

**Annual Medicare Secondary Payer Calculation Process
Frequently Asked Questions (FAQs)**

No.	Question	Response
1	Why does Blue Cross Blue Shield of Massachusetts need my company's employee identification number (EIN)?	Just as Medicare requires health plans to provide information about the number of employees in each of our accounts, Medicare also requires health plans to provide them with the EIN (also referred to as tax identification number or TIN) of each account. Medicare uses this information to more accurately ensure that claims are paid in the correct primacy (priority) relative to each account's size. If your company includes many subgroups, then we only need to capture the primary account's EIN for the purposes of this survey.
2	What is the Medicare secondary payer law?	The Medicare secondary payer law is a federal law that determines whether Medicare or an employer group health plan pays for health claims first. The rules are outlined on the back of your survey form, but if you have specific questions about your company's Medicare secondary payer obligations, please contact the Centers for Medicare and Medicaid Services (CMS) at 1-800-999-1118 or your own legal counsel.
3	Why is it important for me to report this information to Blue Cross Blue Shield of Massachusetts?	Blue Cross Blue Shield of Massachusetts requires this information to pay your employees' claims in accordance with the Medicare secondary payer law.
4	When is Medicare considered the primary payer?	Specific rules dictate when Medicare is considered the primary payer. For additional information, please refer to the rules and definitions on the back of this FAQ form, specifically the Working Aged rule, Disability rule, and End-Stage Renal Disease (ESRD) rule.
5	When is Blue Cross Blue Shield of Massachusetts considered the primary payer?	Specific rules dictate when Blue Cross Blue Shield of Massachusetts is considered the primary payer. For additional information, please refer to the rules and definitions on the back of this FAQ form, specifically Working Aged rule, Disability rule, and End-Stage Renal Disease (ESRD) rule.
6	Why is this certification form necessary? Can't Blue Cross Blue Shield of Massachusetts just go by the number of employees enrolled on our plan?	Medicare secondary payer law requirements are based on the total number of employees, not on the number of employees enrolled in the health plan.
7	When is an employer considered to have 20 or more employees?	An employer is considered to employ 20 or more employees when the employer has 20 or more employees for each working day in each of 20 or more calendar weeks in the current year or preceding year.
8	Do I have to include part-time employees in my total employee count?	Yes. For purposes of this questionnaire, an employee is defined as an individual who received payments from the employer that are subject to FICA taxes. For a more detailed description of an employee, please see the important definitions section on the back of this form.
9	I am a self-employed owner of my company. Am I considered an employee?	No, you are not considered an employee. You are considered a self-employed owner of a company.
10	Do I need to include retirees in my total employee count?	Retirees are generally not counted as employees, because they are not receiving payments subject to FICA taxes; however, if a retiree receives payment subject to FICA taxes (for example, consulting work), they must be counted as an employee.
11	I am a Sole Proprietor. Do I still need to complete the survey?	Yes. The Federal Government classifies sole proprietorships as small businesses; therefore, the Medicare secondary payer rules regarding companies that employ less than 20 or less than 100 employees would apply.
12	Could my answers to these questions affect my premium payments or benefits?	The purpose of the survey is to determine the correct way to process claims for your company to ensure Medicare compliance. If your answers to this survey determine that a primacy change is necessary, Blue Cross Blue Shield of Massachusetts will contact you to explain what this means to your company and how it does or does not impact your premium payments and benefits.
13	Why do you ask if my company employed 1–19 employees for 33 weeks, when the Medicare rule states that we must be in that category for 20 or more weeks?	The Medicare primacy rule that applies to accounts with fewer than 20 employees states that you must have fewer than 20 employees for 20 or more weeks in the calendar year. We ask the question in a different way so that we can accurately determine primacy. Because there are 52 weeks in the calendar year, we ask if you have employed less than 20 people for 33 weeks, to avoid situations where a company may have employed both less than and more than 20 employees for 20 weeks.
14	Are religious accounts or organizations required to complete the survey?	Yes. A member is counted as an active employee if the member of the religious order has not taken a vow of poverty. Definition: 1. Religious order pays FICA taxes on behalf of the member. 2. Individual from the religious order is receiving remuneration for services provided, whether or not the religious order pays taxes on behalf of that member
15	What if my company has been bought or sold?	The Centers for Medicare and Medicaid Services (CMS) determines primacy based on company size only, not on the organization that bought or sold the company. Primacy determination for disability is based on when the company fell below 100 employees or employed 100 or more employees. Primacy determination for working aged is based on when the company fell below 20 employees or when the company employed 20, or more employees. Please refer to the Medicare secondary payer provision regarding the employees' requirement for more information.
16	What if my company has out-of-state employees?	In applying the Medicare Secondary Payer provisions, CMS considers the corporation's total amount of employees both inside and outside the United States.
17	Do I need to include deceased employees in my total employee count?	Medicare Secondary Payer Rules are dependent upon the number of employees an employer had over a period of time during the current or previous calendar year. You should count or consider deceased employees at a time when they were working and had "current employment status" as defined by the law. If you have specific questions about your company's Medicare Secondary Payer obligations, please contact the Centers for Medicare and Medicaid Services (CMS) at 1-800-999-1118 or your own legal counsel.



Medicare Secondary Payer Rules and Definitions

Medicare Secondary Payer Rules:

Working Aged Rule – A group health plan of an employer with 20 or more employees for 20 or more weeks in the current or previous calendar year is the primary payer for a plan participant who is entitled to Medicare due to age, and who has coverage under the plan by virtue of his or her current employment status with the employer.

