

2024

Medicare Coordination with Employer-Sponsored Coverage

Presented by Benefit Comply

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Agenda

- Medicare Secondary Payer Rules
- Part D Creditable Coverage
- COBRA and Medicare
- HSAs and Medicare
- Cafeteria Plans and Medicare

Medicare Basics

- 3 Types of Medicare Eligibility
 - Age-Based (65 or older)
 - Disability-Based
 - End Stage Renal Disease (ESRD)-Based
- Employees and Medicare
 - Individuals become entitled to Medicare Part A automatically upon receiving Social Security Benefits
 - Optional to buy Part B and D
 - If employee is covered by a qualified employer sponsored group health plan they can wait until they lose eligibility for the employer plan to enroll in Part B and D without a Medicare premium penalty.

Medicare Secondary Payer (MSP) Rules

Medicare Secondary Payer (MSP) Rules

- Coordination of Benefits Between Group Health Plan & Medicare

Group Health Plan Payer Status

- Active Plan Participants

Size of Employer	Age-Based Medicare	Disability-Based Medicare	ESRD-Based Medicare
<20 employees	Secondary Payer	Secondary Payer	Primary payer first 30 months
20 – 99 employees	Primary Payer	Secondary Payer	Primary payer first 30 months
100+ employees	Primary Payer	Primary Payer	Primary payer first 30 months

- Retiree or COBRA Participants
 - Medicare is primary except for ESRD-based Medicare

Medicare Secondary Payer (MSP) Rules

- Determining Employer Size - Counting Employees
 - Count all common law employees, including part-time employees
 - Aggregate for employers who are part of a controlled group due to common ownership, or an affiliated service group according to IRS §414 rules
 - Determination is made based on the claim date of service
 - Did the employer have 20 (or 100) or more employees each working day for at least 20 weeks in either the current or the preceding calendar year?

Medicare Primary Warning for Small Employers

- Medicare Estimation Process
 - The process of paying claims “as if” the employee has Part B...even if they have not enrolled
 - Some carriers use this method for groups under 20 (Both fully-insured & level funded)
- UHC adopted Medicare estimation process for small groups
 - Effective 1/1/23 for new groups - Effective 7/1/23 for existing small groups
- Small Employer To Do List...
 - Small employers should check with carrier to see how they handle Medicare eligible employees
 - Communicate to Medicare eligible employees regarding Medicare enrollment

Important!

If group health plan uses Medicare Estimation Process and employee does not enroll in Part B neither Medicare or employer plan will pay Part B eligible claims

Medicare Secondary for COBRA & Retiree Plans

- COBRA and Retiree Coverage is Always Secondary to Medicare

- Some group health plans and carriers use Medicare Estimation Process for COBRA QBs and Retirees

Important!

