



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

## SECTION A

|                                     |                   |
|-------------------------------------|-------------------|
| Employer Name                       | Employer Tax ID # |
| Account #<br>(renewing groups only) |                   |

## SECTION B

### MEDICARE SECONDARY PAYER (MSP) EMPLOYER ACKNOWLEDGEMENT

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. **In the absence of employer-provided employee counts, CMS requires that the employer's group health plan coverage be considered primary to Medicare. Fax or email completed form to 312-233-4244; data\_collection@bcbsil.com. A response is required for every question. For help in completing this form, refer to the Instructions – Completing the Annual MSP Employer Acknowledgement located at the end of this document.**

|   |                              |  |                             |
|---|------------------------------|--|-----------------------------|
| New BCBSNM clients please check the applicable box:   |                              | <input type="checkbox"/> The client was not in business the preceding calendar year<br><input type="checkbox"/> The client was in business during the preceding year |                             |
| Current BCBSNM clients please check the correct box:  |                              | <input type="checkbox"/> Submitting this form as an update<br><input type="checkbox"/> Submitting this form as an error correction                                   |                             |
| Do you have any affiliates or subsidiaries?<br>If "yes", list name of each: _____   |                              | <input type="checkbox"/> Yes   | <input type="checkbox"/> No |
| Some of the following responses are based on the current calendar year, while others are based on the preceding year. Unless making an update or error correction, please use the year of your upcoming renewal as 'current year' when answering the following questions. For example, if your upcoming renewal is effective July 1, 2016, base your current year answers on 2016. Or, if your upcoming renewal is effective January 1, 2017, base your current year answers on 2017. If there have not yet been 20 weeks in the current calendar year, base your answer on current employee current year count. Understand that you are obligated to notify BCBSNM if and when your status changes.  |                              | Current year   |                             |
| <b>Please indicate the current calendar year for which the form is being completed:</b>   |                              |  |                             |
| 1. In the year immediately prior to the current calendar year, did you file a separate federal tax return that is not consolidated with another individual or entity? If you are not required to file a federal tax return, please check N/A.   | <input type="checkbox"/> N/A | <input type="checkbox"/> Yes   | <input type="checkbox"/> No |
| 2. How many employees did all the entities on the preceding calendar year's tax return have on the payroll (whether full-time, part-time, seasonal, or partners) during the preceding calendar year? Enter number of employees.   | # of employees               |  |                             |
| 3. Are you part of a multi-employer group health plan? The term "multi-employer group health plan" means any trust, plan, association or any other arrangement made by one or more employers or by employers and unions to offer, contribute to, sponsor, or directly provide health benefits. Questions 5 and 7 must also be completed.  | <input type="checkbox"/> Yes | <input type="checkbox"/> No  |                             |
| 4. Did you have 20 or more (full-time, part-time, seasonal, or partners) total employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year?<br><br>➔ Check 'Yes' or 'No' for both the current and preceding calendar years<br><input type="checkbox"/> If you checked "Yes" for the current calendar year, and the threshold was met during the current year, please check this box and enter the date the threshold was met in the following space. ____/____/____<br><input type="checkbox"/> If you check "No" for the current year and your answer changes to "Yes" at any time, you must promptly notify BCBSNM by completing a new EGI, checking this box and entering the date the threshold was met in the space above. | Current Year (see above)     | <input type="checkbox"/> Yes   | <input type="checkbox"/> No |
|   | Preceding Year               | <input type="checkbox"/> Yes   | <input type="checkbox"/> No |
| 5. If you are currently or were during the preceding year part of a multi-employer group health plan (as defined in #3), did any one employer that is part of the multi-employer group health plan have 20 or more (full-time, part-time, seasonal, or partners) total employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year?<br><br>➔ If you answered 'Yes' to #3, then check 'Yes' or 'No' for both the current and preceding calendar years<br>➔ If you answered 'No' to #3, then check 'Yes' or 'No' for the preceding calendar year only   | Current Year (see above)     | <input type="checkbox"/> Yes   | <input type="checkbox"/> No |
|   | Preceding Year               | <input type="checkbox"/> Yes   | <input type="checkbox"/> No |
| 6. Did you have 100 or more (full-time, part-time, seasonal, or partners) total employees on 50 percent or more of your business days during the preceding calendar year?   | <input type="checkbox"/> Yes | <input type="checkbox"/> No  |                             |
| 7. If you are part of a multi-employer group health plan (as defined in #3), did any one employer that is part of the multi-employer group health plan have 100 or more (full-time, part-time, seasonal, or partners) total employees on 50 percent or more of your business days during the preceding calendar year?   | <input type="checkbox"/> Yes | <input type="checkbox"/> No  |                             |

## SECTION C

### COBRA IS FEDERALLY MANDATED AND APPLIES TO EMPLOYERS WITH 20 OR MORE FULL-TIME OR PART-TIME EMPLOYEES. EMPLOYER PENALTIES FOR NONCOMPLIANCE MAY APPLY.

