

Medicare Secondary Payer – A Review of the End-Stage Renal Disease (ESRD) with an Employer Group Health Plan (EGHP) Provision

8/15/2023

Today's Presenters

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Objectives

- Familiarize providers with ESRD MSP provision so you can
 - Be compliant with your MSP responsibilities
 - Improve cash flow/decrease staff time
 - Facilitate MSP screening process by more easily concluding which plan is primary and resolving conflicts
 - Facilitate billing process by submitting claims to appropriate primary payer the first time, preventing claim rejections and submitting fewer adjustments



Agenda

2023 MSP webinars

MSP Resources handout

MSP and Your MSP Responsibilities

MSP Provision Review – ESRD

Dual Eligibility/Entitlement

Additional MSP Resources

Questions and answers

2023: MSP Webinar Series

MSP Webinars in Series

- May
 - MSP: Fundamentals (5/4/2023)
- June
 - MSP: Resources (6/28/2023)
- July
 - MSP: Identifying Primary Payers (7/13/2023)
 - MSP: Setting Up and Correcting CWF Records (7/18/2023)
 - MSP: Rejections on Primary Claims (7/20/2023)
- August
 - MSP: Working Aged with EGHP Provision (8/8/2023)
 - MSP: Disabled with LGHP Provision (8/10/2023)
 - MSP: ESRD with EGHP Provision (8/15/2023)

MSP Webinars in Series

- September
 - MSP: No-Fault, Medical-Payment and Liability Provisions
 - MSP: Submitting Claims When Primary Payer Makes Payment (MSP Billing)
 - MSP: Billing Examples
- October
 - MSP: Submitting Claims When Primary Payer Does Not Make Payment (Conditional Billing)
 - MSP: Conditional Billing Examples
 - MSP: Claims That RTP
 - MSP: Conditional Claims That RTP
- November
 - MSP: Adjustments Involving MSP
 - MSP Payment and Beneficiary Responsibility

Additional MSP Webinars

- Virtual conferences (include MSP as topic)
 - Twice a year
- Let's Chat About MSP Part A
 - Once a month
 - For all Part A providers including HHHs and FQHCs/RHCs
 - Ask MSP-related questions (no PHI)
 - Event posted to our website but no presentation

MSP Resources Handout

Fact: The more you know about MSP, the more easily you can achieve compliance with your MSP-related provider responsibilities

Tips: Review MSP resources available to you and continue to learn about MSP!



MSP and Your MSP-Related Responsibilities

What is MSP?

- Beneficiary has coverage primary to Medicare
 - Based on federal laws known as **MSP provisions**
 - ✓ Help determine proper order of payers
 - ✓ Make certain payers primary to Medicare
 - ✓ Each has **criteria/conditions** that must be met
 - If all **are met**, services are subject to that provision making that other insurer primary and **Medicare secondary**
 - If one or more **are not met**, services are not subject to that provision; **Medicare is primary** unless criteria/conditions of another are met

Providers' MSP-Related Responsibilities Per Medicare Provider Agreement



Determine if Medicare is primary payer for beneficiary's services

Identify payers primary to Medicare



Submit claims to primary payer(s) before Medicare

May be more than one payer primary to Medicare



Submit MSP claims to Medicare when required

Follow claim submission guidelines

How to Identify Payers Primary to Medicare

- Check for MSP information in Medicare's records
 - Providers must check for MSP records for beneficiary in CWF
 - ✓ For each service rendered
- Collect MSP information from beneficiary or representative (MSP screening process)
 - Providers may need to ask questions about other insurance
 - ✓ For every IP admission or OP encounter, with some exceptions
 - You may not need to ask questions at all
 - You may need to ask questions but not as often

MSP Records in CWF – Information

- If MSP record(s) present, information includes:
 - **MSP VC** and **primary payer code** for each MSP provision
 - ✓ See next slide – Use MSP VC to report primary payer's payment on MSP claim
 - MSP effective date
 - MSP termination date, if applicable
 - Subscriber's name
 - Policy number
 - Patient's relationship to insured
 - Insurer's information

