

Medicare

Medicare is a federal health insurance program for people age 65 or older, certain disabled people, and for people with end stage renal disease (kidney failure) or ALS (amyotrophic lateral sclerosis). It is administered by the U.S. Department of Health and Human Services through the Centers for Medicare and Medicaid Services (CMS). Local Social Security Administration offices provide information about the program and take applications for Medicare coverage. Various health insurance companies provide Medicare insurance. These companies contract with CMS to pay Medicare claims.

The New York State Health Insurance Program (NYSHIP) benefits become secondary to benefits covered by Medicare under certain conditions.

Medicare has four parts:

- **Medicare Part A (hospital insurance)** helps pay for inpatient hospital care, inpatient care in a skilled nursing facility following a hospital stay, home health care, and hospice care. NYSHIP requires enrollees and their dependents to have Medicare Part A in effect as soon as they become eligible. There is usually no cost for Part A.
- **Medicare Part B (medical insurance)** helps pay for medically necessary doctors' services, outpatient hospital services, home health services and a number of other medical services and supplies that are not covered by the hospital insurance part of Medicare. NYSHIP requires enrollees and their dependents to have Medicare Part B in effect as soon as they become eligible. A Participating Agency must reimburse enrollees and their dependents for the standard cost of the Medicare Part B premium charge.
- **Medicare Part C (Medicare Advantage)** began in 1998 (as Medicare + Choice), and is designed to provide Medicare beneficiaries with a variety of managed care and private contracting arrangements to enhance their choice of care delivery systems. With a Medicare Advantage Plan, the enrollee assigns Medicare benefits directly to the HMO. All care must be received through that plan's delivery system and there is no coverage for care not received through the HMO. NYSHIP does not offer Medicare Part C Advantage Plans.
- **Medicare Part D (prescription drug coverage)** effective January 1, 2006, is designed to offer coverage for medically necessary drugs through prescription drug plans under contract with CMS or Medicare Advantage prescription drug plans. Although NYSHIP enrollees who are Medicare eligible are eligible to join Part D, there is no NYSHIP requirement to do so and in most cases, NYSHIP enrollees will have better benefits from their NYSHIP prescription drug coverage.

The following section provides **important** information on the relationship of NYSHIP to Medicare and the Participating Agency's responsibilities.

1. The Relationship of NYSHIP to Medicare

Federal law governs when Medicare will provide coverage that is primary to a group health plan such as NYSHIP. A health insurance plan provides "primary coverage" when it is responsible for paying health benefits before any other plan is liable for payment.

Following are the "primary coverage" rules for Medicare eligible persons enrolled in the New York State Health Insurance Program:

a. Active Employees & Dependents of Active Employees (Including Leave Without Pay):

NYSHIP provides primary coverage to active employees and dependents of active employees who are enrolled in the Program regardless of the employee's age or disability based Medicare eligibility status, with the following exceptions:

- 1) For active employees and dependents of active employees who are eligible for Medicare due to permanent kidney failure (ESRD), NYSHIP provides primary coverage for a three-month waiting period plus the first 30 months of treatment; then Medicare provides primary coverage.

Note: For active employees and dependents of active employees, Medicare waives the three month waiting period if the patient enrolls in a self-dialysis training program during the first three months or receives a kidney transplant within the first three months of being hospitalized for the transplant. In such cases, NYSHIP would only be primary for 30 months before Medicare becomes primary.

- 2) When active employees and dependents of active employees become eligible for Medicare, they may elect in writing that Medicare will be their primary coverage. However, if an employee makes such an election, coverage under NYSHIP must end for the employee and any covered dependents. Federal Medicare Secondary Payer law prohibits an arrangement where Medicare is primary and a group plan is secondary for an active employee.

