

Federal Tax ID and Group Size Information Sheet**Total Number of Employees**

Please review the Questions & Answers attached and respond to ALL of the following questions:

1. Did your company employ 100 or more full-time, part-time, intermittent, leased and/or seasonal employees on 50 percent or more of its regular business days during 2016 or 2017 (if applicable), whether or not the employee is enrolled in Blue Cross and Blue Shield of Louisiana or HMO Louisiana, Inc. health coverage?

Yes No

Please provide the date that this threshold was reached: _____ / _____ / _____

2. Did your company employ 20 or more full-time, part-time, intermittent, leased and/or seasonal employees for each working day in 20 or more calendar weeks in 2016 or 2017, whether or not the employee is enrolled in Blue Cross or HMO Louisiana health coverage?

Yes No

Please provide the date that this threshold was reached: _____ / _____ / _____

If no, and at any point if your company employs 20 or more employees, as defined above and explained in the frequently asked questions, you must promptly notify us of this development. To request the form, email GroupAccountMSP@bcbsla.com or call (225) 298-1711.

3. If your company participates in a multiple-employer plan (such as an association) or a multi-employer plan (such as a collectively bargained health and welfare fund), and the Centers for Medicare & Medicaid Services (CMS) has granted a Small Employer Exception request for any of your employees who are enrolled in Blue Cross or HMO Louisiana health coverage, please provide a copy of any relevant Small Employer Exception approval letters.

For additional information about what constitutes a multi-employer or multiple-employer plan, please see the attached frequently asked questions. For additional information about the small employer exception process, please consult the CMS Small Employer Exception Information attached or the CMS website.

Note: If you answer Yes to both question #1 and question #2, we will report your answer to #1 in our mandatory report to CMS.

EMPLOYER STATEMENT. Please read the following carefully. Your signature is required on Page 2.

On behalf of the employer referenced, I certify that the information provided on this Information Sheet is accurate and truthful. I understand that this information will be used to help identify the Medicare Secondary Payer (MSP) status of Medicare enrolled employees and dependents. To ensure continuing accuracy, the employer referenced

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below acknowledges its responsibility to notify us promptly of any changes in the size of its work force or the active/inactive status of employees that might affect the order of payment under the Medicare Secondary Payer (MSP) laws, including any changes that affect continued applicability of the small employer exception.

Employer Name _____
Group No. _____ **Federal Tax ID 9 Digit Number** _____
Title _____ **Phone Number** _____
Signature _____ **Date** _____
Print Name _____

Please complete this information sheet and fax to (225) 298-7109 or email to GroupAccountMSP@bcbsla.com.

Thank you again for your help with this important MSP mandatory reporting project.

Questions & Answers

Q: What is a Multi-Employer Plan or Multiple-Employer Group Health Plan (MEP/MEGHP)?

A: A Multi-Employer Plan or Multiple Employer Group Health Plan (MEP/MEGHP) is a plan that is sponsored jointly by two or more employers or by employers and unions (sometimes under the Taft-Hartley law). The Centers for Medicare & Medicaid Services (CMS) interprets a MEP/MEGHP to include any trust, plan, association or any other arrangement made by one or more employers to contribute to, sponsor, or directly provide health benefits or facilitate, directly or indirectly, the acquisition of health insurance by an employer member, such as a local small business association that offers employer members of the association the opportunity to purchase coverage for their employees. CMS suggests that if such facilitation occurs, an employer should be considered to be a participant in a MEP/MEGHP even if the employer has a separate contract with the insurer.

Special rules apply to how these plans are treated for purposes of coordination of benefits with Medicare under the Medicare Secondary Payer (MSP) laws. Generally, if a MEP/MEGHP includes one employer with 20 or more employees, the MEP/MEGHP is the primary payer for all Medicare beneficiaries age 65 or older whose coverage is based on current employment status. This is referred to as the “Working Aged Rule.” However, if the MEP/MEGHP has less than 20 employees, as defined by the MSP laws, the MEP/MEGHP may elect for Medicare-enrolled members to be excluded from the Working Aged Rule through the CMS small employer exception.

Q: How Does the Small Employer Exception Election Process Work?

A: A Multi-Employer Plan or Multiple Employer Group Health Plan (MEP/MEGHP) can request an exception from the MSP Working Aged Rule by submitting an election request to the Benefits Coordination & Recovery Center (BCRC). Additional details regarding the small employer exception election process are available on the websites provided at the end of this Q&A document and in the enclosed CMS Small Employer Exception Information about the MEP/MEGHP rules for small employers.

Q: When is Medicare primary for disabled members under the age of 65?

A: Medicare is the primary payer for Medicare-enrolled disabled members under the age of 65 when their health coverage is through an employer who employed fewer than 100 full-time and/or part-time employees on 50 percent or more of its regular business days during the *previous* calendar year. Medicare is also the primary payer for members covered by a group health plan who do not have current employment status with the employer.