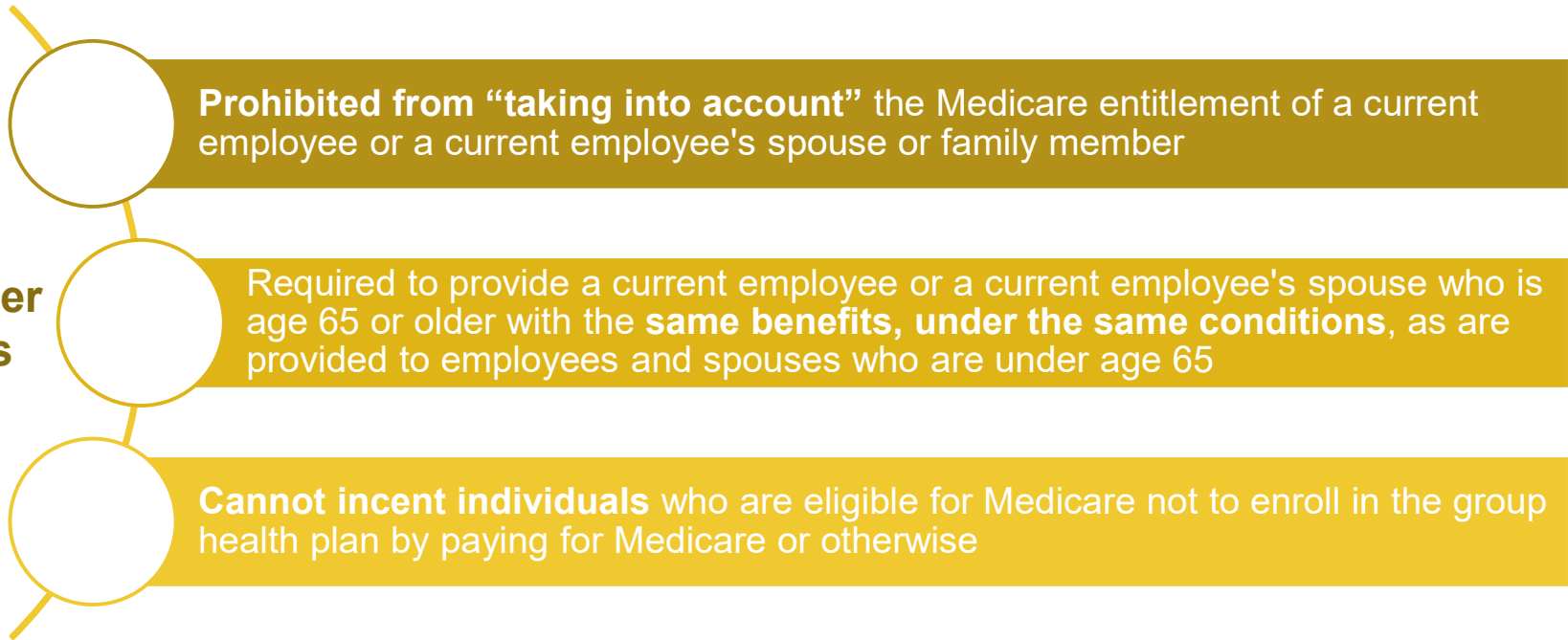
If group health plan uses Medicare Estimation Process and COBRA QB or retiree does not enroll in Part B neither Medicare or employer plan will pay Part B eligible claims

- Employer To Do List...

- Employers should check with carrier to see how they handle Medicare for COBRA QBs and retirees
- Communicate to Medicare eligible employees regarding Medicare enrollment

Medicare Secondary Payer (MSP) Rules

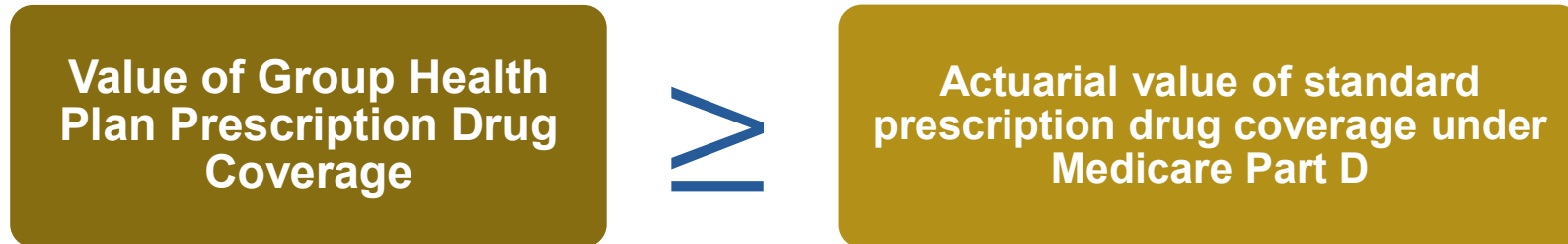
Primary Payer Status Rules



- Penalties for Noncompliance
 - Civil penalties of up to \$5,000 per violation
 - Excise tax penalty of 25% of employer’s total group health plan expenses incurred during the calendar year

