



Q: You don't sign up for A—it's automatic. So how can you sign up late?

A: It is only automatic for persons who sign up for SS and for those deemed Medicare disabled.

Q: Do you get your Medicare card with Part A on it automatically at age 65 or do you have to ask for it?

A: Part A is only automatic for persons who sign up for SS and for those deemed Medicare disabled. Part B is the one that you get in the mail and accept or decline.

Q: When does Part A have a penalty?

A: The information is in the PP presentation on [nahu.org](http://www.medicare.org/medicare-program/medicare-2016-handbook.html). Also please see page 34 of the 2016 Medicare Handbook. <http://www.medicare.org/medicare-program/medicare-2016-handbook.html>.

Q: Is it correct that anyone subject to IRMAA is not held harmless?

A: Correct (IRMAA-Income Related Monthly Adjustment Amounts).

Q: Do they have to meet all or one of the items to get the non-"hold harmless" reduced premium?

A: All.

Q: Does the Part B premium change over time and go down once retired or is it always based off the prior two years income before taking Medicare?

A: It does NOT go down over time.

Q: If person did not enroll in Medicare Part B when they first turned 65, and they did not have coverage through a "current employment" arrangement, 15 months following, the person start's employment and becomes eligible for and enrolls in group medical coverage. 1) After being enrolled in the group plan, can this person also take advantage of the "anytime" Part B enrollment? 2) Will this person still be responsible for the Part B delay penalty for failure to enroll with first eligible?

A: Yes and Yes; it's NOT just current employment status. It's that status and coverage in an MSP size employer that protects the person from penalty.

Q: While actively at work at a place of employment who employs 20 or fewer employees, isn't Medicare always primary? And over 20 EEs, Medicare is secondary? Do I have that wrong?

A: Please also obtain the presentation on [nahu.org](http://www.nahu.org). 20 or more employees on payroll for at least 20 weeks in the preceding or current calendar year makes the group subject to MSP. The group plan is primary. This is only for Medicare due to age and only for active at work persons 65 and over. If not MSP, then Medicare is primary. Unless ESRD disabled

Q: If a person turns 65 in January 2016 and signs up for Medicare Part A & B in November 2016, it starts on January 1, 2016. What will their premium be, NOT collecting Social Security Benefits?

A: Please also obtain the presentation on [nahu.org](http://www.nahu.org). The person cannot sign up in November which is 11 months after turning age 65 unless the delay is permissible due to them working in an MSP group and terminating employment under a Special Enrollment. Otherwise individuals can only enroll Jan 1 – March 31 for a July 1 effective date.

When signing up in 2016, premium is \$121.80.



Q: Does the beneficiary pay if readmitted and Medicare won't pay?

A: The hospital will bill them.

Q: If Medicare is not paying due to re-admission will Supplement or Advantage pay benefits?

A: No.

Q: May an Employer pay for a Medigap policy for an employee?

A: NOT for active employees if subject to MSP. When not subject to MSP, it could be viewed as incenting the older employees off the health plan and discrimination.

Q: If actively working for an employer less than 20, can you delay enrolling in Medicare Part A & B without penalty? Can the carrier reduce my benefits if I don't enroll in Medicare A & B?

A: No, penalties will apply. In most states, carriers are permitted to carve out what Part B would have paid, but not Part

Q: Is carving out Part B for under 20 employees a State or Carrier determination?

A: State.

Q: If a spouse is covered under his wife's employer's (has >20 employees) plan and turns age 65 while he's still enrolled for this employer sponsored coverage, which is quite comprehensive, does it make sense for him to enroll "on time" as a Medicare beneficiary since the employer's plan is primary payer and Medicare would be secondary?

A: Usually not necessary to sign up for Medicare. And it's not over 20; the criteria is 20 or more.

Q: What if employee only wants Medicare not group because Medicare is cheaper?

A: Employees may always waive the employer plan.

Q: What you said about entitled is my understanding; it was in Med & You a couple years ago. Today - new SS & CMS Pubs on Medicare do not say this. Say enrollment is automatic at age 65!

