

## Small Employer Exception (SEE)

If an employer with fewer than 20 full and/or part-time employees sponsors or contributes to a single-employer group health plan (GHP), the MSP rules applicable to individuals entitled to Medicare on the basis of age do not apply to such individuals. Nonetheless, if such an employer participates in a multi-employer/multiple employer GHP\* and at least one participating employer has at least 20 full and/or part-time employees, these MSP rules apply to all individuals entitled to Medicare on the basis of age, including those associated with the employer having fewer than 20 employees. However, the law provides that a multi-employer GHP may be granted an exception with respect to certain individuals entitled to Medicare on the basis of age and who are covered as a named insured or spouse (covered individual) of an employer with fewer than 20 full and/or part-time employees.

In order for an MSP SEE to exist, the multi-employer/multiple employer GHP must request and the Centers for Medicare & Medicaid Services' (CMS') Benefits Coordination & Recovery Center (BCRC) must approve the requested exception to the Working-Aged MSP rules. An approved exception will apply only with respect to the specifically named and approved beneficiaries associated with a specifically named employer participant in a specifically identified multi-employer/multiple employer plan. This exception applies only to individuals entitled to Medicare on the basis of age. All approvals are prospective. To request Medicare approval of a SEE, the multi-employer GHP must submit a written request, with all required supporting documents, to the CMS' BCRC stating that the plan seeks to elect Medicare as the primary payer for identified beneficiaries who are associated with identified employers that participate in the specific multi-employer plan.

For purposes of requesting the SEE, the term multi-employer GHP shall mean any trust, plan, association or any other arrangement made by one or more employers to contribute, sponsor, directly provide health benefits, or facilitate directly or indirectly the acquisition of health insurance by an employer member. (If such facilitation exists, the employer is considered to be a participant in a multi-employer GHP even if it has a separate contract with an insurer.) However, the GHP can, by agreement or otherwise, delegate the responsibility for requesting the SEE to the insurer.

\*A multi-employer/multiple employer plan is defined as any trust, plan, association, or any other arrangement that is sponsored by two or more employers or by employers and unions (as under Taft-Hartley law), where they contribute, sponsor, directly provide health benefits, or facilitate, directly or indirectly the acquisition of health insurance by an employer member. For more information, visit [www.cms.gov](http://www.cms.gov). Search for "MSP-Employer-Size-for-GHP-Arrangements" or "Small Employer Exception."