Medicare Part D Creditable Coverage

Medicare Part D Creditable Coverage



- How is Creditable Coverage Determined?
 - Carrier or TPA may provide creditable status; or
 - Employer must use simplified method or obtain actuarial determination
- Why is it Important?
 - Normally an individual must enroll in Medicare Part D coverage when first eligible or they will pay a premium penalty if they enroll later

However

- A Medicare eligible employee who is covered by a group health plan that includes creditable Rx coverage can wait to enroll in Part D without penalty

Creditable Coverage Participant Notice

Group health plans must notify participants and CMS if drug coverage under the plan is creditable or not.

Participant Disclosures

- Prior to annual Medicare open enrollment period (October 15)
- Prior to an individual's initial enrollment period (age 65)
- Prior to effective date of coverage under group health plan
- Whenever creditable status of plan changes
- Upon request

“Prior to” means any time in the 12 months preceding the due date – so issuing the notice once a year, e.g. at open enrollment, will satisfy notice obligations, other than for new enrollees or if status changes

Creditable Coverage Disclosure to CMS

Group health plans must notify participants and CMS if drug coverage under the plan is creditable or not.

Disclosure to CMS

- Disclosure is online:
<https://www.cms.gov/medicare/employers-plan-sponsors/creditable-coverage/disclosure-form>
- Within 60 days of the start of each plan year
- Within 30 days of any change in creditable status
- Within 30 days of termination of plan



2025 Changes to Medicare Part D

- Significant changes to Part D prescription drug effective January 1, 2025
 - Coverage that is currently creditable may no longer be creditable under the new Part D benefit parameters beginning in 2025
- When will that change go into effect?
 - Creditability determined using Part D parameters in effect on first day of plan year
 - Calendar year plans effective 01/01/2025
 - Non-calendar year plan effective first day of plan year beginning in 2025
- What do employers need to do?
 - Determine if current plan design will be creditable beginning in 2025
 - If plan is not 2025 creditable...
 - Consider plan changes if employer wants to offer a creditable coverage plan
 - If employer decides to let plan be non-creditable, prepare to send a new notice to employees

COBRA & Medicare

COBRA & Medicare

- Loss of Coverage Triggered by a Qualifying Event → COBRA Continuation


COBRA Qualifying Events

- Termination of employment
- Reduction in hours
- Death of covered employee
- Divorce / Legal separation
- **Employee's Medicare entitlement**
- Dependent child ceases to be a dependent

- Employee's Medicare Entitlement
 - Qualifying event for spouse and dependent children only if there is a loss of eligibility and coverage for covered employee
 - Medicare entitlement will rarely cause a loss of coverage (due to MSP rules), so **generally not a qualifying event (or second qualifying event)**
 - More likely to be a qualifying event for retiree coverage

COBRA & Medicare

- Example



- Employee, spouse and children enrolled in employer's group health plan

- Employee enrolls in Medicare and voluntarily chooses to terminate employer's group health plan

- **No COBRA** option for the spouse and children

- Many employers and TPAs mistakenly offer COBRA to the spouse and children
 - Carrier (or stop-loss vendor) could choose not to provide coverage since COBRA is not required

COBRA & Medicare

- COBRA Maximum Coverage Periods

Qualified beneficiary is entitled to Medicare after electing COBRA coverage

- COBRA coverage can be terminated early for the individual enrolled in Medicare
- Does not affect the COBRA rights of other qualified beneficiaries in a family unit

Qualified beneficiary is entitled to Medicare before electing COBRA coverage

- COBRA offer must be available for the maximum coverage period
- Special extension for spouse and dependents (when employee's termination of employment or reduction in hours occurs within 18 months after enrollment in Medicare)
 - Spouse and dependent children entitled to up to 36 months from the date of Medicare enrollment or 18 months from the qualifying event, whichever is greater