A: Entitled means enrolled—automatically enrolled when receiving SS or if deemed Medicare due to disability.

Q: If they are actively working can they sign up at anytime for Medicare A & B?

A: From page 26 of the 2016 Medicare Handbook. This applies to MSP employer groups:

Special Enrollment Period

If you (or your spouse) are still working, you may have a chance to sign up for Medicare during a Special Enrollment Period. If you didn't sign up for Part B (or Part A if you have to buy it) when you were first eligible because you're covered under a group health plan based on current employment (your own, a spouse's, or if you're disabled, a family member's), you can sign up for Part A and/or Part B:

Anytime you're still covered by the group health plan

During the 8-month period that begins the month after the employment ends or the coverage ends, whichever happens first

Usually, you don't pay a late enrollment penalty if you sign up during a Special Enrollment Period.



Q: Can a carrier with less than 20 employees decide anytime during the year that they will not pay Part B claims even though they were paying them before?

A: It's not just less than 20. You would have to look at the preceding calendar year as well to determine MSP status. The carrier would have to change their contract language and alert everyone involved. But it is possible that what's in the contract is not how the carrier is applying payment so it may happen that they correct their process without comment.

Q: How does an employee go about not enrolling in Part A?

A: From page 24 of the 2016 Medicare Handbook:

If you're close to 65, but not getting Social Security or Railroad Retirement Board (RRB) benefits, you'll need to sign up. Contact Social Security 3 months before you turn 65. You can also apply for Part A and Part B at socialsecurity.gov/retirement. If you worked for a railroad, contact the RRB. In most cases, if you don't sign up for Part B when you're first eligible, you may have to pay a late enrollment penalty for as long as you have Part B.

Q: Should the employer inform the employee of their "need" to elect Part B, depending on the state, but this is not a violation of the inducement rules?

A: It's not inducement to alert employees that if they do not purchase Part B that they will pay those claims out of pocket. This applies to a NON MSP employer

Q: Medicare Data Match, is this reported by the Carrier or the Group/Employer?

A: Carrier for fully insured plans and TPAs for self – insured. Report is to CMS.

Q: Can you carve out Medicare aged employees as a class?

A: Employers NOT subject to MSP may but we cannot find a carrier that will allow the employer to carve them out. We are also concerned about age discrimination.

Q: May a carrier on a partially self-funded plan refuse to offer medical coverage for an employer group with over 20 employees?

A: Yes.

Q: Is an employer with less than 20 employees still subject to MSP rules if the group insurance policy is an "Association" plan and if ANY member of the association has an employee count greater than the MSP thresholds?

A: Yes.

Q: Can a person keep an HSA if they tell Medicare they do not want Part A?

A: Persons NOT enrolled in Medicare may continue to contribute to an HSA account.

Q: Is that \$5,000 for the HRA per person, or if family coverage, and it is \$2,500 per person for 3 persons, is that reportable?

A: Depends on what the entire allowed benefit is.



Q: Employer with less than 20 employees and provides employer-sponsored group health insurance. Does the age 65 employee have the option of deferring enrollment in Medicare, MediGap, etc. without being subject to late enrollment penalty? How about for disabled employee under the age of 65?

A: When Medicare is primary (employer NOT subject to MSP) if the employee does not purchase Part B, the carrier will carve out those benefits and the employee will have to pay those claims out of their own pocket and they will be subject to late penalties. When deemed Medicare disabled, Medicare is primary in groups of under 100. If the disability is ESRD, the group plan is primary for all size groups for the first 30 months.

Q: MSP employer provides a waiver \$4,500 if they do not enroll in employer plan. Several active employees have elected Medicare A&B and selected supplements. How can the employer pre-tax the supplement premium? Through a POP plan? Can they pretax Part B and Part D costs too?

A: Not permissible. Also the cash out option must be available to ALL employees.

Q: May fulltime employees who are employed beyond 65 in a group of 20+ unilaterally elect out of the group plan because the value and cost of such is in their best interest (not necessarily in the best interest financially of the employer)?

A: Yes.

