



# Employer Group Information

Indicate N/A in any sections that do not apply to your group.

Revised – May, 2024

## SECTION A: GROUP INFORMATION

Employer Name – Legal Name of Company:

Employer Identification Number (EIN):

Physical Address (number & street), City, State, ZIP:

Account Number(s):

Group Number(s):

## MEDICARE SECONDARY PAYER EMPLOYER ACKNOWLEDGEMENT FORM

Under federal law, it is the employer’s responsibility to inform its insurer or third-party administrator of proper employee counts for the purpose of determining payment priority between Medicare and another insurer. Employer size, not group health plan size, is used in determining whether the group health plan or Medicare is the primary payer. Please refer to the instructions and more frequently asked questions that follow this form for more details on how to complete this Medicare Secondary Payer section.

Employers should provide this information ANNUALLY during the data collection period and submit their information through Blue Access for Employers<sup>SM</sup> or submit a completed stand-alone MSP form to [data\\_collection@bcbsil.com](mailto:data_collection@bcbsil.com).

Understand that you are obligated to notify Blue Cross and Blue Shield of New Mexico if and when your status changes, by completing a stand-alone MSP EAF as a CHANGE or ERROR CORRECTION. Email to [data\\_collection@bcbsil.com](mailto:data_collection@bcbsil.com).

**IMPORTANT: In the absence of employer-provided employee counts, CMS requires that the employer’s group health plan coverage be considered primary to Medicare. Therefore, the failure to timely provide this information and to submit annual employee count reports could impact the coverage and benefits your Medicare-enrolled plan enrollees experience.**

**All fields below are REQUIRED.**

**Please indicate the effective year for which the form is being completed.**

**Effective Year:** \_\_\_\_\_

My company is a NEW client of BCBSNM (check one):

My company was NOT in business in the last calendar year

My company WAS in business in the last calendar year

Do you have any affiliates or subsidiaries?  Yes  No If “yes”, list name of each:





**SECTION C: COBRA AND CONTINUATION OF COVERAGE**

**CONTINUATION OF COVERAGE: COBRA IS FEDERALLY MANDATED AND APPLIES TO EMPLOYERS WITH 20 OR MORE FULL-TIME OR PART-TIME EMPLOYEES. IN ADDITION, NEW MEXICO LAW REQUIRES GROUP PLANS, WHEN SUBJECT TO NEW MEXICO INSURANCE LAW, TO OFFER CONTINUATION OF COVERAGE TO EMPLOYEES AND THEIR SPOUSES/DEPENDENTS SHOULD A SPECIFIC QUALIFYING EVENT OCCUR. WHERE APPLICABLE, THE REQUIREMENTS UNDER STATE LAW MAY OPERATE IN ADDITION TO ANY FEDERAL COBRA CONTINUATION OF COVERAGE REQUIREMENTS.**

**EMPLOYER PENALTIES FOR NONCOMPLIANCE MAY APPLY.**

1. Did your company employ 20 or more full-time and/or part-time employees for at least 50% of the workdays of the preceding calendar year?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Are you subject to the Consolidated Omnibus Reconciliation Act (COBRA)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Are any employees/former employees or their spouses/dependents currently receiving Continuation of Coverage benefits?	<input type="checkbox"/> Yes <input type="checkbox"/> No

If "yes", list names and number of individuals (qualified beneficiaries) currently on continuation of coverage (i.e., COBRA):

Name of COBRA/ Continuation of Coverage Individual	COBRA/State Continuation	Coverage Type (Individual or Family)	Projected COBRA/ Continuation Qualifying Event Date (MM/DD/YYYY)	Type of Coverage Extended
	<input type="checkbox"/> COBRA <input type="checkbox"/> State	<input type="checkbox"/> Individual <input type="checkbox"/> Family		<input type="checkbox"/> Health <input type="checkbox"/> Dental
	<input type="checkbox"/> COBRA <input type="checkbox"/> State	<input type="checkbox"/> Individual <input type="checkbox"/> Family		<input type="checkbox"/> Health <input type="checkbox"/> Dental
	<input type="checkbox"/> COBRA <input type="checkbox"/> State	<input type="checkbox"/> Individual <input type="checkbox"/> Family		<input type="checkbox"/> Health <input type="checkbox"/> Dental

It is your responsibility to annually inform BCBSNM of whether COBRA is applicable to you based upon your full and part-time employee count in the prior calendar year. Failure to advise BCBSNM of a change of status could subject you to governmental sanctions.

\*All as defined by ERISA and/or other applicable law/regulations.