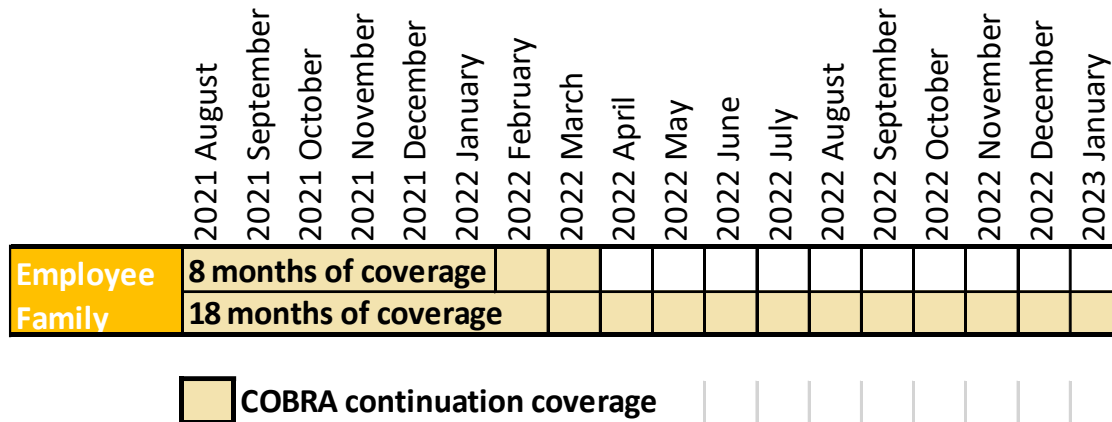
COBRA & Medicare

- Example 1

Employee (age 64) retires at the end of July 2021
 Employee turns 65 in mid-March 2022 and enrolls in Medicare



- Employee's COBRA coverage may be terminated upon enrollment in Medicare
- COBRA coverage for family members remains available for the full 18 months



COBRA & Medicare

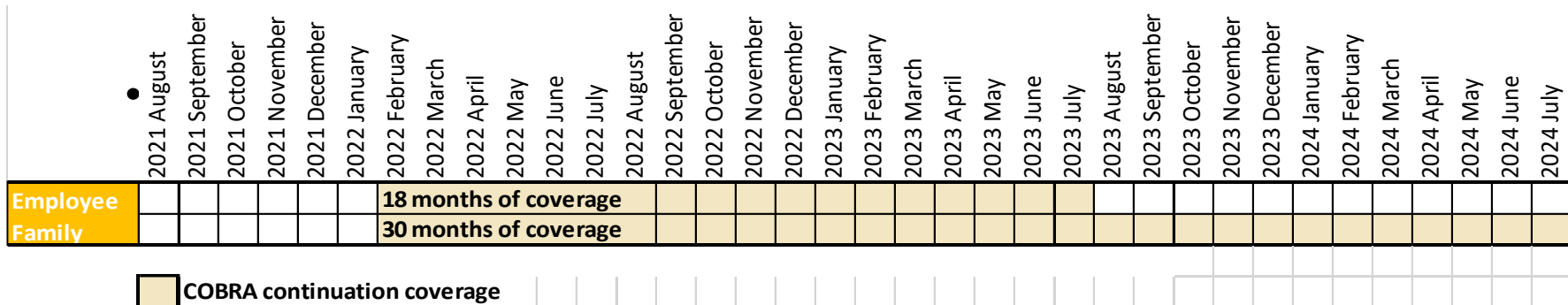
■ Example 2

Employee enrolls in Medicare in August 2021 and remains enrolled in employer's group health plan

Employee retires at the end of January 2022



- Employee must be offered COBRA for up to 18 months upon retirement
 - Family must be offered COBRA for up to 36 months from Medicare enrollment (30 months because 6 months already expired)



