

Employee Benefits Division Policy Memorandum

Number: Policy Memo 65r4

Date Issued: November 14, 2017

Subject: COBRA Termination due to Medicare Entitlement for COBRA Coverage Administered by the Employee Benefits Division (EBD)

PURPOSE:

Determine when an individual's COBRA coverage through NYSHIP should be terminated due to Medicare entitlement.

BACKGROUND:

Employers are permitted to terminate health, dental, and vision COBRA coverage for an enrollee or dependent who becomes entitled to Medicare benefits after he or she is enrolled in COBRA coverage. This is in accordance with Section 54.4980B-7 of Title 26 Code of Federal Regulations. The following policy addresses the procedure to be implemented for individuals who are enrolled in COBRA coverage and then become entitled to Medicare.

POLICY:

EBD shall terminate NYSHIP health, dental, and/or vision COBRA coverage (as applicable) for an enrollee or a dependent when that person becomes entitled to Medicare after the date of COBRA election. If family coverage is in effect, COBRA coverage for the remaining eligible persons will continue until the end of the COBRA period.

An individual becomes eligible for Medicare benefits when he or she turns 65. Therefore, EBD shall terminate NYSHIP health, dental, and/or vision COBRA coverage (as applicable) on the date the individual is first eligible for Medicare due to age. Specifically, EBD shall terminate the individual's health, dental, and/or vision COBRA coverage effective on the first day of the month in which the individual turns 65 or the first day of the month preceding the individual's month of birth if the individual's birthday is on the first day of the month. If an enrollee or dependent does not enroll in Medicare coverage when he or she turns 65, EBD is to reinstate COBRA coverage upon request retroactive to the date of COBRA termination.*

EBD shall also terminate NYSHIP health, dental, and/or vision COBRA coverage for an enrollee or dependent who becomes entitled to Medicare after receiving Social Security Disability Insurance (SSDI) benefits for 24 months, or when receiving SSDI benefits due to Amyotrophic Lateral Sclerosis (ALS) after the date of COBRA election. In such cases, NYSHIP health, dental, and/or vision COBRA coverage will be terminated on the first day of the month in which the discovery of Medicare coverage is made. Since Medicare should be the primary carrier during the period when both Medicare and NYSHIP coverage is available, the enrollee will be provided with reimbursement for the Medicare Part B premium retroactive to the Medicare effective date.* A Program Administration representative will advise the carriers of this determination and request that they subrogate with Medicare any claims they paid on a primary basis.

COBRA coverage will not be terminated for individuals who become entitled to Medicare benefits due to end-stage renal disease and are currently in a coordination period. This is in accordance with Centers for Medicare and Medicaid Services Medicare Secondary Payer Rules

regarding end-stage renal disease. NYSHIP must continue to pay primary for the entire coordination period. Medicare reimbursement shall not be provided in such cases because NYSHIP pays primary during such coordination periods. EBD shall terminate COBRA coverage for individuals entitled to Medicare due to end-stage renal disease and are no longer in a coordination period.

**In all situations COBRA coverage is limited to a maximum of 36 months. In addition, retroactive reimbursement for Medicare Part B premium is paid a maximum of three years prior to the date that the issue is discovered.*