



# MEDICARE:

## THE INTERACTION BETWEEN MEDICARE & HEALTH PLANS

***PRESENTED BY:***

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# Topics Covered:

Introduction to Medicare

Medicare Secondary Payer Rules  
(MSP)

Medicare Part D Creditable Coverage  
Notification Requirements

Medicare Eligibility and Health  
Savings Accounts

# What is Medicare?

**Medicare** is the federal health insurance program for people who are 65 or older, certain younger people with disabilities, and people with End-Stage Renal Disease (permanent kidney failure requiring dialysis or a transplant, sometimes called ESRD).

*Source: Medicare.gov*

## Types of Medicare – Medicare Part A:

- ❑ Covers **inpatient** hospital expenses at acute care, rehabilitation and skilled nursing facilities.
- ❑ *Part A coverage is free for most, but not all individuals. To get Part A for free, must pay Medicare taxes for 40 quarters.*

### Medicare Part A Beneficiary (2018) Is Responsible For:

<b>Upfront Deductible</b>	\$1,340
<b>Hospital Inpatient Days 1-60</b>	\$0 coinsurance for each benefit period
<b>Hospital Inpatient Days 61-90</b>	\$335 coinsurance per day of each benefit period
<b>Hospital Inpatient Days 91-150</b>	\$670 coinsurance for each “lifetime reserve” day after day 90 for each benefit period (up to 60 days over your lifetime)
<b>Beyond Lifetime Reserve</b>	All Costs

## Types of Medicare – Medicare Part B:

- Covers most outpatient facility (e.g., OP hospital, OP rehab, X-Ray and Lab) and physician costs.
- Part B requires payment of a monthly premium.
  - Standard Part B premium in 2018 = \$134 per month (\$109 if receiving SSI benefits)
  - Higher premiums may apply for higher income earners
  - Penalty for late enrollees

### Medicare Part B Beneficiary (2018) is Responsible For:

Deductible

\$183

Coinsurance

20% for most services

## Types of Medicare: Medicare Part C

- ❑ Medicare Advantage Plan
- ❑ Coverage and premium varies by Plan



## Types of Medicare – Medicare Part D

- ❑ Covers prescription drug coverage
- ❑ Cost varies by Plan
- ❑ Cost sharing varies by Plan - Annual deductible for 2018 cannot exceed \$405
- ❑ Late enrollment penalty - Applies to late enrollees who go 63 days or more without creditable prescription drug coverage

# Types of Medicare Entitlement:

- Age Based - individuals who have attained age 65;
- Disability Based - entitlement begins 24 months after receiving Social Security Disability income benefits (note: There is a five month waiting period before Social Security Disability benefits begin);
  - Exception for **Amyotrophic Lateral Sclerosis** (ALS or Lou Gehrig's Disease)
    - No 24 month wait for Medicare
    - Medicare entitlement begins after fifth month of disability.



# Types of Medicare Entitlement:

- Exception for **End Stage Renal Disease (ESRD)**
  - Entitlement begins:
    - First day of the 4th month of dialysis;
    - Immediate for individuals who start a self-dialysis training program; and
    - Kidney transplant -immediate on the first day admitted to a hospital for a kidney transplant.
  - Can ESRD Medicare entitlement end? **Yes.**
    - ❖ After 36 months from last dialysis treatment (without a kidney transplant); and if no other entitlement applies (i.e., age based or disability).