MSP Value Codes and Primary Payer Codes

MSP VC	MSP Provision/Medicare Exclusion	Payer Code
12	Working aged, age 65 and over, EGHP, 20 or more employees	A
13	ESRD with EGHP in 30-month coordination period	B
14	No-Fault (automobile and other types including medical-payment) or Set-Aside	D or T
15	Workers' Compensation or Set-Aside	E or W
16	Public Health Services	F
41	Federal Black Lung Program	H
43	Disabled, under age 65, LGHP, 100 or more employees	G
47	Liability Insurance or Set-Aside	L or S

Conduct MSP Screening Process

- Collect MSP information from beneficiary or representative
 - Ask questions about their MSP status
 - ✓ Use CMS' model questionnaire or your own compliant form
 - [CMS IOM Publication 100-05, Medicare Secondary Payer Manual, Chapter 3](#), Section 20.2.1
 - Three parts with questions to be asked in sequence
 - Part I – Black Lung, WC, No-Fault (automobile and other types) and Liability
 - **Part II – Medicare entitlement and employer GHPs**
 - Part III – ESRD Medicare entitlement, if applicable (including dual entitlement)

CMS Model MSP Questionnaire – Part II, Questions One and Two

■ Part II. INFORMATION ABOUT MEDICARE ENTITLEMENT AND GHPs

1. Are you entitled to Medicare based on Age, Disability or ESRD?

✓ **Note: If entitlement is based solely on ESRD, skip Part II and complete Part III**

– Stop after completing Part II if you are entitled to Medicare based on Age or Disability

2. Do you have GHP coverage based on your own current employment, or current employment of either your spouse or another family member?

✓ If yes, employer GHP may be primary to Medicare. Continue below.

✓ If no, stop here as Medicare is primary

CMS Model MSP Questionnaire – Part II, Questions Three and Four

3. How many employees, including yourself or spouse, work for employer from whom you have GHP coverage? (1-19, 20 – 99 or 100 or more)
 - ✓ Note: If you are aged and there are 20 or more employees, your GHP is primary. If you are disabled and your employer, spouse, or family member employer, has 100 or more employees, your GHP is primary.
4. The following employer GHP information is required to submit claims appropriately:
 - ✓ Name and address of employer (your own or your spouse's/family member's) through which you receive GHP coverage
 - ✓ Name and address of GHP
 - ✓ Policy number (sometimes referred to as health insurance benefit package number)
 - ✓ Group number
 - ✓ Date the GHP coverage began
 - ✓ Name of policyholder (if coverage is through your spouse/other family member)
 - ✓ Relationship to patient (if other than self)

CMS Model MSP Questionnaire – Part III, Questions One, Two and Three

- Part III. INFORMATION ABOUT THE PATIENT IF ESRD MEDICARE ENTITLEMENT APPLIES (INCLUDING DUAL ENTITLEMENT: AGE & ESRD OR DISABILITY & ESRD)
 1. Do you have employer GHP coverage through yourself, a spouse, or family member if dually entitled based on Disability and ESRD?
 - ✓ If yes, the employer GHP may be primary to Medicare. Continue below.
 2. Have you received a kidney transplant?
 - ✓ Date of transplant
 3. Have you received maintenance dialysis treatments?
 - ✓ Date dialysis began

CMS Model MSP Questionnaire – Part III, Questions Four and Five

4. Are you within the 30-month coordination period?

- ✓ Note: the 30-month coordination period starts the first day of the month an individual is eligible for Medicare (even if not yet enrolled in Medicare) because of kidney failure (usually the fourth month of dialysis) regardless of entitlement due to age or disability. If the individual is participating in a self-dialysis training program, or has a kidney transplant during the 3-month waiting period, the 30-month coordination period starts with the first day of the month of dialysis or kidney transplant.

5. Were you receiving GHP coverage prior to and on the date of Medicare entitlement due to ESRD (or simultaneous entitlement due to ESRD and Age or ESRD and Disability)?

- ✓ Note: If yes, the GHP is primary during the 30-month coordination period.