Disability Rule – A group health plan of an employer with 100 or more employees on 50 percent or more of its regular business days during the previous calendar year, is the primary payer for a plan participant who is entitled to Medicare due to disability and who has coverage under the plan by virtue of his or her current employment status with the employer. If a plan is the primary payer for plan participants entitled to Medicare due to disability, then it is also the primary payer for plan participants entitled to Medicare due to age.

End-Stage Renal Disease (ESRD) Rule – A group health plan of an employer of any size is the primary payer for a plan participant (other than a health plan that only covers the self-employed owner) who is entitled to Medicare due to ESRD for the first 30 months of the ESRD Medicare entitlement.

Important Definitions:

Your Company – For purposes of this document, “Your Company” includes any other corporations that are part of the same controlled group of corporations or affiliated service group of corporations, such as a parent company, even if not all of the corporations participate in the same health care plan through Blue Cross and Blue Shield of Massachusetts. Thus, for purposes of this questionnaire, you should count the employees in all controlled or affiliated corporations. If you participate in a multiple-employer health plan, where two or more unaffiliated companies offer a single health plan to their employees, “Your Company” means the company with a greater number of employees at any given time.

Employee – For purposes of this questionnaire, an employee is defined as an individual who received payments from the employer that are subject to FICA taxes. A self-employed company owner is *not* counted as an employee. A retiree is only counted as an employee if they are receiving payments subject to FICA taxes. (e.g., working as a consultant). All employees meeting the definitions above should be counted regardless of their status as full-time or part-time employees, leased employees, consultants, or seasonal employees.

Medicare / CMS Resources:

Link to Medicare Secondary Payer – Working Aged MSP Course

<https://www.cms.gov/Medicare/Coordination-of-Benefits-and-Recovery/Coordination-of-Benefits-and-Recovery-Overview/Medicare-Secondary-Payer/Downloads/MSP-Working-Aged.pdf>

**Annual Medical Loss Ratio Calculation
Frequently Asked Questions (FAQs)**

No.	Question	Response
1	What is the Patient Protection and Affordable Care Act's (PPACA) medical loss ratio (MLR)?	The Patient Protection and Affordable Care Act is a federal law. One requirement of this law is that health insurance companies report their medical loss ratio to federal regulators and pay rebates if certain medical loss ratio targets are not met. The calculation of the medical loss ratio is based, in part, on the size of the insurance company's employer groups. In order to calculate medical loss ratio for 2018 and determine if any rebates are due in 2019, we need to know whether your company should be categorized as a "small" or "large" employer group, as defined by the Patient Protection and Affordable Care Act.
2	What are the definitions of "small" and "large" employer groups for the purposes of the Patient Protection and Affordable Care Act and medical loss ratio?	A small employer is an employer that employed an average of at least 1, but not more than 50 employees on business days during the preceding calendar year, and that employs at least 1 employee on the first day of the plan year. A large employer is an employer that employed an average of at least 51 employees on business days during the preceding calendar year, and that employs at least 1 employee on the first day of the plan year.
3	What if my company was a new employer and did not have any employees in 2017?	If your company was not in existence in 2017, you should base your group-size count on the average number of employees you reasonably expect to employ on business days in 2018.
4	Why is it important for me to report this information to Blue Cross Blue Shield of Massachusetts?	Medical loss ratio is calculated separately for small and large employer group markets. To calculate MLR for 2018, and determine if any rebates are due to your company in 2019, we need to know whether your company should be categorized as a "small" or "large" employer group for the 2017 reporting year.
5	Why is this certification form necessary? Can't Blue Cross Blue Shield of Massachusetts just go by the number of employees enrolled on our plan to determine our group size?	According to federal law, employer size, for medical loss ratio calculation purposes, is based on the average number of employees employed on business days during the preceding calendar year. [For reference, see Section PHS Act §2791(e)(2) and (4)] This calculation includes each full-time, part-time, and seasonal employee. Since the total number of employees enrolled on your plan may be different than the total number of employees working during the time frame noted above, we need you to provide us with the correct information, as we do not know the total number of employees at your organization in 2017.
6	Do I have to include part-time employees when determining my employer size?	Yes. For the purposes of this questionnaire, your employee count includes all full- and part-time employees.
7	I own my company. Am I considered an employee?	Yes.
8	Do I need to include retirees in my total employee count?	No, unless they were active employees for all or a portion of 2017. Count only employees who were active during the 2017 calendar year. Retirees are not considered employees.
9	My company is a sole proprietorship. Does this survey apply to me?	Yes.
10	Could my answers to these questions affect my premium payments?	Possibly. The purpose of this survey is to determine your employer group size to calculate our medical loss ratio and to determine if any rebates are due in 2019. Indirectly, the medical loss ratio calculations could lead to future changes in your premium, as Blue Cross Blue Shield of Massachusetts reviews premium rates on each employer's anniversary date to determine if changes are necessary.
11	Should I include out-of-state employees in my count?	Yes. You should count all of your employees who were active for all or a portion of 2017, regardless of whether they were enrolled in your Blue Cross Blue Shield of Massachusetts plan or where they were located.
12	Does this mean my company might be considered a large group for MLR purposes, even though I am a small group for other purposes?	Yes. Because the definitions of employer size are different for various federal laws and programs, your organization might be classified differently for different purposes.
13	If it is determined that my company is due a rebate, when will I receive it?	If your company is due a rebate, Blue Cross Blue Shield of Massachusetts will issue a rebate on your premium in time for you to distribute rebates to employees by September 30, 2019.