Note: An active employee may enroll in Medicare for secondary coverage. Under these circumstances, the active employee is not entitled to receive a Medicare Reimbursement since NYSHIP is providing primary coverage.

b. Active Employees and Domestic Partners of Active Employees:

If a Participating Agency offers domestic partner coverage, Medicare is primary for an active employee's domestic partner who becomes Medicare eligible at age 65; however, if the domestic partner becomes Medicare eligible because of a disability, NYSHIP remains primary until the domestic partner reaches age 65 or the enrollee retires.

c. Employees in Non-Active Status and Their Covered Dependents (including Retirees, Vestees, Dependent Survivors, and COBRA):

Medicare coverage is primary for non-active employees and their covered dependents who are 65 years of age or older. Medicare is primary for non-active employees and their covered dependents who are under age 65 and eligible for Medicare due to disability.

d. Primary Coverage for Medicare-Eligible Persons for Services Received Outside the United States:

NYSHIP provides primary coverage for Medicare eligible active and retired enrollees and their Medicare eligible dependents who reside outside the United States, due to the fact that Medicare does not provide benefits for services rendered outside the U.S. Note that Medicare remains primary coverage in Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

A Medicare eligible enrollee or dependent who resides permanently outside the U.S. is not required to enroll in Medicare Parts A & B. NYSHIP would provide primary coverage for such persons in the U.S. in the following circumstances:

Note: The person returns to the United States temporarily (defined as six months or less) and receives medical care. However, should the person return to the United States to reside permanently, NYSHIP would continue to provide primary coverage until the person is eligible for coverage under Medicare.

e. Rehired Retired Employees:

Age 65 or older: When a retiree, age 65 or older, returns to active employment status and meets the eligibility requirements for active employees, the primary health insurer changes from Medicare to NYSHIP regardless of whether NYSHIP coverage is as a retiree or active enrollee. If the enrollee chooses to remain in retirement status on the NYSHIP enrollment file, the Employee Benefits Division will notify the carriers to provide primary benefits. HBAs must notify EBD when the employed retiree begins working and stops working.

Since NYSHIP will pay as primary insurer, Medicare Part B premium reimbursement should be terminated for the enrollee and any enrolled Medicare eligible dependent. The Mediprime premium rate will also be

discontinued for the enrollee as Medicare is no longer the primary insurer. If the employed retiree is not in a benefits eligible position, Medicare remains the primary insurer.

2. NYSHIP Rules for Enrollees Eligible for Primary Medicare Benefits

a. Medicare Enrollment

NYSHIP provides secondary coverage for Medicare eligible enrollees and dependents, whether or not that person is enrolled in Medicare.

It is therefore **very important** that each person (enrollee and dependent) who becomes eligible for Medicare primary coverage enroll in both Medicare Parts A & B. If they fail to enroll in Medicare Parts A & B, their health benefits will be drastically reduced. Social Security will automatically enroll **most** persons, however, it is the enrollee's responsibility to ensure that they are enrolled in Medicare Parts A & B by their first date of eligibility. They should **not** decline Part B if Social Security presents that option.

NYBEAS/Medicare:

If a NYSHIP enrollee or dependent under age 65 is eligible for Medicare primary coverage due to disability, this status **must** be entered into NYBEAS or for agencies without access, contact the Employee Benefits Division. NYBEAS will automatically update Medicare status for non-active employees and their dependents who turn age 65.

b. Medicare Part B Reimbursement

1) When NYSHIP benefits are secondary to Medicare, (whether or not the person is enrolled in Medicare), Section 167a of the New York State Civil Service Law requires each Participating Agency to reimburse Medicare eligible enrollees **and** dependents an amount equal to the current standard Medicare Part B premium charge.

(a) Medicare reimbursement is required regardless of the rate of the employer premium contribution. Medicare reimbursement is required in addition to the employer's premium contribution.