CMS Model MSP Questionnaire – Part II, Question Six

6. The following information is required to submit claims appropriately:
- ✓ Name and address of the employer (your own or your spouse's/family member's) through which you receive GHP coverage
 - ✓ Name and address of GHP
 - ✓ Policy number (sometimes referred to as the health insurance benefit package number)
 - ✓ Group number
 - ✓ Name of policyholder (if coverage is through your spouse/other family member)
 - ✓ Relationship to patient (if other than self)

Collect Additional Information for Billing

- Collect additional information if applicable
 - Veterans who want to use VA coverage instead of Medicare
 - Beneficiaries receiving services covered by a Government Research Grant
 - Retirement dates of beneficiary and/or spouse/family member
 - ✓ If a person is retired, he/she does not have **current employment status** for purposes of Working Aged or Disabled MSP provisions
 - CMS IOM Publication [100-05, Medicare Secondary Payer Manual, Chapter 1, Section 20.3](#) and [Chapter 2, Section 10.5](#) (current employment status)

Determine Proper Order of Payers

- Determine which plan is primary, secondary, tertiary, etc. payer
 - Use collected MSP information and your knowledge of MSP provisions
 - ✓ In general, Medicare is primary when beneficiary
 - Has no other insurance or coverage
 - Has insurance or coverage but it does not meet MSP provision criteria requirements
 - Had insurance or coverage, it met MSP provision criteria requirements but it is no longer available
 - ✓ In general, other payer(s) is primary when beneficiary
 - Has insurance or coverage that meets MSP provision criteria requirements and it is available



If Medicare is primary

Submit Medicare primary claim



If another payer is primary

Submit claim to that payer first and Medicare secondary if required

May need to submit conditional claim to Medicare if primary payer does not pay for a valid reason or promptly (within 120 days; accidents only)



If more than one payer is primary

Submit claims to those payers and to Medicare third (tertiary), etc.

Contact BCRC With Information You Collect During MSP Screening Process

- During your MSP screening process, you may learn of information Medicare is not aware of
 - If so, obtain documentation and contact BCRC to request a
 - ✓ New MSP record be set up if no such record exists
 - ✓ Correction to open MSP record (correct MSP or other information)
 - ✓ Change open MSP record to primary for reasons other than
 - Beneficiary/spouse retired or
 - Services are not related to open accident MSP record

Documentation From Employer or Insurer

- Providers can fax or mail documentation from employer or insurer to BCRC
 - Documentation must be on that company's letterhead
 - Do not wait for beneficiary to contact BCRC
- Documentation assists BCRC in
 - Setting up MSP records
 - Correcting or changing open MSP records

Do Not Deny Medical Services

- Physicians, providers and suppliers shall not deny medical services or entry to a SNF or hospital after you discover that there is:
 - Open or closed GHP or NGHP MSP record found in HETS or on CWF; or a claim that was previously mistakenly rejected by Medicare due to MSP occurrence
 - [Medicare Secondary Payer: Do Not Deny Services & Bill Correctly](#)

MSP Provision Review – ESRD Beneficiary with EGHP

ESRD MSP Provision

- Medicare benefits are secondary to benefits payable under a GHP for individuals eligible for, or entitled to, Medicare Part A based on ESRD during a period of up to 30 months if Medicare was not already proper primary payer for individual based on entitlement due to age or disability when individual became eligible or entitled to Medicare Part A based on ESRD
 - Coordination period begins when individual is eligible for Medicare Part A
 - Applies to all Medicare covered items and services (not just treatment of ESRD) furnished to individuals who are in coordination period
 - ✓ [CMS IOM Publication 100-05, Medicare Secondary Payer Manual, Chapter 1](#), Section 20.2 and [Chapter 2](#), Section 20

ESRD – Criteria

- EGHP is primary to Medicare if all criteria are met
 1. Individual is eligible for, or entitled to, Medicare based on ESRD
 2. Individual has EGHP through current/former employment of his/her own or through that of a spouse or family member
 3. Individual is in 30-month MSP/ESRD coordination period
- Focus is on individuals eligible for Medicare based solely on ESRD

Criterion One – Individual Must be Eligible
for or Entitled to Medicare Based on ESRD

Medicare Eligibility/Entitlement Based on ESRD

- Individual with ESRD is eligible for Medicare
 - Medicare entitlement/effective date depends on two factors
 - ✓ How ESRD is treated
 - Maintenance dialysis
 - Self-dialysis
 - Kidney transplant
 - ✓ Whether or not he/she applies for Medicare
 - Some choose not to enroll even though are eligible based on ESRD

