

## **You are Turning 65 – The Complicated World of Coordination of Health Care Benefits – Medicare vs Employer Group Health Plan Coverage**

By David Meinhard, Esq.  
Harwood Lloyd, LLC  
June 2017

---

**Overview of Medicare vs Employer Insurance** In today’s environment it’s not unusual for individuals to be working when they are 65 or older, such that they are in a position to receive health insurance coverage from both their employer and Medicare. The good news to those staying in the workforce is that this means they may be able to reduce their health care costs by having primary and secondary insurance coverage at reasonable costs. If someone is employed by an employer with 20 or more employees, in most cases the insurance provided by the employer (known as a Group Health Plan or GHP) will remain as their primary insurance coverage, with Medicare being a secondary payer, covering most of the costs not covered by the primary insurance.

The main Medicare insurance coverages are Part A for hospitalization charges, and Part B which covers other medical charges, such as physician charges, diagnostic charges and other non-hospital charges. Many people don’t realize there is a charge to enroll in Medicare and that enrollment isn’t automatic. While Part A is generally provided at no charge once you are Medicare eligible after turning 65, there is always a charge for Part B<sup>1</sup>. The third common element of Medicare insurance is Part D, covering prescription medicine costs, which is not included in Parts A and B, and is not discussed at length in this article. You should note that purchasing Medicare Part D insurance is optional, however if you choose not to purchase it when you become Medicare eligible (upon turning 65), but you subsequently want it at a later date, your monthly premiums will be at a higher rate if you defer purchasing it.

Note the qualifier above – that “in most cases” the GHP insurance will generally be your primary insurance. The reason its qualified is because there are variations in how the rules apply, or if they apply at all, depending on the terms of your GHP, your given situation, as well as the Medicare regulations. In some cases the primary vs secondary coverage may reverse, with Medicare being primary and the GHP being secondary. For instance, that is the case if one is receiving health insurance coverage from an employer of less than 20 people.

Issues that impact the analysis of primary vs secondary coverage include whether the employee’s GHP coverage is covering them while actively employed, whether you are on long term disability, or are on insurance that is available through the federal Consolidated Omnibus Budget Reconciliation Act of 1985, also known as COBRA continuation coverage. COBRA may be available for an employee whose employment has ended through a “qualifying event” and elects to purchase insurance from the employer under COBRA.

**Contact Your Employer’s or Union’s Benefits Administrator** Individuals who are working and eligible to have both their GHP insurance and Medicare coverage should proactively look in to it a few months prior to their turning 65 (or if their spouse, who is covered

by their Group Health Plan, is turning 65) to find out how their employer insurance benefits coordinate with Medicare. They should contact their employer's (or union's) benefits administrator, providing information associated with the individual turning 65 as well as the employee's employment status, all which can impact health insurance coverage.

Understanding how Medicare and GHP coverage coordinate is particularly important if you decide to defer enrolling in Medicare Part B to avoid paying the Part B monthly premium because you have a GHP which will provide primary coverage. In some cases that may be a reasonable thing to do.

**Documentation of the Discussion with the Benefits Administrator** After your discussion with the employer or union Benefits Administrator, and gaining the understanding of how the GHP benefits coordinate with potential Medicare benefits, ask the Benefits Administrator to provide you with a written document spelling out how the coverage works (including which insurance is primary). Also, if the circumstances change from your initial discussion, such as you were working when you applied but now are about to go on short or long term disability, you should contact the Benefits Administrator again to determine whether the coordination of benefits change, or even if the GHP coverage will no longer apply.

If the employer doesn't send you a written confirmation of how the Medicare and employer benefits work together it is prudent to send a letter to the Benefits Administrator, referencing your discussion and clearly spelling out your understanding of how the coverage works. Its helpful if your letter documenting the discussion states that if you don't receive anything to the contrary in writing, that its understood your summary is accurate. It's beneficial to send the letter via a process where you have confirmed the letter was received, whether through certified mail, return receipt requested, or some other similar method.

### **It's Complicated**

Needless to say, this is a complicated area, and in light of the current environment over health insurance coverage in general, its unlikely to become any less challenging to deal with. To find out more about this topic, the following CMS web site provides some good tools to assist you. <https://www.medicare.gov/supplement-other-insurance/how-medicare-works-with-other-insurance/who-pays-first/which-insurance-pays.html#collapse-2436>

**David Meinhard** is a transactional and regulatory lawyer, with a practice concentration in health care and data privacy law, at Harwood Lloyd, LLC, located in Hackensack, NJ. He can be contacted at [dmeinhard@harwoodlloyd.com](mailto:dmeinhard@harwoodlloyd.com) or 201-359-3593.

This article is offered for informational purposes and does not constitute a legal solicitation or the provision of legal advice. The information above should not be used as a substitute for obtaining legal advice from a qualified and licensed attorney.

© 2017 David Meinhard. All rights reserved.

---

<sup>i</sup> As of May 2017, the "standard" monthly premium per person is \$134 per month, which is paid to the Centers for Medicare and Medicaid Services (CMS), though the premium could be higher depending on your income.