- a. 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? ☐ Yes ☐ No
- b. Are you subject to the Consolidated Omnibus Reconciliation Act (COBRA)? ☐ Yes ☐ No  
If "yes", list names and number of individuals (qualified beneficiaries) currently on COBRA continuation\*:

| Name of COBRA Continuee | Coverage Type<br>(Individual or Family)                                | Projected COBRA<br>Termination Date<br>(MM/DD/YYYY) | Type of Coverage<br>Extended                                       |
|-------------------------|--|---|--|
|                         | <input type="checkbox"/> Individual<br><input type="checkbox"/> Family | ____/____/____                                      | <input type="checkbox"/> Health<br><input type="checkbox"/> Dental |
|                         | <input type="checkbox"/> Individual<br><input type="checkbox"/> Family | ____/____/____                                      | <input type="checkbox"/> Health<br><input type="checkbox"/> Dental |
|                         | <input type="checkbox"/> Individual<br><input type="checkbox"/> Family | ____/____/____                                      | <input type="checkbox"/> Health<br><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  
If "yes", list names and date last worked:

| Employee Name | Date Last Worked |
|---------------|------------------|
|               | ____/____/____   |
|               | ____/____/____   |
|               | ____/____/____   |

#### State Continuation Privilege on Termination of Coverage.

All employees, members, or dependents are entitled to state continuation of group coverage under certain conditions. List names and number of continued persons currently on state continuation coverage:

| Name of State Continuee | Coverage Type<br>(Individual or Family)                                | Projected State Continuation<br>Termination Date<br>(MM/DD/YYYY) | Type of Coverage<br>Extended                                       |
|-------------------------|--|--|--|
|                         | <input type="checkbox"/> Individual<br><input type="checkbox"/> Family | ____/____/____   | <input type="checkbox"/> Health<br><input type="checkbox"/> Dental |
|                         | <input type="checkbox"/> Individual<br><input type="checkbox"/> Family | ____/____/____   | <input type="checkbox"/> Health<br><input type="checkbox"/> Dental |
|                         | <input type="checkbox"/> Individual<br><input type="checkbox"/> Family | ____/____/____   | <input type="checkbox"/> Health<br><input type="checkbox"/> Dental |

## SECTION D

### FOR MLR AND MARKET SEGMENT PURPOSES ONLY

The Affordable Care Act (ACA) established Medical Loss Ratio (MLR) standards for health insurers, which requires that Blue Cross and Blue Shield of New Mexico report annually whether coverage is in the individual, small group or large group market of a state. Therefore, your assistance is needed to classify your coverage for each MLR reporting year. 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 ACA's MLR standard for a group market of a state, the insurer may provide ACA-MLR rebates in that market.

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.

#### I. Employer Size. (Required for new groups only)

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.
- Persons 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, 2016 then you would base your answer on calendar year 2015.

☐ 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.

(Substitute Written Assurance Form)

The Affordable Care Act (ACA) established Medical Loss Ratio (MLR) standards for health insurers. Generally, MLR is the percentage of earned premiums that an insurer spends on health care services and reports as quality improvement activity expenses. If an insurer's MLR is less than ACA's MLR standard for a market in a state, the insurer may provide rebates in that market.

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 (BCBSNM) coverage? Church plan has the meaning given the term in Internal Revenue Code Section 414(e).

\_\_\_\_\_ **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.

OR

\_\_\_\_\_ **No, the group health plan is NOT a church 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.

By signing below, I: (1) represent that I am a duly authorized representative of the policyholder and that the information contained in this form is true, accurate and complete; (2) understand and agree that the information contained in this form prospectively supersedes any prior information provided to BCBSNM for purposes of 45 C.F.R. 158.242(b)(3); and (3) agree that this information will be used until a subsequent MLR Written Assurance Form is submitted in a subsequent calendar year.

Date: \_\_\_\_\_ Name: \_\_\_\_\_

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

**IMPORTANT NOTE**

Under federal law, it is the employer's responsibility to annually inform its insurer or third-party administrator, such as Blue Cross and Blue Shield of New Mexico (BCBSNM), of proper employee counts for the purpose of determining payment priority between Medicare and another insurer. In the absence of employer-provided employee counts, CMS requires that the employer's group health plan coverage be considered **primary to Medicare**.

**Background**

When an individual is covered by both Medicare and an employer's group health plan (GHP), Medicare secondary payer (MSP) 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 (CMS) *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 <http://www.cms.hhs.gov/Manuals/IOM/list.asp>.

**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 preceding calendar year. (*Question 4 refers to this standard as "the threshold."*) Note: The year of your upcoming renewal is the 'current' year. 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. 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 preceding 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, 2013. The employer's GHP coverage becomes primary for services provided from October 1, 2013 through December 31, 2014.

**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 new EAF 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 preceding 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 2013 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 2014 the employer's size never meets this threshold. The employer's group health plan coverage remains primary through December 31, 2014.

- *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 (LGHP) 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 previous 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 at any time 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 May 1, 2013. The employer's GHP coverage will be primary for services provided from January 1, 2014, through December 31, 2014.

**Please note:** If you answer "No" to **Question 6**, you must promptly notify BCBSNM by completing a new EAF if your answer changes to "Yes" at the beginning of the next calendar year.

- *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 2013 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 from January 1, 2014, through December 31, 2014.

- *Individuals affected by the disability rule.*

The "disability rule" applies to individuals who are Medicare-entitled due to 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 spouse's (of any age) employer's GHP and the spouse has current employment status and the employer meets the "100-or-more" employer size requirements (above).