

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

No.	Question	Response
1	<b>Why does Blue Cross Blue Shield of Massachusetts need my company's employee identification number (EIN)?</b>	Medicare requires health plans to provide information about the number of employees in each of our accounts, as well as 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 priority based on each account's size. If your company includes many subgroups, we only need to capture the primary account's EIN for the purposes of this survey.
2	<b>What is the Medicare secondary payer law?</b>	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 call the Centers for Medicare and Medicaid Services (CMS) at <b>1-800-999-1118</b> , or your own legal counsel.
3	<b>Why is it important for me to report this information to Blue Cross Blue Shield of Massachusetts?</b>	Blue Cross Blue Shield of Massachusetts requires this information to pay your employees' claims in accordance with the Medicare secondary payer law.
4	<b>When is Medicare considered the primary payer?</b>	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 FAQs form, specifically the Working Aged rule, Disability rule, and End-Stage Renal Disease (ESRD) rule.
5	<b>When is Blue Cross Blue Shield of Massachusetts considered the primary payer?</b>	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 FAQs form, specifically Working Aged rule, Disability rule, and End-Stage Renal Disease (ESRD) rule.
6	<b>Why is this certification form necessary? Can't Blue Cross Blue Shield of Massachusetts use the number of employees enrolled on our plan?</b>	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	<b>When is an employer considered to have 20 or more employees?</b>	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	<b>Do I have to include part-time employees in my total employee count?</b>	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 FAQs form.
9	<b>I'm a self-employed owner of my company. Am I considered an employee?</b>	No, you're not considered an employee. You're considered a self-employed owner of a company.
10	<b>Do I need to include retirees in my total employee count?</b>	Retirees are generally not counted as employees, because they're not receiving payments subject to FICA taxes; however, if a retiree receives payment subject to FICA taxes (for example, consulting work), he or she must be counted as an employee.
11	<b>My company is a sole proprietorship. Do I still need to complete the survey?</b>	Yes. The federal government classifies sole proprietorships as small businesses; therefore, the Medicare secondary payer rules regarding companies that employ fewer than 20 or fewer than 100 employees would apply.
12	<b>Could my answers to these questions affect my premium payments or benefits?</b>	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 doesn't affect your premium payments and benefits.
13	<b>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?</b>	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 fewer than 20 people for 33 weeks, to avoid situations where a company may have employed both fewer than and more than 20 employees for 20 weeks.
14	<b>Are religious accounts or organizations required to complete the survey?</b>	Yes. An individual is counted as an active employee if the member of the religious order hasn't taken a vow of poverty. This requires that: 1. The religious order pays FICA taxes on behalf of the individual, OR 2. The individual from the religious order is receiving remuneration for services provided, regardless of whether the religious order pays taxes on behalf of that individual.
15	<b>What if my company has been bought or sold?</b>	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. For more information, refer to the Medicare secondary payer provision regarding the employees' requirement.
16	<b>What if my company has out-of-state employees?</b>	In applying the Medicare secondary payer provisions, CMS considers the corporation's total amount of employees both inside and outside the United States.
17	<b>Do I need to include deceased employees in my total employee count?</b>	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 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 call the CMS at <b>1-800-999-1118</b> , 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, 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 he or she is 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>