Q: When is Medicare primary for members age 65 or older?

A: Medicare is the primary payer for Medicare-enrolled members age 65 or older when their health coverage is through an employer who did not employ 20 or more employees for each working day of 20 or more calendar weeks in the *current* or *previous* calendar year. Medicare is also the primary payer for members covered by a group health plan who do not have current employment status with the employer.

Q: How should an employer calculate its total number of employees for purposes of applying the MSP employer size thresholds?

A: Specific rules apply for calculating employer size to determine if the employer has 20 or more employees for purposes of assessing whether Medicare is the primary payer for members with Medicare based on age (or 100 or more employees for purposes of determining whether Medicare is the primary payer for disabled members under the age of 65) under the MSP laws. Employer size is based on the following classes of employees: 1) full time; 2) part time, 3) leased individuals, if they are counted as employees under Internal Revenue Code (IRC) § 414(n); 4) all employees who are members of an “affiliated service group” under IRC § 414(m); and 5) all employees who are considered to be employed by a “single employer” under Internal Revenue Code § 52(a) or (b). IRC § 52 generally applies to employers who are part of a group of employers under common ownership or control and requires that the number of employees be aggregated. According to CMS “when calculating the number of employees, employers should use the total number of employees in an organizational structure (parent, subsidiary and siblings) rather than just the number of employees in the particular subsidiary being reported on” and “subsidiaries of foreign companies must count the number of employees in the organization worldwide.” If a group is unsure as to whether it has 20 or more (or 100 or more) employees, the group will want to consult with its tax advisor to see if these rules apply.

Please remember the following:

- The employee count for this questionnaire should include all employees regardless of how many hours they work each week.
- Union employees who receive their health benefits through the union must still be counted in this employee count determination if they are employees of the company.
- Employer size is based on the number of employees during specified time periods, not the number of individuals covered under the group health plan. As a result, employees who are ineligible for health benefits must nevertheless be considered in the employee count determination.
- Former employees (such as retirees) are not included in the employee count.

Q: What is considered current employment status?

A: Under the MSP Laws, an individual has current employment status when he or she is actually working for the employer, is the employer, or is associated with the employer in a business relationship (e.g. is a contractor or a supplier). The term “current employment status” also includes individuals who are not actively working if:

- The individual is receiving disability benefits from the employer for up to six months (this period generally coincides with the period that employer disability benefits are subject to FICA tax).
OR
- The individual retains employment rights in the industry, has not had his or her employment or his or her membership in an employee organization terminated, is not receiving disability benefits from the employer for more than six months, is not receiving disability benefits from social security and has group health plan coverage that is not COBRA continuation coverage.

Thus, as a practical matter, individuals on short-term disability and seasonal workers on furlough may have “current employment status.” Individuals with group coverage based on their (or a spouse’s or family member’s) former employment with an employer (e.g. retirees) do not have current employment status.

Q. What if the company did not have 20 or more employees in 20 or more calendar weeks last year and doesn’t now, but meets this threshold at some point over the next year?

A: An increase or decrease in employer size may affect whether the 20 or more or 100 or more test is met and, accordingly, when Medicare is appropriately the primary (or secondary) payer for group members enrolled in Medicare. It is the group’s responsibility to notify Blue Cross and Blue Shield of Louisiana immediately. Groups may download the form at www.bcbsla.com: 1) **Log in** to *AccessBlue*, 2) select **Forms for Employers**, 3) choose the **Federal Tax ID Group Size Information Sheet**. Groups may also call Membership and Billing at (225) 298-1711 to request the form.

Note: An increase in size to 20 or more employees is effective as soon as the employer reaches 20 or more employees in 20 weeks (consecutive or non-consecutive) during the current calendar year. [It is important that you notify Blue Cross immediately when such a development occurs so that we can coordinate benefits appropriately and submit the appropriate changes in a timely manner to CMS in connection with the MSP mandatory reporting process.]

Q: Where can I get more information regarding MSP laws, regulations and CMS guidance?

A: The MSP laws and regulations and CMS guidance are complex. For general information, consult the laws, regulations and MSP manuals directly or visit CMS websites. To find guidance on Mandatory Insurer Reporting and Small Employer Exception, see below:

Mandatory Insurer Reporting:

<http://www.cms.gov/Medicare/Coordination-of-Benefits-and-Recovery/Mandatory-Insurer-Reporting-For-Group-Health-Plans/Overview.html>

Small Employer Exception:

<http://www.cms.gov/Medicare/Coordination-of-Benefits/EmployerServices/smallemployerexception.html>

Specific questions concerning coordination of benefits with Medicare should be directed to an attorney or accountant.