

BULLETIN

To: Small Group Carriers

Re: Reduction of Benefits for Medicare Eligible Employees

Date: June 14, 2000

Bulletin: Life and Health 00-14

The purpose of this bulletin is to clarify the Administration's position on when a carrier may reduce benefits for a Medicare eligible employee who is working for a small employer.

Employers With 20 or More Employees

Due to the federal Tax Equity Fiscal Responsibility Act of 1982 (TEFRA), a carrier may not make its coverage secondary to Medicare (i. e. reduce benefits to the extent benefits are payable under Medicare) if the employer has 20 or more employees.

Employers With Less Than 20 Employees

For an employer with fewer than 20 employees, a carrier may make its coverage secondary to Medicare only for an employee who is covered by Medicare. The carrier may reduce benefits only to the extent that benefits are payable under Medicare.

A carrier may not refuse to insure an employee who is eligible for Medicare, but decides not to enroll in Part B of Medicare.

Conversely, a carrier may not require an employee to enroll in Medicare Part B while the employee continues to work. To do so would force the employee to forfeit the one-time six-month open enrollment period for a Medicare supplement contract. Under §15-909(b) of the Insurance Article, the open enrollment period for Medicare supplement coverage begins on the date a person has *both* attained the age 65 (or older) *and* enrolled in Part B of Medicare.

An employee who has a pre-existing condition that would prevent the employee from qualifying for a particular Medicare supplement policy, may wish to defer enrollment in Part B of Medicare until the employee is ready to purchase a Medicare supplement contract. The employee should not be forced to relinquish the right to a future open enrollment period simply because a carrier wishes to make its coverage secondary to Medicare.

When enrolling an employee who is in a group of fewer than 20, and who is 65 years of age but has not yet enrolled in Medicare Part B, the small group carrier should give the following two options to the employee:

- Option 1: Enroll in both Parts A and B of Medicare, and pay a reduced premium for the employer coverage. The carrier will make its coverage secondary to Medicare Parts A and B.
- Option 2: Not enroll in Part B of Medicare. The carrier will make its coverage secondary to Medicare only to the extent benefits are payable for the individual under Part A of Medicare. No reduction of premium is provided under Option 2.

A carrier shall file rates for individuals aged 65 or older who may choose Option 2.

If you have any questions on this matter please call (410) 468-2170 and mention this bulletin by bulletin number.

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Associate Commissioner