Q: For the CMS disclosure, is the 60 days due date by the ERISA plan year or the plan's renewal? Also, what if One ERISA plan has multiple plans (PPO and OAP etc.), can the ER disclose all at once?

A: ERISA plan year. The employer may provide aggregated data when more than one plan is in place.

Q: Part D Mandatory notice to CMS online: does this apply to the Employer or the Carrier? Does it apply to small groups under 20 AND does it apply if the employer does not have anyone eligible for Medicare?

A: Applies to the employer who provides coverage to Medicare beneficiaries whether they are Medicare due to age or disability.

Q: Plan Sponsor - please define?

A: In the context of Medicare Part D reporting entities that provide prescription drug coverage to Medicare beneficiaries must report. This would be the employer or union.

Q: Can you repeat what you said about font size on the creditable coverage notice?

A: Entities have flexibility in the form and manner of providing Disclosure Notices to beneficiaries. The notice does not have to be sent as a separate mailing. It may be provided with other health plan participant information materials (including enrollment and/or renewal materials). If entities incorporate disclosures with other health plan information, the Part D disclosure must be prominent and conspicuous (at least 14-point font in a separate box, bolded, or offset on the first page). An entity can provide a Disclosure Notice through electronic means if the Medicare beneficiary has indicated to the entity that s/he has adequate access to electronic information.

Creditable Coverage Disclosure Notices must be made at the following times:

1. Prior to the Medicare Part D Annual Coordinated Election Period (Oct.15 to Dec. 7 of each year);
2. Prior to an individual's Initial Enrollment Period for Part D (3 months before 65th birthday month, the birthday month, 3 months after birthday month);



3. Prior to the effective date of coverage for any Medicare eligible person who joins the entity's health plan;
4. Whenever the entity no longer offers prescription coverage or changes the coverage so that it is no longer creditable or becomes creditable; and
5. Upon a beneficiary's request. This is definitely important if a person did not receive anything by Oct. 15 last year.

Q: Does COBRA not count as Creditable Coverage because they were no longer active employees?

A: Persons retiring have 8 months from when employment ends to enroll into Part B without penalty. We said that if the person takes COBRA for the full term, it will be beyond the 8 months and they will be deemed as a late enrollee. They will then have to wait until the next open enrollment to enroll into Part B.

Q: Part-D LEP. Start counting from which month? May, 2006?

A: The maximum gap without penalty is 63 days.

Q: If an employee who is age 67 and has a corporate sponsored medical plan as his primary coverage elects to term his company sponsored plan "voluntarily" mid policy year and goes onto Medicare as his primary, will his spouse be allowed to take COBRA for the 36 months?

A: Events for a covered spouse* or dependent child(ren) that permit 36 months of continuation:

-Covered employee or covered retiree becomes entitled (enrolled) in Medicare. This includes the scenario where the active at work employee terminates from the health plan to fully enroll onto Medicare Special Rule for Employee's Medicare Entitlement Closely Followed by Qualifying Event of Termination or Reduction of Hours. If a covered employee becomes entitled to Medicare within the 18-month period before he or she experiences the qualifying event of termination of employment or reduction of hours, the employee's covered spouse and dependent children are entitled to COBRA coverage for a maximum period of 36 months, measured not from the date of the termination of employment or reduction in hours but from the employee's Medicare entitlement. (The covered employee remains entitled to a normal maximum period that ends).
http://www.irs.gov/irb/2004-10_IRB/ar11.html.

Q: Who is responsible for sending the Credible Coverage notice? Employer or insurance company?

A: The term is Creditable Coverage and the responsibility is the employer or union.

Q: You mentioned reimbursements, can you give any insight on offering employees opt-out bonuses and how that plays with Medicare?

A: Employers may NOT offer ONLY to Medicare eligible persons. S/he can offer to ALL. This would only apply to those subject to MSP rules.

Q: If someone age 65 receives Part A can they return the card? Especially when an HSA Employer contribution is available?

A: There is no way for a person who is receiving social security to become eligible to contribute to an HSA. It is simply not possible. They would have to, pay back all their social security payments so as to "undo" the Medicare enrollment,



and my understanding is that is a very difficult (and expensive) process to go through.