**Workers' Compensation**

Are any employees currently receiving Workers' Compensation benefits?  Yes  No

Employee Name	Date Last Worked (MM/DD/YYYY)



**SECTION D: MLR AVERAGE EMPLOYEE COUNT / WRITTEN ASSURANCE**

**FOR MLR AND MARKET SEGMENT PURPOSES ONLY**

The Affordable Care Act established Medical Loss Ratio standards for health insurers. Generally, the MLR is the percentage of earned premiums that the insurer spends on health care services and quality improvement activities. If the insurer's MLR is less than the ACA's MLR standards for a group market in the state, the insurer may be required to provide premium rebates in that market. The ACA requires that BCBSNM report annually whether coverage it issues in the individual, small group or large group markets in New Mexico meet MLR standards. Your assistance is needed to classify your coverage for each MLR reporting year.

This section and the information you provide will assist us in completing our ACA-MLR report and distributing any ACA-MLR rebates that may be provided for an ACA-MLR reporting year. Please complete the information requested below. This section and the information you provide will also assist us in determining your market segment, products and rates.

**1. Average Employee Count – Employer Size**

For the purpose of determining employer size:

- An "employee" is defined as any individual employed by an employer. An employee includes full-time, part-time and seasonal employees.
- Employers treated as a single employer under Internal Revenue Code Section 414(b), (c), (m) or (o) should be treated as a single employer.
- If your company is wholly owned by an individual (or an individual and his/her spouse), do not include the individual and his/her spouse in your response below.
- Partners in a partnership should not be counted as employees.

Check the box that applies to your company (employer):

- My company (employer) **existed** during the preceding calendar year.  
What is the average number of employees that your company (employer) employed on business days during the calendar year (January 1–December 31) preceding the effective date of coverage? For example, if your effective date is July 1, 2021 then you would base your answer on calendar year 2020. \_\_\_\_\_
- My company (employer) **did not exist** at any time during the preceding calendar year.  
What is the average number of employees that your company (employer) is reasonably expected to employ on business days during the current calendar year? \_\_\_\_\_

Is your company a partnership?  Yes  No

**2. Church Plan Written Assurance (Substitute MLR Written Assurance Form)**

To provide a rebate to a policyholder that sponsors a church plan, the MLR regulations require that an insurer obtain a written assurance from the policyholder that any rebate will be used for the benefit of subscribers as described in the MLR regulations (45 C.F.R. 158.242(b)(3)). **If the written assurance is not provided, the MLR regulations require that an insurer distribute any rebate directly to certain subscribers of the plan (rather than to the policyholder).**

Does the policyholder listed below sponsor a church plan in connection with the policyholder's Blue Cross and Blue Shield of New Mexico coverage? Church plan has the meaning given the term in Internal Revenue Code Section 414(e).

**No, the group health plan is NOT a church plan. (If "no", proceed to Section E: Signature / Attestation.)**

OR

**Yes, the group health plan is a church plan. If "yes" (check one of the following):**

- The policyholder WILL use any MLR rebate for the benefit of subscribers as described in the MLR regulations (45 C.F.R. 158.242(b)(3)).
- The policyholder WILL NOT use any MLR rebate for the benefit of subscribers as described above. I understand that, if this option is selected, BCBSNM will distribute any MLR rebate directly to certain subscribers of the plan.

If this Written Assurance Form is not completed, signed and received from a church account, BCBSNM will provide any MLR rebate directly to certain subscribers of the plan.



**SECTION E: SIGNATURE / ATTESTATION**

By signing below, I:

- (1) Represent that I am a duly authorized representative of the employer and that the information contained in this form is true, accurate and complete;
- (2) Certify that should any of the answers or information I provided above change in any way, I will inform BCBSNM of such change as soon as I am able. I understand that failure to timely notify BCBSNM of such changes may impact the coverage/eligibility of the group, its members, or any other persons who now or who may then be eligible for coverage under such plan and/or may impact the compliance of the group with respect to specific state or federal requirements;
- (3) Understand and agree that the information contained in this form prospectively supersedes any prior information provided to BCBSNM (including for the purposes of 45 C.F.R. 158.242(b)(3)); and
- (4) Agree that the answers or information I provided above should be considered accurate and complete unless or until a subsequent stand-alone version of the corrected Average Employee Count, Church Plan Written Assurance, or Medicare Secondary Payer form is submitted either in a subsequent calendar year or in the event of a change in such information.

