

## **Financial Updates**

Q: What is the “Cadillac Tax” and how is NYSHIP addressing this looming tax issue?

A: One key provision of the federal Patient Protection and Affordable Care Act (PPACA) is the excise tax on high-cost health insurance plans, commonly known as the Cadillac tax. The Cadillac tax is an excise tax on high-cost health insurance plans first effective for plans issued in 2018. Health insurance plan sponsors will be required to pay an amount equal to 40 percent of the amount that the plan premium value exceeds specific thresholds set by the federal government. For 2018, the federal government has preliminarily set these thresholds at \$10,200 for individual policies and \$27,500 for family policies. After 2018, these thresholds are indexed to the Consumer Price Index (CPI).

NYSHIP’s potential Cadillac tax liability will be largely influenced by federal regulations that have yet to be issued. In 2016, the Department of Civil Service will continue to monitor the regulations and federal guidance to assess the potential fiscal impact for 2018 and the years beyond.

Q: Now that the plan is self-funded, why are the component companies reporting gains? Does the plan upfront the funds to the component companies?

A: The gains and losses reported by the Empire Plan vendors reflect the difference between the gross premium and incurred claims and administrative expenses as reported by each vendor. Similar to when the plan was insured, when premium exceeds the amounts necessary to pay claims and expenses in any given year, the excess amount is returned to the Plan as dividend. We do not upfront gains/dividends to the component companies.

Q: What does VO stand for above the Mental Health and Substance Abuse column on slide 9 of the presentation?

A: VO stands for ValueOptions, the vendor which currently administers the Empire Plan’s Mental Health and Substance Abuse program.

Q: When will the final 2016 rates be made available to NYSHIP participating employer groups?

A: We anticipate the rates will be made available in mid-November.

Q: Please confirm PA (Participating Agency) groups are experienced rate and the Empire Plan is self-insured.

A: Confirmed.

## 2015 Participating Agency / Participating Employer Webinar Questions and Answers

- Q: Can you re-state the names associated with the Empire Plan components?
- A: Hospital Program – administered by Empire BlueCross BlueShield  
Medical Program – administered by UnitedHealthcare  
Mental Health and Substance Abuse Program – administered by ValueOptions  
Prescription Drug Program – administered by CVS Caremark
- Q: Does the claims experience include a provision for incurred but not reported (IBNR) claims?
- A: Yes, the incurred claim experience referenced in the presentation includes Incurred But Not Reported (IBNR) claims.
- Q: Just to clarify, are "dividends" the net overage of premiums paid vs claims paid during the year?
- A: Dividends represent the difference between the gross premium, based on the developed Empire Plan rates, and the incurred claims and administrative expenses as reported by the Empire Plan vendors. A dividend results when the gross premium exceeds the reported incurred claims and administrative expenses in a plan year.
- Q: For 2016 Budget purposes: Should we use a 7.4% increase over the 2015 premiums or will it be less when the premium is released in mid-November?
- A: The rate actions recommended by the Department are pending approval from the NYS Division of the Budget and are not yet final. We anticipate the rates will be made available in mid-November.
- Q: How does mid-November comply with the 60 day notice of rate increases?
- A: The 60-day notification requirement under the Affordable Care Act (ACA) does not apply to rate changes.
- Q: Can you explain the Mediprime charge?
- A: The Mediprime charge represents the difference between the amounts charged to Participating Agencies based on the five tier rate structure and the two tier liability structure accounted for by the Empire Plan vendors in reporting gains and losses.
- Q: The gains are to the plan and not the companies though?
- A: Yes, the gains (dividends) are retained by the plan.

## 2015 Participating Agency / Participating Employer Webinar Questions and Answers

Q: Would changing the rate structure from Individual and family to a 4 tier structure (Individual, family, employee + children, and employee + spouse be a possibility in order to save costs?

A: Expanding the current two tier rate structure (Individual and Family coverage) to a 3 or 4 tier structure would not result in plan savings. Since the Empire Plan is experience rated, the additional tiers would simply shift premium dollars and result in enrollees with more than one dependent paying a greater share of premium compared to enrollees with only one dependent.

## **Patient Protection and Affordable Care Act (PPACA) Reporting and Updates**

Q: Are employers required to offer health insurance coverage to an employee who works 30 hours per week?

A: In general, employees who work 30 hours per week are defined as full-time employees under the Patient Protection and Affordable Care Act (PPACA). Under PPACA, those employers defined as large employers are subject to certain penalties if they do not offer health insurance coverage to full-time employees. To eliminate the risk of facing these penalties, employers may wish to offer health insurance coverage to all full-time employees.