(b) The reimbursement is required for all persons covered under NYSHIP who are eligible for Medicare coverage that is primary to NYSHIP, including Dependent Survivors, with the following **exceptions:**

(1) If a Participating Agency has documentation that an employee or dependent who is eligible for Medicare coverage is receiving Medicare reimbursement from another source (e.g., a public agency or private

- employer), the Participating Agency is not required to provide a duplicate Medicare reimbursement.
- (2) A retiree who returns to employment in a benefits eligible position with the same agency from which they retired is no longer eligible for Medicare reimbursement regardless of whether they continue their coverage as a retiree or active employee. NYSHIP is primary to Medicare while they are in a benefits eligible position.
 - (3) An active employee or dependent of an active employee who enrolls in Medicare for secondary benefits.
 - (4) An active employee or dependent of an active employee who elects Medicare as primary coverage. In this case, the person's enrollment in NYSHIP must be terminated and the provisions of Section 167a of the Civil Service Law would not be applicable.
- (c) The required reimbursement is the standard monthly premium charge for coverage under Part B of Medicare. Reimbursement for penalty charges for late enrollment is not required. A determination regarding reimbursement of additional income-based premium is pending. If the enrollee or dependent receives partial reimbursement of the Part B premium from another source, the Participating Agency must ensure that the enrollee or dependent receives the full Medicare Part B reimbursement. It is the agency's choice to supplement the reimbursement or reimburse the full amount
- (d) The Medicare Part B reimbursement must be effective as of the date the employee or dependent first becomes eligible for primary Medicare coverage. If the reimbursement is not started at that time, it must be paid retroactive to the date of first eligibility. However, the Agency should consult with their attorney or accountant regarding any limits on retroactive payments under the provisions of State Finance Law.
- (e) The agency has the right to require a refund of Medicare Part B premium amounts that were incorrectly reimbursed to an enrollee when they or the dependent was not eligible for Medicare Part B. The agency should consult with their attorney and/or accountant to determine if there are any applicable state or local laws that regulate the retroactive adjustment.
- 2) The method of Medicare Part B reimbursement is discretionary for the Participating Agency. Following are examples of acceptable reimbursement methods:

- (a) Checks may be issued at periodic intervals. (minimum once a year)
- (b) The premium contribution required of enrollees may be reduced by the amount of the reimbursement.

Contact the Employee Benefits Division for assistance or questions regarding appropriate methods of Medicare reimbursement.

c. Medicare Part A

Civil Service Law does not require reimbursement of any portion of premium (if any) for hospitalization benefits under Part A of the Medicare program (there is usually no charge for Medicare Part A).

If the enrollee must pay for Medicare Part A coverage because the enrollee/dependent did not meet the Social Security eligibility requirements for no-cost Part A, the enrollee/dependent must provide a statement from Social Security confirming ineligibility for free Medicare Part A. In this case, there is no need to enroll in Medicare Part A because NYSHIP will continue primary coverage for hospitalization, however, enrollment in Part B is still required.

d. Medicare Part D

There is no NYSHIP requirement for enrollment in Medicare Part D (prescription drug coverage) and therefore no requirement for reimbursement of Medicare Part D premium. The Centers for Medicare and Medicaid Services prohibit an employer from telling retirees that they may not enroll in Medicare Part D.

Medicare Part D and Low Income Subsidy (LIS):

A Participating Agency may elect to offer a no-drug Empire Plan option to enrollees who have been approved for the LIS at a reduced premium. If the Participating Agency elects to offer this option, it will be the agency's responsibility to obtain a copy of the LIS approval from their enrollees and a letter from the enrollee requesting the no-drug Empire Plan option. The Participating Agency must provide this documentation to the Employee Benefits Division which will verify eligibility for the lower cost, no-drug Empire Plan option.

Retirees who do not qualify for the LIS but enroll in Medicare Part D are **not** eligible for the no-drug Empire Plan option.

Retiree Drug Subsidy (RDS):

The New York State Department of Civil Service shall administer the Medicare Part D Drug Subsidy on behalf of each Participating Agency in the New York

State Health Insurance Program (NYSHIP). The Department shall provide to each employer its RDS based upon the actual utilization of each employer's qualified enrollees using the enrollment information provided by the employer. In order to effect this distribution, the Department and the employer must have executed the Medicare Part D Drug Subsidy Agreement Form.