Date (MM/DD/YYYY) \_\_\_\_\_ Name: (Please Print) \_\_\_\_\_

Signature: \_\_\_\_\_ Position/Title: \_\_\_\_\_



# Instructions

## COMPLETING THE ANNUAL MSP EMPLOYER ACKNOWLEDGEMENT FORM

### Important Note

Under federal law, it is the employer's responsibility to inform its insurer or third-party administrator of proper employee counts for the purpose of determining payment priority between Medicare and another insurer. Employer size, not group health plan size, is used in determining whether the group health plan or Medicare is the primary payer. Please refer to the attached instructions for more details. **In the absence of employer-provided employee counts, CMS requires that the employer's group health plan coverage be considered primary to Medicare.**

Employers should provide this information ANNUALLY during the data collection period and submit their information through BAE or submit a completed stand-alone MSP form to [data\\_collection@bcbsil.com](mailto:data_collection@bcbsil.com).

Understand that you are obligated to notify BCBSNM if and when your status changes, by completing a stand-alone MSP EAF as a CHANGE or ERROR CORRECTION. Email to [data\\_collection@bcbsil.com](mailto:data_collection@bcbsil.com).

### Background

When an individual is covered by both Medicare and an employer's group health plan, Medicare secondary payer rules specify that the employer's total size, not group health plan enrollment size, is a factor in determining whether Medicare benefits are primary or secondary. Employer size is a factor in MSP order of payment determinations when the covered individual is Medicare-entitled due to either age ("working aged") or disability.

### Employer Information — Who is the Employer?

For MSP purposes, the employer is the legal entity that employs the employees. For example, the employer may be an individual, a partnership, or a corporation. In some situations, it may not be clear which corporation or individual is the employer for MSP purposes. In these cases, employers must use Internal Revenue Service aggregation rules provided in the Internal Revenue Code [IRC 26 U.S.C. Sections 52(a), 52(b), 414(n) (2)]. In general, these rules specify that single employers include:

- all employees of all corporations that are members of the same controlled group of corporations, and
- all employees of trades or business (whether incorporated or not), e.g., employees of partnerships, LLCs, proprietorships that are under common control.

The Centers for Medicare & Medicaid Service's MSP Manual provides additional guidance about aggregation for affiliated service groups and religious orders, as well as authoritative information about employer size and other MSP topics. The MSP Manual is available online at <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Internet-Only-Manuals-IOMs-Items/CMS019017>

For purposes of this MSP EAF, please understand that you are obligated to notify BCBSNM if and when your status changes, by completing a stand-alone MSP EAF as a **CHANGE** or **ERROR CORRECTION** and email to [data\\_collection@bcbsil.com](mailto:data_collection@bcbsil.com).

An **Error Correction** is necessary when a previous MSP EAF was submitted **TIMELY** during the data collection time frame and a correction is needed.

### Question 1 — Did you file a separate Federal Tax Return?

If you filed a federal tax return that did not include information about any other individual or entity, check "Yes." If you filed a federal tax return consolidated with another individual or entity, check "No." If you are not required to file a federal tax return, check "N/A."

### Question 2 — Employer Size from Your Federal Tax Return Information

How many employees did all the entities listed on the tax return have on the payroll (whether full-time, part-time, seasonal or partners) during the prior calendar year? It is important that you enter the total number of employees for all entities (including parent,



subsidiaries and affiliated entities) listed on the tax return, since this may determine whether or not Medicare will be the primary payer of claims. Subsidiaries of foreign companies must count the number of employees of the organization worldwide.

### **Question 3 — Are you part of a multi-employer group health plan?**

Authoritative guidance for determining multiple employer group health plan participation can be found in the Code of Federal Regulations at 29 CFR § 2510.3-37.

### **Questions 4 and 5 — Working Aged Rule & Employer Size**

Under the MSP “working aged” rule, Medicare is secondary to the employer’s GHP coverage if the employer’s size equals 20 or more employees for each working day in each of 20 or more calendar weeks in the current or prior calendar year. (Question 4 refers to this standard as “the threshold.”) Note: The year of your upcoming renewal is the ‘current’ year. If your company is a new client to BCBSNM AND if there have not yet been 20 weeks in the current calendar year, base your answer on current employee count. Understand that you are obligated to notify BCBSNM if and when your status changes, by completing a stand-alone MSP EAF as a CHANGE and submitting it to [data\\_collection@bcbsil.com](mailto:data_collection@bcbsil.com). This also applies to multi-employer and multiple employer group health plans in which at least one employer employs 20 or more employees.