Medicare Effective Date – Individual is Receiving Maintenance Dialysis

- Individual begins regular course of maintenance dialysis, applies for Medicare
 - Medicare is effective first day of third month following date on which regular course of maintenance dialysis begins
 - ✓ Three-month waiting period applies
 - Medicare is neither primary or secondary in waiting period
- Example
 - Individual begins regular course of maintenance dialysis on 6/12/2022, applies for Medicare
 - ✓ Medicare is effective 9/1/2022

Medicare Effective Date – Individual Enters Self-Dialysis Training Program

- Individual enters self-dialysis training program, begins dialysis, applies for Medicare
 - Medicare is effective first day of month in which course of dialysis begins
 - ✓ Individual is expected to complete training and self-dialyze thereafter
 - No waiting period
- Example
 - Individual enters self-dialysis training program, begins dialysis on 6/12/2022, applies for Medicare
 - ✓ Medicare is effective 6/1/2022

Medicare Effective Date – Individual is Admitted for Kidney Transplant

- Individual is admitted for kidney transplant, applies for Medicare
 - Medicare is effective first day of month in which beneficiary is admitted to hospital for kidney transplant
 - ✓ Transplant must take place within following two months
 - No waiting period
 - ✓ If transplant is delayed more than two months
 - Medicare is effective with second month prior to month of transplant
- Example
 - Individual is admitted for transplant on 6/12/2022, applies for Medicare
 - Transplant occurs within two months
 - ✓ Medicare is effective 6/1/2022

Medicare Termination Dates

- Medicare entitlement based on ESRD ends on earliest of following dates
 - Day individual dies
 - Last day of 12th month after month in which course of dialysis is discontinued
 - ✓ Unless individual receives kidney transplant or begins another course of dialysis (if so, entitlement continues)
 - Last day of 36th month after month in which individual receives kidney transplant

Medicare Reentitlement

- Individual who loses Medicare entitlement based on ESRD can become eligible again
 - Reentitlement to Medicare based on ESRD begins without waiting period
- To become eligible again, individual
 - Begins a new course of dialysis or receives a kidney transplant and
 - Applies for Medicare

Polling Question One

- Individual begins a course of maintenance dialysis on 7/20/2022, applies for Medicare
- Medicare is effective
 - 7/1/2022
 - 10/1/2022
 - 8/1/2022
 - 9/1/2022
 - 7/20/2022

Polling Question Two

- Individual enters self-dialysis training program, begins dialysis on 7/20/2022, applies for Medicare
- Medicare is effective
 - 7/1/2022
 - 10/1/2022
 - 8/1/2022
 - 9/1/2022
 - 7/20/2022

Criterion Two – Individual Must Have EGHP
Through Current/Formal Employment of His/Her
Own or Through Spouse or Family Member

EGHP Coverage

- Individual must have EGHP
 - Through his/her own current or former employer
 - Through spouse's/family member's current or former employer
 - Employer size does not matter
- If individual does not have EGHP, Medicare is primary

Current Employment Example

- Individual

- At age 30, began working at ABC Inc., has their EGHP
- At age 50, still working there, still has their EGHP, develops ESRD, begins dialysis, applies for Medicare

- EGHP is primary to Medicare

- For 30 months
 - ✓ Or less if EGHP terminates prior to end of 30th month

Former Employment Example

- Individual
 - At age 35, began working at XYZ Inc., has their EGHP
 - At age 55, retires and receives their EGHP in retirement package
 - At age 60, develops ESRD, begins dialysis, applies for Medicare
- EGHP is primary to Medicare
 - For 30 months
 - ✓ Or less if EGHP terminates prior to end of 30th month

Direct-Payment Plans and COBRA

- A direct-payment health plan
 - Is not considered an EGHP; it is not primary to Medicare
- COBRA health plan through beneficiary's former employer or spouse/family member's former employer
 - Is considered EGHP, under MSP ESRD provision only, is primary to Medicare
 - Refer to [CMS IOM Publication 100-05, Medicare Secondary Payer Manual, Chapter 2](#), Section 20.2

Criterion Three – Individual Must be in 30-
Month MSP/ESRD Coordination Period

30-Month Coordination Period

- When individual with ESRD has EGHP
 - EGHP is primary to Medicare for 30 months
- During 30-month coordination period
 - EGHP is primary, Medicare is secondary
- After 30-month coordination period
 - Medicare is primary, EGHP is secondary
 - ✓ For as long as ESRD-based Medicare entitlement continues

