



Dear Clients and Friends,

Medicare Secondary Payer (MSP) rules are intended to ensure that Medicare does not pay primary benefits for services for which a group health plan is the primary payer. The final regulations implementing this program were issued in September 1995 after first being proposed in 1990.

The Medicare Secondary rules continue to confuse both employers and employees. But, confusion will not stop the federal government

and its MSP contractors from demanding repayment from employer plans or insurers if the rules are not followed. MSP contractors have even sought repayment from estates of business owners when plans had paid on a secondary basis instead of a primary basis.

Employers should consult their tax advisors or legal counsel for specific compliance assistance.

*Sincerely yours,
Jim Lill, President*

Medicare Secondary

The new Medicare Part D prescription drug benefit will refocus attention on the "working aged." The "working aged" are employees who are Medicare-eligible but who continue to work. Employers with these workers will have notification obligations as a result of the new Medicare benefit.

This new benefit and focus provides a good opportunity for employers to review the rules regarding Medicare and group health plans. When an employee is covered by both Medicare and the group health plan, Medicare may not be the first – or primary – payer for benefits.

The following are the most common situations where Medicare pays secondary, i.e. only after the employer-provided plan has made payment:

- The individual or his/her spouse is currently employed and is covered under an employer health plan.

- The company has 20 or more employees.
- The individual in question is entitled to Medicare as a result of a disability and the company has 100 or more employees.
- The individual in question is Medicare entitled due to end-stage renal disease. Medicare is the secondary payer to a group health plan until a 30-month coordination period has ended.

It is important to note that an employer cannot offer, subsidize, or be involved in the arrangement of a Medicare supplement policy where the law makes Medicare the secondary payer. A group health plan can be defined as such even if the employer does not contribute to the premium, but merely collects it and forwards it to the individual's insurance company.

More information is available at www.cms.hhs.gov/medicare/com.

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