Q: How should employees who work 30 hours per week, but do not work year-round, be treated?

A: Special rules apply for seasonal workers under PPACA regulations. NYSHIP employers should consult with their counsel and human resources experts to ensure an appropriate method is used to determine employees' full-time status.

Q: What is an "early retiree"?

A: In the October webinars, the term "early retiree" refers to retired employees who are not yet enrolled in Medicare.

Q: Are employers with at least 50, but fewer than 100, full-time employees subject to the employer mandate?

A: In 2015 only, the IRS has stated that employers with at least 50, but fewer than 100, full-time employees will not be subject to the employer shared responsibility provisions. These employers are still required, however, to provide Form 1095-C to both to required individuals and to the Internal Revenue Service (IRS). Employers must provide Form 1094-C to the IRS as well.

Q: Can employers include Form 1095-B or 1095-C with employees' W-2?

A: Yes. If employers are physically mailing employees' W-2's, they may include Form 1095-B or Form 1095-C as well. There is no requirement that the form be mailed separately.

Q: Does Form 1095-B or Form 1095-C need to be sent to employees who declined an offer of health insurance coverage (including those who are enrolled in an employer's Opt-out program)?

A: Large employers subject to PPACA's "employer mandate" provisions are required to send Form 1095-C to employees who declined an offer of health insurance coverage. Employers not subject to the "employer mandate" are not

## 2015 Participating Agency / Participating Employer Webinar Questions and Answers

required to send Form 1095-B to employees who declined an offer of health insurance coverage.

Q: Does a copy of Form 1094-B or Form 1094-C get sent to employees and enrollees, or are those forms only sent to the IRS?

A: Form 1094-B or Form 1094-C should only be sent to the IRS. It should not be sent to employees or enrollees.

Q: Does Form 1095-B or Form 1095-C need to be sent to retirees enrolled in Medicare?

A: Generally speaking, Form 1095-B or Form 1095-C does not need to be sent to retirees enrolled in Medicare. The only exception is for a retiree enrolled in Medicare with family coverage covering a dependent not enrolled in Medicare. Form 1095-B or Form 1095-C should be mailed to those individuals with only the names of covered individuals who are not enrolled in Medicare listed in Part IV of Form 1095-B or Part III of Form 1095-C.

Q: Who should complete Part II of Form 1095-B?

A: Part II of Form 1095-B should be left blank by NYSHIP employers providing Form 1095-B to their Empire Plan or Excelsior Plan enrollees. No one is responsible for completing these fields in this circumstance. Part III of Form 1095-B should be completed with the employer's information.

Q: Where can I find information on federal guidelines for affordability of health premiums?

A: This link on the IRS website contains more information related to the health insurance affordability requirements:  
<https://www.irs.gov/Affordable-Care-Act/Employers/Questions-and-Answers-on-Employer-Shared-Responsibility-Provisions-Under-the-Affordable-Care-Act>.

Q: Should employers complete information in Part III of Form 1095-C for employees who are enrolled in an HMO?

A: No. Part III of Form 1095-C should be left blank for all HMO enrollees.

Q: Does the HMO coverage offered by NYSHIP to enrollees of participating employers meet the PPACA comprehensiveness threshold?

A: Yes.

Q: Will the State of New York solicit the missing or invalid Social Security numbers for participating agencies or participating employers?

## 2015 Participating Agency / Participating Employer Webinar Questions and Answers

A: No. This is the responsibility of each NYSHIP employer.

Q: How can NYSHIP employers get a list of missing or invalid Social Security numbers?

A: NYSHIP employers will soon be able to download this information from the New York Benefits and Accounting System (NYBEAS). Instructions will soon be forthcoming.

Q: What is a “good faith” effort to collect missing or invalid Social Security numbers (certified mail, e-mail, phone call)?

A: The Internal Revenue Service (IRS) has not specifically defined what constitutes a “good faith” effort, but the State of New York is complying with this requirement by sending letters to all enrollees with missing or invalid dependent Social Security numbers via first-class mail.

Q: Do Health Benefits Administrators (HBAs) need to have a copy of dependents’ Social Security cards?

A: No, HBAs are not required to have a copy of a dependent’s Social Security card. They should enter the SSNs as provided by the employee.