Counting 30 Months – When to Begin and End

- **Begin** coordination period on **earlier** of
 - Date Medicare Part A **became effective** based on ESRD, or
 - Date Medicare Part A **would have become effective** based on ESRD had individual applied for (enrolled in) Medicare when eligible
- **End** coordination period
 - On last day of 30th month following date on which coordination period began (end of that month) or
 - Earlier if EGHP terminates prior to end of 30th month
 - ✓ Employer could discontinue EGHP if beneficiary/spouse/family member stops working (quits, terminates, retires) but if EGHP continues, coordination period continues

Assumptions for Examples One Through Five

- Assume individuals
 - Are under age 65
 - Are eligible for Medicare based solely on ESRD (not dually-entitled to Medicare)
 - Apply for Medicare (except in Example Four)
 - Have EGHP through own current/former employer or through spouse or family member

Example One: Coordination Period for Maintenance Dialysis

- Individual begins regular course maintenance dialysis on 6/12/2022
 - Medicare effective date = 9/1/2022
 - 30-month coordination period **begins** = 9/1/2022
 - ✓ 9/1/2022 to 8/31/2023 = 12 months and
 - ✓ 9/1/2023 to 8/31/2024 = 12 months and
 - ✓ 9/1/2024 to 2/29/2025 = six months for total of 30 months
 - 30-month coordination period **ends** = 2/29/2025
- Three-month waiting period is 6/12/2023 to 8/31/2023 (individual does not have Medicare during this time)

Example Two: Coordination Period for Self-Dialysis Training

- Individual enters self-dialysis training program, begins dialysis on 6/12/2022
 - Medicare effective date = 6/1/2022
 - 30-month coordination period **begins** = 6/1/2022
 - ✓ 6/1/2022 to 5/31/2023 = 12 months and
 - ✓ 6/1/2023 to 5/31/2024 = 12 months and
 - ✓ 6/1/2024 to 11/30/2024 = six months for total of 30 months
 - 30-month coordination period **ends** = 11/30/2024
- No waiting period

Example Three: Coordination Period for Kidney Transplant

- Individual is admitted to hospital on 6/12/2022 for procedures in preparation for kidney transplant that takes place within two months
 - Medicare effective date = 6/1/2022
 - 30-month coordination period **begins** = 6/1/2022
 - ✓ 6/1/2022 to 5/31/2023 = 12 months and
 - ✓ 6/1/2023 to 5/31/2024 = 12 months and
 - ✓ 6/1/2024 to 11/30/2024 = six months for total of 30 months
 - 30-month coordination period **ends** = 11/30/2024
- No waiting period



Did You Know

- When an individual with ESRD is eligible for, but does not apply for/enroll in Medicare
 - A 30-month ESRD MSP coordination period still applies
 - ✓ If he/she has an EGHP

Coordination Period for Individual Who is Eligible For But Not Enrolled in Medicare

- If individual with ESRD is eligible for but is not enrolled in Medicare
 - A 30-month coordination period applies if he/she has EGHP
 - ✓ **Begins** on date Part A **would have become** effective based on ESRD had individual applied
 - ✓ Ends 30 months later as usual
- If individual applies for and enrolls in Medicare during coordination period
 - Medicare is secondary to EGHP only for portion of coordination period during which individual **is enrolled in** Medicare

Example Four: Coordination Period for Individual Who is Eligible For But Not Enrolled in Medicare

- Individual begins regular course of maintenance dialysis on 6/12/2022
 - Medicare effective date = 9/1/2022 if he/she enrolls in Medicare
 - Coordination period = 9/1/2022 to 2/29/2025 whether he/she enrolls or not
 - EGHP is primary = 9/1/2022 to 2/29/2025; Medicare is secondary if individual enrolls in Medicare during this time
 - ✓ If individual waits and enrolls in Medicare on following dates, Medicare is secondary to EGHP from Part A effective date to end of coordination period
 - If Part A is effective = 3/1/2023, Medicare is secondary= 3/1/2023 to 2/29/2025
 - If Part A is effective = 3/1/2024, Medicare is secondary = 3/1/2024 to 2/29/2025
 - If Part A is effective = 3/1/25, Medicare is not secondary at all during coordination period