- Counting individuals for the “20-or-more” employer size
  - Employees counted in the 20-or-more employer size include the total number of nationwide full-time employees, part-time employees, seasonal employees and partners who work or who are expected to report for work on a particular day.
  - Those not counted in the 20-or-more employer size include retirees, COBRA qualified beneficiaries and individuals on other continuation options, and self-employed individuals who participate in the employer’s group health plan.
- Employer size increases to 20 or more during the year

If the employer’s size was below 20 during the prior year, the employer’s GHP coverage becomes primary as soon as the employer has had 20 or more employees on each working day of 20 calendar weeks of the current year. The 20 calendar weeks do not have to be consecutive. Then, the employer’s GHP coverage is primary for the remainder of the year and during the following year.

For example, the employer’s size meets the 20-or-more employee threshold as of October 1 of the current calendar year. The employer’s GHP coverage becomes primary for services provided from October 1 of the current calendar year through December 31 of the following year.

**Please note:** If you check “No” for the current year in EAF **Question 4** and your answer changes to “Yes” at any time, you must promptly notify BCBSNM by completing a stand-alone MSP form and indicating the date the change occurred in the space provided in **Question 4**.

- Employer size fails to meet the threshold of ‘20 or more employees during 20 or more weeks’ during the year

If the employer’s size met the threshold of 20 or more employees for each working day in each of 20 or more calendar weeks for the prior year, but during the current calendar year the employer size never meets that threshold, the employer’s group health plan remains primary until the end of the current year.

For example, during the last calendar year the employer’s size met the threshold of 20 or more employees for each working day in each of 20 or more calendar weeks. However, during the current calendar year the employer’s size never meets this threshold. The employer’s group health plan coverage remains primary through the current year, ending on December 31.

- Individuals affected by the working aged rule

The “working aged rule” applies to individuals who are Medicare-entitled due to age (age-65 or older) and

- Are covered under their employer’s GHP and have “current employment status” and the employer meets the “20-or-more” employer size requirements (above), or
- Are covered under their spouse’s (of any age) employer’s GHP and the spouse has current employment status and the employer meets the “20-or-more” employer size requirements (above).



## Questions 6 and 7 — Disability Rule & Employer Size

Under the MSP “disability” rule, Medicare benefits are secondary to an employer’s large group health plan benefits when the employer size equals 100 or more full-time and/or part-time employees on 50 percent or more of the employer’s business days during the prior calendar year. The business days do not have to be consecutive.

For multi-employer plans, Medicare is the secondary payer for all individuals enrolled in the plan as long as at least one of the employers employs 100 or more employees. The 100-employee threshold is not based on the aggregate number of employees of all employers. If you are a multi-employer, please keep this in mind when completing questions 6 and 7.

- Counting individuals for the “100-or-more” employer size
  - Employees counted in the 100-or-more employer size include the total number of nationwide full-time employees, part-time employees, seasonal employees and partners who work or are expected to report for work on a particular day.
  - Those not counted in the 100-or-more employer size include retirees, COBRA qualified beneficiaries and individuals on other continuation options, and self-employed individuals who participate in the employer’s group health plan.
- Employer size increases to 100 or more during the year

If the employer’s size meets the 100-or-more employee threshold on 50 percent or more of the employer’s business days during the current year, the employer’s group health plan coverage will be primary to Medicare during the following year.

For example, an employer met the 100-or-more employee threshold on 50 percent or more of the employer’s business days on October 1 of the current calendar year. The employer’s GHP coverage will be primary for services provided the following year from January 1 through December 31 of the following year.

**Please note:** If you answer “No” to **Question 6**, you must promptly notify BCBSNM by completing a stand-alone MSP form as a CHANGE if your answer changes to “Yes” at the beginning of the next calendar year and sending to [data\\_collection@bcbsil.com](mailto:data_collection@bcbsil.com).

- Employer size doesn’t meet the threshold of ‘100 or more employees during 50 percent of business days’ during the year

If the employer’s size does not meet the 100-or-more employee threshold during the year, the employer’s GHP coverage is secondary to Medicare during the following year.

For example, during the current calendar year the employer’s size never meets the threshold of 100 or more full-time and/or part-time employees on 50 percent or more of the employer’s business days. The employer’s group health plan coverage will be secondary to Medicare for services provided the following year from January 1 through December 31.

- Individuals affected by the disability rule.

The “disability rule” applies to individuals who are Medicare-entitled due a Social Security Administration determination of disability and

- Are covered under their employer’s GHP and have “current employment status” and the employer meets the “100-or-more” employer size requirements (above), or
- Are covered under their family member’s (of any age) employer’s GHP and the family member has current employment status and the employer meets the “100-or-more” employer size requirements (above).