## **Dependent Eligibility Audit Questions and Updates**

- Q: If a dependent is under age 26 and is offered insurance by their employer, can they still stay on their parent's coverage?
- A: Yes.
- Q: What, besides the removal of the unverified dependent will be the penalty to the employees and what is the employers responsibility, if any with the audit?
- A: The Department has the ability recover claims associated with ineligible dependents dating back to the time they first became ineligible.
- Q: If an EE did not receive an Audit Letter in 2009 will they be part of this new Audit?
- A: Yes, if an enrollee, with family coverage, is covering dependents not included in the 2009 audit.
- Q: Also, will those members terminated appear on our monthly NYBEAS report
- A: Yes, and they will be identified with a unique source ID.
- Q: If dependents are deemed ineligible, will employers be notified?
- A: Yes, ineligible dependents will be identified on the monthly agency activity listings sent to PAs and PEs.
- Q: I believe that all my enrollees will be calling if all their dependents are not on the letter sent to enrollees. They will believe that they are missing off coverage. What can HMS do about that?
- A: The State will not be seeking verification proofs for dependent children (sons and daughters) who were deemed eligible in the 2009 Dependent Eligibility Audit, Dependent Survivors, or children covered due to a NMSO. These dependents will not be listed by HMS in their Verification Phase letter to enrollees. However, such letters will note to enrollees that if you do not see all of your dependents listed it is because the State is not requiring eligibility documentation for them and/or they were previously verified as eligible in a similar Dependent Eligibility Audit in 2009.
- Q: How will the dependent eligibility audit identify spouses of enrollees that were divorced?
- A: In addition to marriage certificates, enrollees will be required to provide either the front page of their 2014 federal tax return or a document dated within the last 60

## 2015 Participating Agency / Participating Employer Webinar Questions and Answers

days showing current relationship status such as a recurring monthly household bill or statement of account. The document must list the spouse's name, the date and the employee's mailing address.

Q: The slide mentioned that dependent children verified in 2009 will not be audited again, what about spouses?

A: Enrollees will be required to resubmit eligibility proofs for their spouses even if they were verified as eligible in 2009.

Q: Will samples of all communications being sent to the employees be available for PA/PEs?

A: Yes. The Department will make such communications available through HBA memos and is determining ways to make such communications available online.

Q: What constitutes an ineligible dependent?

A: Enrollees who cannot provide acceptable proofs for their dependents will be deemed ineligible. Proofs for the Verification Phase of this project include, but are not limited to marriage certificates and tax returns for spouses; Affidavits of Domestic Partnership plus a document from the last 60 days showing current relationship status such as a recurring household bill or statement of account for domestic partners; for children, a copy of a birth certificate/hospital birth record OR adoption certificate naming the employee as the child's parent.

Q: Will amnesty letter be mailed directly to enrollees?

A: Yes.

Q: What are the proofs of eligibility that the enrollees have to provide for children less than 26 years of age who might have coverage offered at their job?

A: Generally speaking, the proofs of eligibility for children are a copy of the child's birth certificate/hospital birth record OR adoption certificate naming the employee as the child's parent OR a copy of the court order naming the employee as the child's legal guardian. However, if a child listed on NYBEAS as a "Son" or "Daughter" was already verified as eligible in the 2009 Dependent Eligibility Audit they will not be required to submit proofs. "Other Children" will again be required to provide documentation.

Q: PAs have the "option" to offer COBRA. It will be effective 1/1/2016 since that is the retro termination date?

## 2015 Participating Agency / Participating Employer Webinar Questions and Answers

- A: PAs should make their own determination as to whether or not they will be offering COBRA. The COBRA effective date will be 1/1/2016 for dependents removed during the Verification Phase.
- Q: Is there a reason PE's cannot offer COBRA?
- A: New York State administers COBRA on behalf of the PEs and has made a policy determination not to offer COBRA for NY and PE dependents that are terminated as a result of being deemed ineligible through the Verification Phase of this project.
- Q: Does dependent proof need to be submitted for all enrollees who add dependents throughout the year? We keep the proof in our files but have never sent it to NYSHIP in the past.
- A: Enrollees who need to add new dependents throughout the year should do so through their HBAs in the normal course of business. Such dependents will not be included in the Verification Phase of this project. However, the appropriate dependent proof is required to add new dependents to an enrollee's NYSHIP coverage.
- Q: What phone number can they call for verification or questions for amnesty program?
- A: HMS will be mailing Amnesty letters to enrollees beginning on December 1, 2015. This letter will contain an HMS toll free number for enrollees who have questions throughout the Amnesty Phase. A separate HMS toll free number will be provided to enrollees in the Verification Phase.
- Q: Will we have access to the reference numbers needed to access the portal? How can they replace it if they lose it?
- A: Enrollees can call HMS's toll free number, which will be provided in letters to enrollees during the Amnesty and Verification Phases of this project, to obtain their reference number.
- Q: Are the documents being sent to HMS or the participating agency?
- A: Enrollees need to send verification documents (proofs) to HMS.
- Q: What kind of documentation will be needed for disabled dependents?
- A: The Department will require the same proofs for disabled dependents over age 26 as they will for all dependents.