Subsequent Coordination Periods

- Once 30-month coordination period ends
 - Medicare becomes primary and remains primary for as long as entitlement to Medicare based on ESRD continues
- A new 30-month coordination period could apply if beneficiary
 - Loses Medicare entitlement based on ESRD
 - Becomes re-entitled to Medicare based on ESRD again
 - Has EGHP

Example Five: Subsequent Coordination Periods

- Individual develops ESRD, is admitted to hospital for transplant on 3/5/2017 (successful) and applies for Medicare
 - Medicare effective date = 3/1/2017 (no waiting period)
 - EGHP is primary, 30-month coordination period = 3/1/2017 to 8/31/2019
 - ESRD-based entitlement ends on last day of 36th month after transplant month = 4/30/2020
 - Medicare is primary after coordination period to end of entitlement = 9/1/2019 to 4/30/2020
- Same individual develops ESRD, begins dialysis on 6/12/2022, enrolls in Medicare
 - Medicare effective date = 6/1/2022 (no waiting period)
 - If individual still has EGHP, another coordination period applies = 6/1/2022 to 11/30/2024

Polling Question Three

- Individual with EGHP begins course of maintenance dialysis on 8/15/2022, applies for Medicare
- What is 30-month coordination period?
 - 8/1/2022 to 1/31/2025
 - 9/1/2022 to 2/29/2025
 - 10/1/2022 to 3/31/2025
 - 11/1/2022 to 4/30/2025
 - 12/1/2022 to 5/31/2025

Polling Question Four

- Individual with EGHP enters self-dialysis training program, begins dialysis on 8/15/2022, applies for Medicare.
- What is 30-month coordination period?
 - 8/1/2022 to 1/31/2025
 - 9/1/2022 to 2/29/2025
 - 10/1/2022 to 3/31/2025
 - 11/1/2022 to 4/30/2025
 - 12/1/2022 to 5/31/2025

Dual Eligibility/Entitlement

Dual Eligibility/Entitlement to Medicare and General Rule of Thumb

- Dually eligible/entitled to Medicare
 - Beneficiaries who are eligible for or entitled to Medicare for more than one reason
 - ✓ Eligible for or entitled based on ESRD, then develops another reason such as age 65 or disability OR
 - ✓ Entitled based on age 65 or disability, then develops ESRD
- General rule of thumb
 - If Medicare was primary before beneficiary became dually eligible/entitled to Medicare
 - ✓ Medicare is/remains primary (EGHP secondary) after beneficiary becomes dually eligible/entitled
 - If EGHP was primary before beneficiary became dually eligible/entitled to Medicare
 - ✓ EGHP is/remains primary (Medicare secondary) after beneficiary becomes dually eligible/entitled
 - For duration of coordination period



How to Determine if EGHP is Primary in Dual Entitlement Situations

- Apply OBRA 1993 regulations to determine if EGHP is primary to Medicare
 - When dual eligibility/entitlement occurs and
 - Beneficiary has EGHP

ESRD First, Then Age 65 or Disability

- Beneficiary is already eligible for or entitled to Medicare based on ESRD and then develops another reason for Medicare (age 65 or disability)
 - If beneficiary has EGHP and was in a 30-month coordination period, EGHP remains primary
 - ✓ Continue coordination period until end of 30th month
 - ✓ Dual eligibility/entitlement does not change fact that EGHP is primary to Medicare for 30 months
 - ✓ MSP VC 13

Example (ESRD First, Then Age 65)

- Beneficiary, age 63, is eligible for or entitled to Medicare based on ESRD, has EGHP
 - EGHP is primary to Medicare for 30 months
- Beneficiary turns age 65 during coordination period, becomes dually entitled to Medicare
 - EGHP remains primary
 - Continue coordination period until end of 30th month
 - MSP VC 13

Age 65 or Disability First, Then ESRD

- Beneficiary, is entitled to Medicare based on age or disability, then develops ESRD
 - If beneficiary has EGHP which is primary to Medicare under Working Aged or Disabled MSP provision
 - ✓ EGHP remains primary **but now under ESRD MSP** provision
 - ✓ Change to dual entitlement based on ESRD makes ESRD MSP provision begin to apply
 - ✓ Determine coordination period (first determine ESRD-based Medicare effective date)
 - ✓ Beneficiary was MSP VC 12 (Working Aged with EGHP) or MSP VC 43 (Disabled with LGHP) **but now changes to** MSP VC 13 (ESRD with EGHP) with beginning date of coordination period