# Medicare Second Payer (MSP) Rules



# What are the MSP Rules?

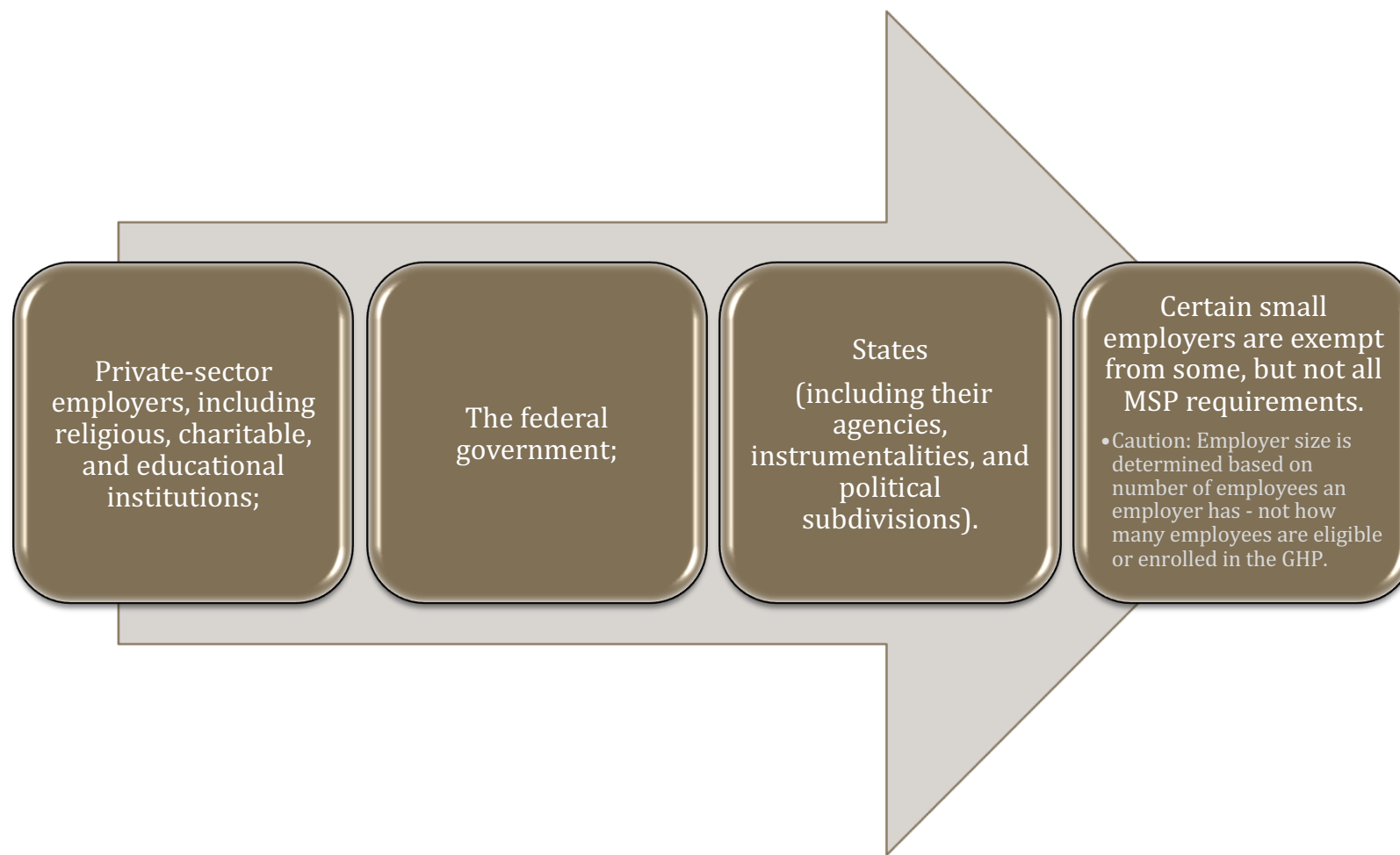
Medicare Secondary Payer (MSP) statute prohibits a group health plan from “taking into account” the Medicare entitlement of a current employee or a current employee’s spouse or family member.

*“Taking into account”* means, among other things, not paying primary over Medicare in accordance to Medicare Secondary Payer Rules.

MSP law prohibits employers from incentivizing, enticing, coercing or otherwise influencing a Medicare eligible person from waiving off the group health plan due to Medicare entitlement.

Although a Medicare eligible individual cannot elect Medicare to be primary over a GHP, nothing prevents that person from voluntarily waiving coverage under the GHP and just having Medicare.

# Who Must Comply with MSP Rules?



# Exceptions to MSP Rules:

## Exception to age based MSP rules - employers with less than 20 employees:

- applies only to group health plans of employers with 20 or more employees for each working day in at least 20 weeks in either the current or the preceding calendar year.

## Exception to disability based MSP (except ESRD) for small employers with less than 100 employees on a typical business day in the prior year.

## ESRD exception after 30 month MSP coordination period.

## Non active employees eligible for GHP benefits (except for ESRD). Examples:

- Retirees;
- COBRA;
- Long Term Disability – active employees who are out of work due to total disability for more than six consecutive months.

## Excepted benefits:

- COBRA (except ESRD)
- Retiree benefits (except for ESRD)
- Health FSAs, HSAs and Archer MSAs
- Caution - HRAs are not exempted from MSP rules
- Group Health Plans (including HRAs) after 30 month coordination period with Medicare based on ESRD

# MSP Group Health Plan Reporting Rules:

## Section 111 Reporting:

- Electronic file is sent to CMS quarterly –
  - Size of employer – to establish if group should be primary or secondary based on Medicare entitlement and size; and
  - Member demographic information is shared with CMS, including birthdates and SS#
  - Medicare also shares Medicare enrollment data with payer entities (e.g., Insurers and TPAs)

# Civil Penalties for Violating MSP Rules:

## Medicare Civil Penalties:

- Any employer that makes a prohibited offer or incentive to an employee, whether oral or in writing, is subject to a civil monetary penalty of up to \$5,000 per offer;
- Failure for GHP (Group Health Plan) to fulfill Section 111 reporting requirements
  - \$1,000 a day for each day of non-compliance for each individual who should have been reported.

# IRS Penalties for Violating MSP Rules:

Contributing to a “non-conforming” GHP is subject to excise tax penalty of 25% of the employer’s or employee’s group health plan expenses for the relevant year.