Q: If Medicare will not pay when a person is re-admitted to the hospital, does that also mean their secondary will not pay?

A: Correct.

Q: Is it correct that for companies with less than 20 employees and an employee or spouse reaches their 65th birthday, and are still receiving health benefits through active employment, the person must enroll in Part B within their IEP?

A: If the employer is NOT subject to MSP, that is correct. If they do not, they will pay Part B claims out of pocket in most states.

Q: For those smaller employers who are not subject to MSP, is it your opinion that the employer may continue to pay the cost of Medicare Part B Premiums as well as the premiums for a Medicare Supplement plan?

A: Yes.

Q: To clarify an answer you just gave, are you saying that you cannot be on SS if you want to defer enrolling into Medicare part A so that you may continue to contribute to an HSA?

A: Persons receiving SS are automatically enrolled into Part A.

Q: Can an employer design eligibility to exclude spouses eligible for other coverage including Medicare?

A: Yes, but the employer should say exclude any other coverage for all spouses, not just those eligible for Medicare.

Q: If an employee on a group plan that has 20 or more employees, decide to go off the plan and take a Medicare supplemental plan and Rx card, could the employer raise the salary of that employee to cover the employee costs of a supplemental plan and Rx benefit?

A: No, not overtly.

Q: What are the potential penalties an employee/employer would face if an employee is contributing to an HSA while on Medicare?

A: Current law mandates a penalty if the individual or the employer contributes in excess of your limit for the tax year. You will be penalized with a 6% excise tax on the entire amount that is over the limit. The IRS will also treat amounts in excess as income. The tax responsibility will be yours, even if your employer made that excess contribution. Also, if the employer is aware of the ineligibility, they could also have tax penalties for inappropriate deferred income. They should discuss with their tax advisor.

Q: If Medicare is a secondary payer to a large group plan, what does Medicare base the payment on in the event the group plan has co-pays. Would Medicare help pay the co-pays?

A: It would process the claim like any other plans that have coordinated benefits.

Q: Regarding CMS reporting, if an under-20 employer has no employees over age 65 and is unaware of any Medicare eligible dependents, do they need to do the online CMS reporting? The online reporting does not seem to fit a situation like this.



Compliance Corner Webinar

Medicare Secondary Payer

November 19, 2015

A: No notice or reporting is necessary but I would caution that employers don't always know about employees or their families who have been deemed Medicare disabled.

Q: Can an employer with less than 20 employees encourage employees to decline group coverage and take a pay raise to use anyway the employee sees fit including buying a Med Supp?

A: No.

Q: Can employee contributions be based on age as rates are?

A: No; the employer may pay the same percentage for all which does the same thing.

Q: If actively working for an employer with less than 20 can you delay enrolling in Medicare A& B without penalty?

A: No.

Q: How much does Medicare pay the carriers for part C enrollees? I have heard varying figures of wide discrepancies.

A: We do not believe this is public information.

Q: The premium for Part B should go down as income goes down. Correct?

A: It's not that it goes down. It's the same for all unless the individual income exceeds \$75k and joint filers exceed \$170k.

Q: Can an employee who left a group for Part B change his mind, opt out of Part B and return to the group plan. When they retire would be eligible to reenroll in Part B without penalty?

A: Yes.

Q: Would the HSA person have the Part A penalty when they do go on Part A?

A: Yes.

Q: For a group under 20 lives, it appears that there is no legal way for a group to encourage Medicare enrollment and supplements—Even though the premiums are over \$1,000 for singles.

A: As shown in the Federal Register release of Nov 18, 2015, employers may carve out those eligible for Medicare and may reimburse them for Parts B and D.

Q: Is the Medicare handbook the Medicare and You 2016 book or is it something else?

A: Yes.

Q: So an active employee in a group under 20 employees needs to sign up for part B? Over 20 employees they do not have to?

A: No one must sign up but to avoid penalty, employees working for a NON MSP employer must to avoid late penalties.