Example (Age 65 First, Then ESRD)

- Beneficiary has Medicare based on age, is still working, has EGHP through single employer with 20 or more employees
 - EGHP is primary to Medicare under Working Aged (MSP VC 12)
- Beneficiary develops ESRD, begins maintenance dialysis, becomes dually eligible for or entitled to Medicare
 - EGHP remains primary but coordination period applies
 - ✓ Apply three-month waiting period (remains MSP VC 12 during this time)
 - ✓ MSP VC 13 with beginning date of coordination period

Age 65 or Disability First (EGHP Legitimately Secondary to Medicare), Then ESRD

- If beneficiary has Medicare based on age 65 or a disability, has EGHP through former employer (retired), Medicare is primary because Working Aged or Disabled MSP provision does not apply
 - If this beneficiary develops ESRD
 - ✓ Medicare is/remains primary because EGHP was legitimately secondary to Medicare when beneficiary developed ESRD
 - ✓ Do not apply a coordination period

Example (Age 65 First, EGHP Legitimately Secondary to Medicare, Then ESRD)

- Beneficiary, with Medicare based on age, retires at age 67 and has EGHP through former employer
 - Medicare is primary to EGHP
- At age 68, beneficiary develops ESRD, begins maintenance dialysis and becomes dually entitled to Medicare
 - Medicare remains primary to EGHP

Example (Disability First, EGHP Legitimately Secondary to Medicare, Then ESRD)

- Beneficiary, age 43, has Medicare based on a disability, is still working, has EGHP through single employer with less than 100 employees
 - Medicare is primary to EGHP
- At age 44, beneficiary develops ESRD, is admitted to hospital for a kidney transplant and becomes dually eligible for or entitled to Medicare
 - Medicare remains primary to GHP

ESRD-Based Entitlement Can End for Dually-Entitled Beneficiaries

■ General rule

- Once 30-month coordination period ends, Medicare becomes and remains primary as long as dual entitlement to Medicare continues
- If dual entitlement to Medicare ends because beneficiary loses ESRD-based entitlement
 - ✓ EGHP can become primary under Working Aged or Disabled MSP provision
 - Beneficiary loses ESRD-based Medicare entitlement but remains entitled either based on age and meets Working Aged MSP provision criteria OR based on a disability (other than ESRD) and meets Disabled MSP provision criteria

Scenario and Polling Question Five

- Scenario
 - Beneficiary, age 64, is eligible for/entitled to Medicare based on ESRD, has EGHP that is primary to Medicare for coordination period. Turns age 65 during coordination period.
- Which plan is primary?
 - Medicare
 - EGHP through coordination period

Scenario and Polling Question Six

- Scenario
 - Beneficiary, age 60, is entitled to Medicare based on a disability, is still working with LGHP through single employer with 100 or more employees; LGHP is primary. At age 62, develops ESRD, begins maintenance dialysis.
- Which plan is primary?
 - Medicare
 - LGHP through coordination period

Scenario and Polling Question Seven

- Scenario
 - Beneficiary, age 68, is entitled to Medicare based on age, is still working with EGHP through single employer with 20 or more employees; EGHP is primary. At age 69, develops ESRD, begins a self-dialysis training program and self-dialysis.
- Which plan is primary?
 - Medicare
 - EGHP through coordination period

Scenario and Polling Question Eight

- Scenario
 - Beneficiary with Medicare based on age retires at age 66 and has a EGHP from former employer; Medicare is primary. At age 67, he develops ESRD. begins maintenance dialysis.
- Which plan is primary?
 - Medicare
 - EGHP through coordination period

Recap: Medicare is Primary – ESRD MSP Provision Does Not Apply

- Following individuals are not subject to ESRD MSP provision; Medicare is primary
 - ESRD beneficiaries without EGHP coverage
 - ESRD beneficiaries with direct-payment health plan (other than COBRA)
 - Beneficiaries who completed 30-month ESRD MSP coordination period
 - Dually eligible/entitled beneficiaries who had Medicare as their primary payer before their second reason for Medicare eligibility/entitlement

