

Employee Benefits Division Policy Memorandum

Number: Policy Memo 39r3

Date Issued: September 28, 2023

Subject: Medicare Reimbursement and Retroactive Adjustment for NY and PE Retirees

PURPOSE:

Clarify the process of correcting an enrollment file and recovering Medicare reimbursement when a Medicare-primary retiree or a retiree covering a Medicare-primary dependent returns to work.

BACKGROUND:

According to the Centers for Medicare and Medicaid Services (CMS) Medicare Secondary Payer (MSP) rules, Medicare pays on a primary basis when the policy holder or enrollee is retired. When such a retired enrollee returns to work in a benefits eligible position for the same employer from which he or she retired,* his or her coverage should change to NYSHIP-primary since the enrollee is actively working. The payment order for the enrollee's Medicare eligible dependent would also be affected.

At times, a retiree returns to work at an earlier date than when NYSHIP is notified. In such cases, the rehired retiree and his or her dependent may have incorrectly received Medicare reimbursements. They may also have had claims paid incorrectly during the time that NYSHIP was not notified that the retiree returned to work. The following policy addresses this issue.

POLICY:

When a Medicare-primary retiree or a retiree covering a Medicare-primary dependent returns to work, the HBA must ensure the job information is updated in the New York Benefit Eligibility and Accounting System (NYBEAS) with a comment indicating whether the retiree is working in a benefits eligible-position.

If the retiree is working in a benefits eligible position, the HBA must send a letter notifying EBD of the date of rehire, confirming benefits-eligible status, and advising if the enrollee is maintaining retiree coverage or enrolling in active coverage. EBD will stop Medicare reimbursement as of the date the enrollee satisfies his or her new employee waiting period. If necessary, EBD will recoup the Medicare reimbursement for the period that NYSHIP is assuming primary coverage for the enrollee (and/or dependent) in accordance with State finance law.

If the rehired retiree does not meet the active employee coverage requirements, Medicare will continue to provide primary coverage and NYSHIP will continue to provide Medicare reimbursement.

When the rehired retiree later separates from service or is no longer in a benefits eligible position, the reimbursement resumes on the first day of the month following his or her last day of active employment. For purposes of determining Medicare primacy for rehired retirees, we do not consider the 28-day runout period as we typically do for new retirees.

** An employee who retires from one NYSHIP employer and returns to work for a different NYSHIP employer remains Medicare primary.*