

340.3 - Additional Special Rules Applicable to EGHPs

(Rev. 4, 10-01-01)

There are additional rules that the Medicare cost-based HMO/CMP must follow in making EGHP coverage decisions. These rules are outlined in the following sections.

340.3.1 - Self-Employed Individuals

(Rev. 4, 10-01-01)

These are currently employed persons. It includes not only employees, but also self-employed persons such as directors of corporations and owners of businesses. If a self-employed individual enrolls in an EGHP that meets the definition in this chapter, the employer plan is primary for that individual and the individual's spouse.

340.3.2 - Members of Clergy and Religious Orders Who Have Not Taken a Vow of Poverty

(Rev. 4, 10-01-01)

The following general guidelines apply in determining the employment or retirement status of members of the clergy and members of religious orders when an EGHP alleges that such an individual is retired (members of clergy or members of religious order who have not taken vow of poverty). Such members are:

- Considered employed if they are receiving from a church, religious order or other employing entity cash remuneration for services rendered regardless of whether their earnings are exempt from Social Security coverage; and
- Considered retired if the church, religious order, or other employing entity states that the members are retired, and that they receive only retirement pay from the entity rather than remuneration for services rendered.

340.3.3 - Members of Religious Order Who Have Taken Vow of Poverty (Rev. 4, 10-01-01)

Medicare is not secondary for individuals who perform services as members of a religious order whose members are required to take a vow of poverty if those activities are considered employment only because of an election of Social Security coverage by the order under §3121(r) of the Internal Revenue Code. This means Medicare is primary to the group health coverage provided as a result of those activities. Those activities may not be considered in determining whether a member of the order is considered an employed individual for purposes of the working aged provision.

This exception applies only to religious functionaries who are members of religious orders and who have taken a vow of poverty. It does not apply to Protestant and Jewish clergy, who do not take the vow of poverty. It does not usually apply to Catholic parish priests, most of who do not take vows of poverty, nor does it apply to any member of a religious order who has not taken a vow of poverty. Furthermore, the exception does not apply to group health coverage based on work performed by members of religious orders for employers outside of their orders. Also, the MSP definition of “employed” remains applicable to employees of religious orders who provide service and are reimbursed by the orders, but who are not themselves members of the orders. The usual MSP rules apply to such individuals.