

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

No.	Question	Response
1	Why does Blue Cross Blue Shield of Massachusetts need my company's employee identification number (EIN)?	Medicare requires health plans to provide information about the number of employees in each of our accounts, as well as each account's EIN (also referred to as tax identification number or TIN). 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 subgroups, we need only the primary account's EIN for the survey.
2	What is the Medicare Secondary Payer (MSP) law?	The MSP is a federal law that determines whether Medicare or an employer group health plan pays a health claim first. The rules are outlined on the back of this FAQ form, but if you have questions, please call 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?	Blue Cross Blue Shield of Massachusetts requires this information to pay your employees' claims in accordance with the MSP law.
4	When is Medicare considered the primary payer?	Specific rules dictate when Medicare is considered the primary payer. For details, please refer to the rules and definitions on the back of this FAQ form.
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. Please refer to the back of this FAQ form for details on rules and definitions, such as the Working Aged, Disability, and End-Stage Renal Disease (ESRD) rules.
6	Why is this survey necessary? Can't Blue Cross Blue Shield of Massachusetts use the number of employees enrolled in our plan?	MSP 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 survey, 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 refer to the definitions on the back of this FAQ form.
9	I'm a self-employed owner of my company. Am I considered an employee?	No, you're not considered an employee. You're 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, unless they're receiving payments subject to FICA taxes (for example, consulting work). In this case, each retiree must be counted as an employee.
11	My company is a sole proprietorship. Do I still need to complete this survey?	Yes. The federal government classifies sole proprietorships as small businesses; therefore, the MSP rules regarding companies that employ fewer than 20 or fewer than 100 employees would apply.
12	Could my survey answers 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, we'll contact you to explain what this means to your company, and how it may affect 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've 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	Are religious accounts or organizations required to complete the survey?	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 either: 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	What if my company has been bought or sold?	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 employed 20 or more employees. For more information, refer to the MSP provision regarding the employees' requirement.
16	What if my company has out-of-state employees?	In applying the MSP provisions, CMS considers the corporation's total amount of employees both inside and outside of Massachusetts.
17	Do I need to include deceased employees in my total employee count?	MSP rules depend on 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." If you have questions about your company's MSP obligations, please call the 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 based on his or her current employment.

Disability Rule – A group health plan of an employer with 100 or more employees for 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 based on his or her current employment. If a plan is the primary payer for plan participants entitled to Medicare due to disability, the plan 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 covers only 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 survey, “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 Blue Shield of Massachusetts. For purposes of this survey, 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 the greater number of employees at any given time.

Employee – For purposes of this survey, an “employee” is defined as an individual who received payments subject to FICA taxes from the employer. A self-employed company owner does **not** count as an employee. A retiree is counted as an employee only if he or she received payments subject to FICA taxes (e.g., working as a consultant). All employees who meet this definition 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 (MLR) Calculation
Frequently Asked Questions (FAQ)**

No.	Question	Response
1	What is the Patient Protection and Affordable Care Act (PPACA)'s medical loss ratio (MLR)?	The PPACA is a federal law. One requirement of this law is that health insurance companies report their MLR to federal regulators and pay rebates if certain MLR targets aren't met. The calculation of the MLR is based, in part, on the size of the insurance company's employer groups. To calculate MLR for 2021 and determine if any rebates are due to your company in 2022, we need to know whether your company should be categorized as a "small" or "large" employer group, as defined by the PPACA.
2	What are the definitions of "small" and "large" employer groups for the purposes of the PPACA and MLR?	A small employer has employed an average of at least one, but not more than 50, employees on business days during the preceding calendar year, and employed at least one employee on the first day of the plan year. A large employer has employed an average of at least 51 employees on business days during the preceding calendar year, and employed at least two employees on the first day of the plan year.
3	What if my company was a new employer and didn't have any employees in 2020?	If your company didn't exist in 2020, you should base your group-size count on the average number of employees you reasonably expect to employ on business days in 2021.
4	Why is it important for me to report this information?	MLR is calculated separately for small and large employer group markets. Rebates are determined based on your employer group.
5	Why is this survey necessary? Can't Blue Cross Blue Shield of Massachusetts use the number of employees enrolled in our plan to determine our group size?	According to federal law, employer size, for MLR 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 in your plan may be different than the total number of employees working during that time frame, we need you to provide us with that information, as we don't know the total number of employees at your organization in 2020.
6	Do I have to include part-time employees when determining my employer size?	Yes. For the purposes of this survey, your employee count includes all full-time 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?	Retirees are generally not considered employees, unless they were active employees for all or a portion of 2020. Count only employees who were active during the 2020 calendar year.
9	My company is a sole proprietorship. Do I still need to complete this survey?	Yes. If your company is a sole proprietorship, don't count yourself or your spouse as employees (for purposes of this survey only).
10	Could my survey answers affect my premium payments?	Possibly. The purpose of this survey is to determine your employer group size to calculate our MLR and determine if any rebates are due to your company in 2022. Indirectly, the MLR calculations could lead to future changes in your premium, as we review 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 2020, even if they weren't enrolled in your plan or didn't live in Massachusetts.
12	Does this mean my company might be considered a large group for MLR purposes, and 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 my company is due a rebate, when will I receive it?	If your company is due a rebate for 2021, we'll issue a rebate on your premium in time for you to distribute rebates to employees by September 30, 2022.