referenced by using the CMS website found at the following link: <https://www.cms.gov/>.

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Slide 22 of 22 - Medicare Secondary Payer Disability Survey



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

Slide notes

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