



How Medicare Secondary Payer (MSP) rules apply to Medicare beneficiaries covered under Blue Cross and Blue Shield of Illinois (BCBSIL)

Column 1 ⇨	Column 2 ⇨	Column 3 ⇨	(if applicable) ⇨	Column 4
Total Employer Size (includes all full- and part-time employees, nationwide)	Reason for Medicare entitlement (whether employee or covered dependent)	Subscriber's employment status (employee or former employee)	Plan paying primary prior to ESRD (End Stage Renal Disease)	Primary payer for covered individual with BCBSIL and Medicare coverage
Less than 20 employees	Age	Current or former employee	N/A	Medicare
	Disability	Current or former employee	N/A	Medicare
	ESRD	Current or former employee	BCBSIL	BCBSIL for 30 months, then Medicare
	Age and ESRD	Current or former employee	Medicare	Medicare
	Disability and ESRD	Current or former employee	Medicare	Medicare
20 to 99 employees	Age	Current employee	N/A	BCBSIL
		Former employee	N/A	Medicare
	Disability	Current or former employee	N/A	Medicare
	ESRD	Current or former employee	BCBSIL	BCBSIL for 30 months, then Medicare
	Age and ESRD	Current employee	BCBSIL	BCBSIL for 30 months, then Medicare
		Former employee	Medicare	Medicare
	Disability and ESRD	Current or former employee	Medicare	Medicare
100 or more employees	Age	Current employee	N/A	BCBSIL
		Former employee	N/A	Medicare
	Disability	Current employee	N/A	BCBSIL
		Former employee	N/A	Medicare
	ESRD	Current or former employee	BCBSIL	BCBSIL for 30 months, then Medicare
	Age and ESRD	Current employee	BCBSIL	BCBSIL for 30 months, then Medicare
		Former employee	Medicare	Medicare
	Disability and ESRD	Current employee	BCBSIL	BCBSIL for 30 months, then Medicare
		Former employee	Medicare	Medicare

See further explanation of this chart in "Interpreting the Medicare Secondary Payer (MSP) Matrix" on reverse side or on separate sheet.
EB5661 12/03

Interpreting the Medicare Secondary Payer (MSP) Matrix

To determine primary versus secondary Medicare payer status (and therefore, group health plan responsibility), answer the questions in the MSP matrix on the reverse page. Work from Column 1 through Column 4 (left to right) in order. For additional MSP information, match the numbers below with the column numbers on the MSP matrix.

1. Employer Size Determines Medicare Secondary Payer Status

Employer size, not group size (enrollment), is used to determine primary or secondary payer status. The rules for calculating employer size are complicated and can vary depending on many factors. The general guideline is that employer size can be estimated by the total of nationwide full- and part-time employees, including partners, self-employed individuals and seasonal employees, where applicable. Employers hovering around the critical limits of 20 and 100 should consult their own legal counsel to determine their precise size.

2. Medicare Secondary Payer Rules

For Medicare beneficiaries, three basic rules determine when Medicare is the secondary payer and the employer's Group Health Plan (GHP) must be the primary payer. The GHP member must meet *all* criteria in at least one of the following rules for MSP to be applicable:

➤ The **Working Aged Rule** applies to individuals who

- are age 65 and over and are covered under a Group Health Plan;
- have current employment status (or are covered by a spouse of any age with current employment status); **and**
- are working (or are covered by a spouse who is working) for an employer who has 20 or more full- and part-time employees, including seasonal employees.

Note: The Working Aged Rule also applies to aged spouses who are not working, but are covered by working individuals.

➤ The **Disability Rule** applies to disabled individuals who

- are under age 65 and are covered under a Group Health Plan;
- have current employment status (or are covered by a family member with current employment status); and
- are working (or are covered by a family member who is working) for an employer who has 100 or more full- and part-time employees, including seasonal employees.

➤ The **End-Stage Renal Disease Rule (ESRD)** applies to individuals who

- have ESRD and are covered under a Group Health Plan;
- are still within the 30-month coordination period from the date of Medicare entitlement (due to ESRD); and
- are covered under a Group Health Plan based on either current or former working status with an employer of **any size**.

Dual Entitlement

When a covered member is entitled to Medicare under more than one of these rules (dual entitlement), the rules become more complicated. General guidelines are as follows:

- where ESRD comes first, the ESRD rule takes precedence;
- where ESRD does not come first, the party who had been appropriately paying primary prior to the ESRD will continue to pay primary during the 30-month coordination period; and
- in general, age takes precedence over disability.

3. Current Employment Status

Note that it is the subscriber's employment status that is key to benefit determination for the plan, even if it is a dependent who is covered by Medicare. The subscriber is the one who provides access to the GHP whether through current or former employment. Note that an employee does not necessarily have to be actively-at-work to have current employment status, such as an employee on short-term disability. If the employee is receiving compensation that is subject to employment tax, such as FICA, current employment status usually applies. The statute even allows for individuals not actively at work, but who retain employment rights in the industry. Consult the statute and regulations for details, and seek advice from independent legal counsel if necessary.

4. Medicare Is the Primary Payer for

- working-aged individuals (or aged spouses) covered by employers with fewer than 20 full- and part-time employees;
- working disabled individuals (or disabled family members) covered by employers with fewer than 100 full- and part-time employees;
- individuals covered by the Consolidated Omnibus Reconciliation Act (COBRA), in most cases;
- individuals with ESRD who are beyond the coordination period of 30 months; and
- retired individuals age 65 and over, aged spouses of retired individuals, retired disabled individuals and disabled family members of retired individuals.

This flier contains general information and should not be construed as either legal advice or opinion on any specific facts or circumstances, and is not intended to replace advice from independent legal counsel. Readers are urged to consult a lawyer concerning their own situation or any specific legal questions they may have.