ESRD – Submitting Claims

Submitting Claims For ESRD Beneficiaries – EGHP is Primary

- If **all** ESRD MSP provision criteria **are met**
 - Submit claim to EGHP as primary and Medicare as secondary
 - ✓ MSP VC 13 (CC 06 and OC 33 with date)
 - Refer to [our website](#) articles [Prepare and Submit an MSP Claim](#) and [Prepare and Submit an MSP Conditional Claim](#)
- For MSP or conditional claim to process, a **matching** MSP record must be in CWF
 - MSP record has same information as is on claim
 - ✓ If no matching MSP record in CWF, **contact BCRC prior to submitting claim**
 - If you submit claim before such record is in CWF, it suspends for up to 100 days while we contact BCRC
 - Refer to [our website](#) articles [Set Up a Beneficiary's MSP Record](#) and [Correct a Beneficiary's MSP Record](#)

Submitting Claims For ESRD Beneficiaries – Medicare is Primary

- If **one or more ESRD** MSP provision criteria **are not met**
 - Submit claim to Medicare as primary with explanatory coding indicating reason
 - ✓ CC 10 = Beneficiary and/or spouse is employed but does not have EGHP
 - Will not change open MSP VC 13 records
 - Refer to [our website](#) articles [Prevent an MSP Rejection on a Medicare Primary Claim](#) and [Collect and Report Retirement Dates on Medicare Claims](#)
- If there is an MSP record in CWF that would cause a primary claim to reject
 - Contact BCRC to change MSP record
 - ✓ Explanatory coding on claim will not prevent claim rejection for MSP unless such coding is for retirement date(s) and MSP records are for MSP VCs 12 or 43 (but not MSP VC 13)
 - Refer to [our website](#) article [Correct a Beneficiary's MSP Record](#)

What You Should Do Now

- Be familiar with MSP resources
- Develop and implement policies that ensure your facility meets its MSP responsibilities
- Ensure your admissions/registration department works closely with your billing department
- Share this presentation with coworkers
- Continue to attend our MSP webinars

Additional MSP Resources

CMS' MSP Resources

- [Internet-Only Manuals \(IOMs\)](#)

- [100-05, Medicare Secondary Payer Manual, Chapter 1](#), Sections
 - ✓ 10, Definitions of various terms including employee, employer, GHP
 - ✓ 20.2, End-Stage Renal Disease (ESRD)
- [100-05, Medicare Secondary Payer Manual, Chapter 2](#), Sections
 - ✓ 20, MSP Provisions for End-Stage Renal Disease (ESRD) Beneficiaries
 - ✓ 20.1, Determining the 30 Month Coordination Period During Which Medicare May Be Secondary Payer
 - ✓ 20.1.1, Duration of Coordination Period
 - ✓ 20.1.2, Determination for Subsequent Periods of ESRD Eligibility
 - ✓ 20.1.3, Dual Eligibility/Entitlement Situations
 - ✓ 20.1.4, Summary Chart for ESRD-MSP Rules and Dually Eligible Medicare Beneficiaries
 - ✓ 20.2, Effect of ESRD MSP on Consolidated Omnibus Budget Reconciliation Act (COBRA)
- [100-05, Medicare Secondary Payer Manual, Chapter 3](#), Section
 - ✓ 20, Obtain Information From Patient or Representative at Admission or Start of Care

Definitions – Employee and Employer

■ Employee

- An individual who is working for an employer or who, although not actually working for an employer, is receiving from an employer payments subject to FICA taxes or would be subject to FICA taxes except that employer is exempt from those taxes under IRC

■ Employer

- In addition to individuals (including self-employed persons) and organizations engaged in a trade or business, other entities exempt from income tax such as religious, charitable, and educational institutions (included are governments of United States, individual states, Puerto Rico, Virgin Islands, Guam, American Samoa, Northern Mariana Islands, District of Columbia and foreign governments)

Definitions – GHP

■ GHP

- Any arrangement of, or contributed to by, one or more employers or employee organizations to provide health benefits or medical care directly or indirectly to current or former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families

✓ Includes

- Self-insured plans, plans of governmental entities and employee organization plans such as union plans and employee health and welfare funds, employee pay-all plans and individual policies purchased by or through an employee organization, employer or former employer of individual or family member of individual

✓ Does not include

- Individual policies not purchased by or through employee organization, employer or former employer of individual or family member of individual, such as direct-pay plan or coverage under TRICARE or plan that does not have any employees or former employees as enrollees (e.g., plan for self-employed person only)

Questions?

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