## 2015 Participating Agency / Participating Employer Webinar Questions and Answers

Q: If enrollees identify their ineligible dependents the ineligible dependent will be removed 2/1/16. If dependent are deemed ineligible in the Verification Phase the dependent will be terminated retroactive to 1/1/16. Why do ineligible dependents in the Amnesty Period get another month of coverage?

A: The legislation included in the New York State Enacted Budget for 2015-16 requires that terminations related to the Amnesty Phase be made on a current basis.

Q: Are marriage certificates required for all employee spouses?

A: In addition to marriage certificates, enrollees will be required to provide either the front page of their 2014 federal tax return or a document dated within the last 60 days showing current relationship status such as a recurring monthly household bill or statement of account. The document must list the spouse's name, the date and the employee's mailing address.

## **New York State Health Insurance Program (NYSHIP) and Medicare Questions**

Q: When does an actively working employee need to sign up for Medicare Parts A and B?

A: Medicare-eligible employees and dependents should contact their local Social Security Administration approximately three months before they retire, in order to enroll in Medicare Parts A and B. To avoid a reduction in benefits, Medicare Parts A and B should be in effect when the active employee retires and Medicare is primary to NYSHIP. Medicare becomes primary to NYSHIP on the first day of the month following the last day of coverage as an active employee. **When the employee contacts Social Security, he or she should ask for a special enrollment period due to the change in employment status.**

Q: Where can I locate the “Happy 65<sup>th</sup> Birthday” letter?

A: The “Happy 65<sup>th</sup> Birthday” letter can be located on HBA Online at:  
<https://www.cs.ny.gov/employee-benefits/hba/shared/notices/>

Q: What if a Medicare eligible active employee did not enroll in Medicare Parts A or B when he or she turned 65? The employee is now 69 and considering retirement, is there a penalty?

A: No, there is no penalty because the employee who is age 69 is still considered NYSHIP primary. However, the Medicare-eligible employee should contact their local Social Security Administration approximately three months before he or she retires in order to enroll in Medicare Parts A and B. To avoid a reduction in benefits, Medicare Parts A and B should be in effect when the active employee retires and Medicare is primary to NYSHIP. Medicare becomes primary to NYSHIP on the first day of the month following the last day of coverage as an active employee. **When the employee contacts Social Security, he or she should ask for a special enrollment period due to the change in employment status.**

Q: Can an enrollee have two NYSHIP plans in their own name?

A: No. If an employee is eligible for NYSHIP through more than one NYSHIP agency, or as a NYSHIP retiree from another agency, the enrollee must choose where to maintain his/her benefits.

## 2015 Participating Agency / Participating Employer Webinar Questions and Answers

Q. Can an enrollee be covered as an enrollee in their own name and also be covered as a dependent on their spouse's NYSHIP through another agency?

A. Yes. Agencies may, at their discretion, allow enrollees to carry dual NYSHIP coverage. However, if the enrollee has family coverage with one agency and is covered as a dependent under family coverage in another agency (commonly through a spouse) then **both** agencies would need to allow dual NYSHIP coverage.

If both agencies do not allow dual NYSHIP coverage, then the enrollee can be covered as a dependent on a family policy through another agency and individual coverage through the enrollee's agency.

Q: Two spouses cover one another in NYSHIP under two separate Participating Agencies. The spouses are Medicare primary. How does dual coverage affect coverage under either PA, if at all? Would one spouse's coverage be terminated?

A: NYSHIP allows employers at their discretion to allow dual coverage. In this situation, when the two spouses become Medicare primary, each spouse is enrolled in the Empire Plan Medicare Rx in their own right. Since each spouse maintains the same Medicare product, the Empire Plan Medicare Rx, there is no effect to either spouse's coverage and they are still eligible to receive copay reimbursement.

Q: I have an employee whose spouse is eligible for Medicare through the Railroad Retirement Board. Is this different for employees who are eligible for Medicare through Social Security?

A: No. Individuals who are eligible for Medicare through the Railroad Retirement Board receive the same benefits as individuals who are eligible for Medicare through Social Security Administration.

Q: Are Participating Agencies required to reimburse Medicare Part B for the month which a Medicare Primary enrollee passes away?