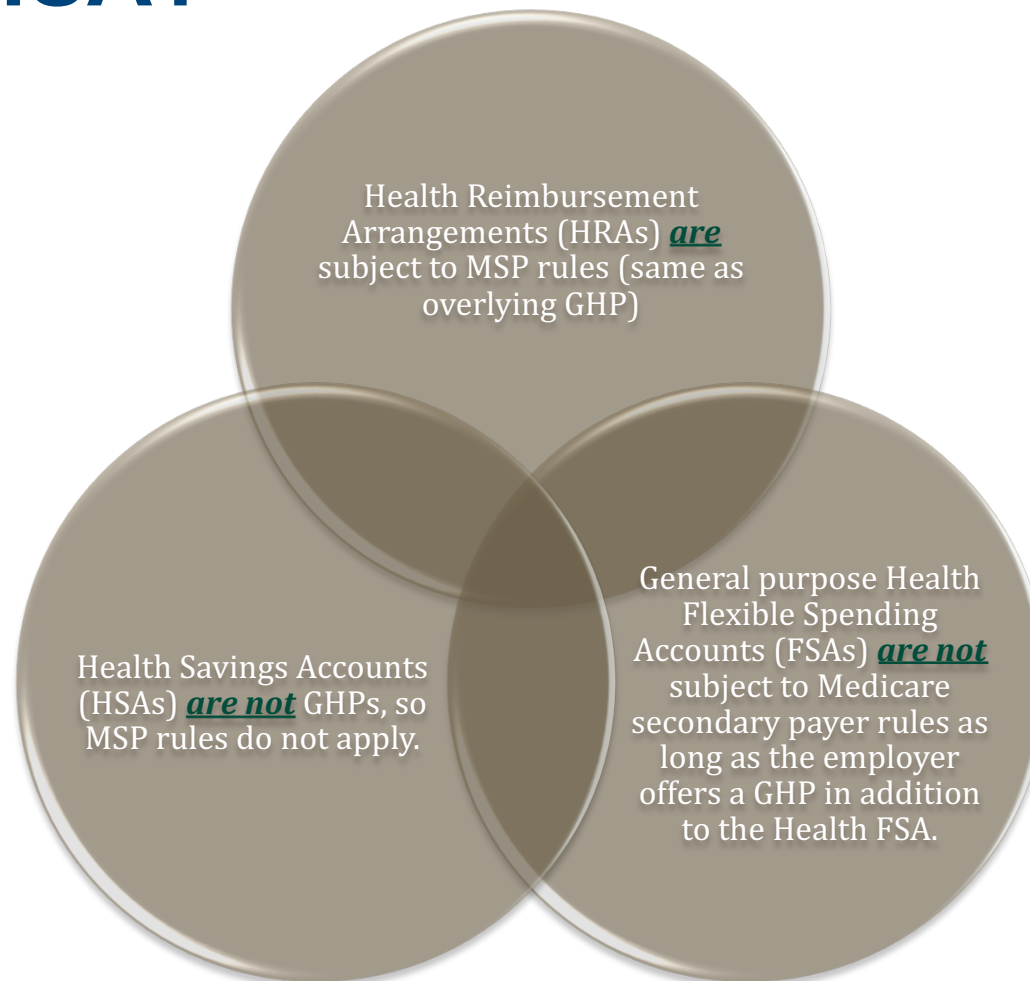
- A non-conforming GHP is one that:
- Improperly takes into account that an individual is entitled to Medicare;
- Fails to provide the same benefits under the same conditions to employees and spouses over age 65 or as provided to younger employees and spouses;
- Improperly differentiates between individuals with ESRD and others; or
- Fails to refund an erroneous Medicare payment.

If an employer reimburses an individual’s Medicare premium that is not integrated with a GHP – penalty of \$100 per person, per day for violating premium reimbursement rules under ACA.

- Means that employers with more than 20 employees will not be able to reimburse premiums because the GHP will violate MSP rules.



# Do MSP Rules Apply to Health HRA, FSA and/or HSA?



# Impact of Medicare Entitlement on HSA Eligibility:

Individuals who have a HSA can no longer contribute to the HSA once they are entitled to Medicare (i.e., enrolled and covered by Medicare).

- Plan Administration Issues – employers who contribute to HSAs of employees covered under the employer's GHP need to make sure that employees who are otherwise eligible for HSA contributions are not on Medicare and that employer and employee contributions stop as of the first month of Medicare entitlement.



Spouses of employees who do not have Medicare can continue to be covered under the employee's GHP and make contributions to their own HSA account.



Many HSA compatible GHPs are not considered creditable with Medicare Part D.

- Employees who become Medicare eligible may need to enroll in a Part D plan to avoid costly late enrollment penalties.



*Your Solution to Health Benefits*

PLEASE CONTACT US WITH ANY QUESTIONS

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