

Group Medical Enrollment

Medicare-Eligible Employees

Question: Can we terminate employees from our group plan when they become Medicare eligible?

Answer: The federal Medicare Secondary Payer (MSP) rules prohibit some employers from terminating group coverage, providing financial or other incentives to encourage dropping group coverage, or purchasing a Medicare supplement policy for active employees (or their spouses) who are Medicare-eligible. Employers who violate this prohibition are subject to penalties of up to \$5,000 for each violation.

Rules vary by employer size:

The rules vary based on whether the employer size is under 20 employees, between 20 – 99 employees, or 100 or more employees. The employer's size determines whether the employer's group health plan is the "primary" plan; that is, the plan is required to pay claims first or before Medicare. The prohibition against terminating group coverage, or providing incentives, applies if the employer's group health plan is the primary payer.

For employers with under 20 employees:

- If Medicare entitlement is due to age (age 65 or over), the primary payer is Medicare.
- If Medicare entitlement is due to disability (under age 65), the primary payer is Medicare.

For employers with 20 – 99 employees:

- If Medicare entitlement is due to age (age 65 or over), the primary payer is the group health plan.
- If Medicare entitlement is due to disability (under age 65), the primary payer is Medicare.

For employers with 100 or more employees:

- If Medicare entitlement is due to age (age 65 or over), the primary payer is the group health plan.
- If Medicare entitlement is due to disability (under age 65), the primary payer is the group health plan.

For non-active employees (or their spouses), such as retirees or COBRA beneficiaries, the group health plan is no longer the primary payer.

Source: www.cms.gov/manuals/downloads/msp105c01.pdf