A: Yes. If an enrollee is Medicare primary for 1 day in a month, the Participating Agency is required to reimburse Medicare Part B premium for the whole month.

Q: Who is primary, Medicare or NYSHIP, for a Medicare eligible domestic partner of an actively working employee?

A: Medicare is primary for a domestic partner of an actively working employee who is Medicare eligible due to age (age 65). If the domestic partner is Medicare eligible due to a disability, NYSHIP will be primary to Medicare until the domestic partner turns 65.

## 2015 Participating Agency / Participating Employer Webinar Questions and Answers

- Q: Is the requirement to reimburse for the Income Related Monthly Adjustment Amount (IRMAA) going away?
- A: There has been no change to the requirement to reimburse for IRMAA. Any change to this information will be communicated to NYSHIP employers.
- Q: Should enrollees enroll in Medicare Part A when they are first eligible, even if they aren't Medicare primary?
- A: Enrollees may enroll in Medicare Part A when first eligible when NYSHIP is primary to Medicare (for example an actively working enrollee who is age 67 or a dependent of an actively working employee who has collected 24 months of SSDI). For enrollees who are NYSHIP primary and enrolled in Medicare Part A, Medicare will pay secondary to NYSHIP on submitted hospital, skilled nursing facility, nursing home care, hospice or home health services claims.
- Q: If an enrollee is on Social Security Disability Insurance (SSDI) and they are hired by my agency, are they Medicare Primary?
- A: No. An actively working employee is considered NYSHIP primary, even if they collect SSDI. The exception is an actively working employee who was diagnosed with ESRD and successfully completed the 30-month coordination period with Medicare.
- Q: Is an active employee who is eligible for Medicare due to End-Stage Renal Disease (ESRD) eligible for Medicare Part B reimbursement? If so, how long are they eligible for Medicare Part B reimbursement?
- A: An actively working employee who is eligible for Medicare due to ESRD (meaning he or she completed the 30-month coordination period with Medicare) is considered Medicare primary and is eligible for Medicare Part B reimbursement. The employee is eligible for Medicare Part B reimbursement for however long they are considered Medicare primary. (Individuals with ESRD may lose entitlement to Medicare 36 months after a successful kidney transplant; these employees would then no longer be Medicare primary or eligible for Medicare Part B reimbursement.)
- Q: What is a Participating Agency's role with respect to Medicare primacy for its enrollees in NYSHIP?
- A: A Participating Agency is responsible for maintaining accurate information in NYBEAS for its members. This includes the proper spelling of names (if the member is receiving benefits from Social Security then the name on NYBEAS should match the name the member has on file with Social Security Administration), correct date of birth, address, and Medicare ID number.

It is best practice for agencies to send reminders to their retirees periodically to request a copy of their Medicare card and to send this information to their HBA. This assures that enrollees' enrollment files are updated timely. They should also be advised that if not done timely, their Medicare refund amount may be affected.

For your Medicare primary members, it's important to have a residential address on file. CMS does not accept a PO Box as a valid address to enroll members into Medicare Part D prescription drug plans (including the Empire Plan Medicare Rx or benefits offered through a NYSHIP HMO Medicare Advantage Plan). Therefore, NYBEAS must be updated with a residential address. Refer to HBA Memo PA14-22 / PAEX14-22 for instructions.

Once member information is accurate, the Participating Agency is responsible for updating the Medicare Primacy indicator in NYBEAS. As a reminder, Participating Agencies are responsible for reimbursing Medicare Part B premiums for Medicare primary enrollees.

Q: What is a Participating Employer's role with respect to Medicare primacy for its enrollees in NYSHIP?

A: A Participating Employer is responsible for maintaining accurate information in NYBEAS for its members. This includes the proper spelling of names (if the member is receiving benefits from Social Security then the name on NYBEAS should match the name the member has on file with Social Security Administration), correct date of birth, address, and Medicare ID number.

For your Medicare primary members, it's important to have a residential address on file. CMS does not accept a PO Box as a valid address to enroll members into Medicare Part D prescription drug plans (including the Empire Plan Medicare Rx or benefits offered through a NYSHIP HMO Medicare Advantage Plan). Therefore, NYBEAS must be updated with a residential address. If you have questions how to update NYBEAS with this information, contact the HBA Helpline at 518-474-2780. When you receive this information, please send it to the Employee Benefits Division.

The Employee Benefits Division is responsible for updating the Medicare Primacy indicator in NYBEAS for retirees, COBRA enrollees and Dependent Survivors of Participating Employers. As a reminder, the State of New York reimburses Medicare Part B premiums on behalf of Participating Employer Medicare primary enrollees.