COBRA & Medicare

- Delaying Medicare Enrollment
 - If an individual does not enroll in Medicare first entitled to it, the individual may:
 - Only be permitted to enroll during Medicare's annual open enrollment period
 - Pay more upon enrolling
 - A special enrollment period is available for those who delayed enrollment because of coverage under a group health plan due to current employment status
 - COBRA coverage is not considered coverage based upon current employment

Important

If a COBRA qualified beneficiary enrolls in COBRA and delays taking Medicare, they may have to pay a premium penalty when they enroll in Medicare

- DOL COBRA Model Notices
 - Explain options for those choosing between Medicare and COBRA

Health Savings Accounts (HSAs) & Medicare

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- HSA Eligibility

- To be eligible to make or receive HSA Contributions...

- Must be enrolled in a HSA qualified high deductible health plan (HDHP)

2024 HDHP Limits	Single Coverage	Family Coverage
Minimum Deductible	\$1,600	\$3,200
Maximum OOP	\$8,050	\$16,100

- Cannot be claimed as another's tax dependent
- May not have any other “disqualifying coverage” – e.g., Medicare

Health Savings Accounts (HSAs) & Medicare

- HSAs and Medicare

- Individuals enrolled in (“entitled” to) Medicare are ineligible to contribute to an HSA
- Individuals are automatically covered by Medicare Part A as soon as they begin receiving Social Security

Important Note

- Individuals are automatically covered by Medicare Part A as soon as they begin receiving Social Security benefits – there is no way to “opt-out” of Part A
- The only way to remain HSA eligible would be to delay receiving Social Security benefits – that way Part A coverage would also be delayed

- Other Issues

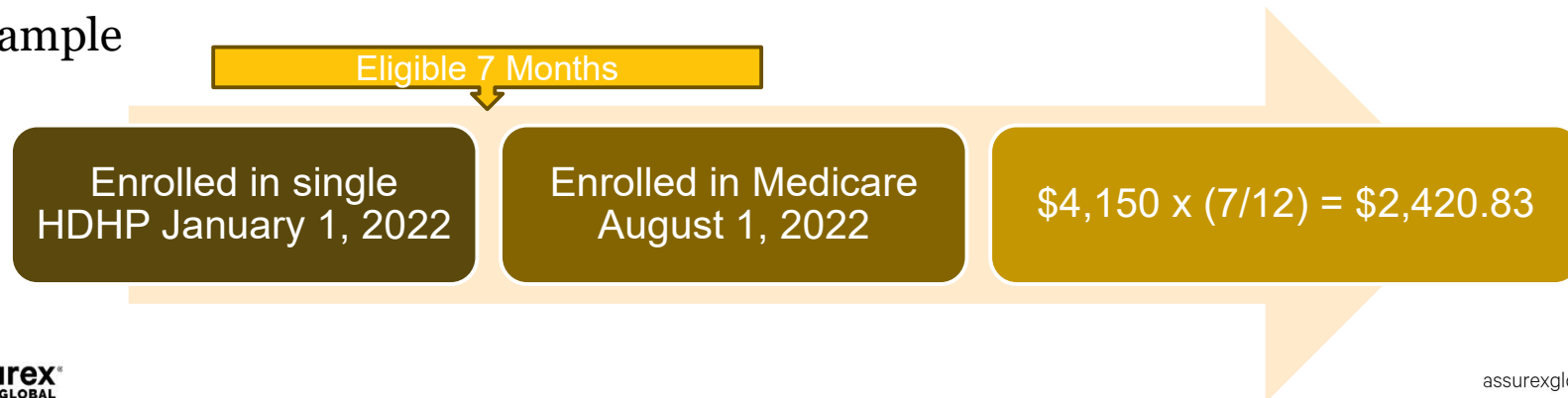
- Spouse’s enrollment in Medicare doesn’t cause HSA ineligibility
- Ineligible individuals may continue using HSA funds

Health Savings Accounts (HSAs) & Medicare

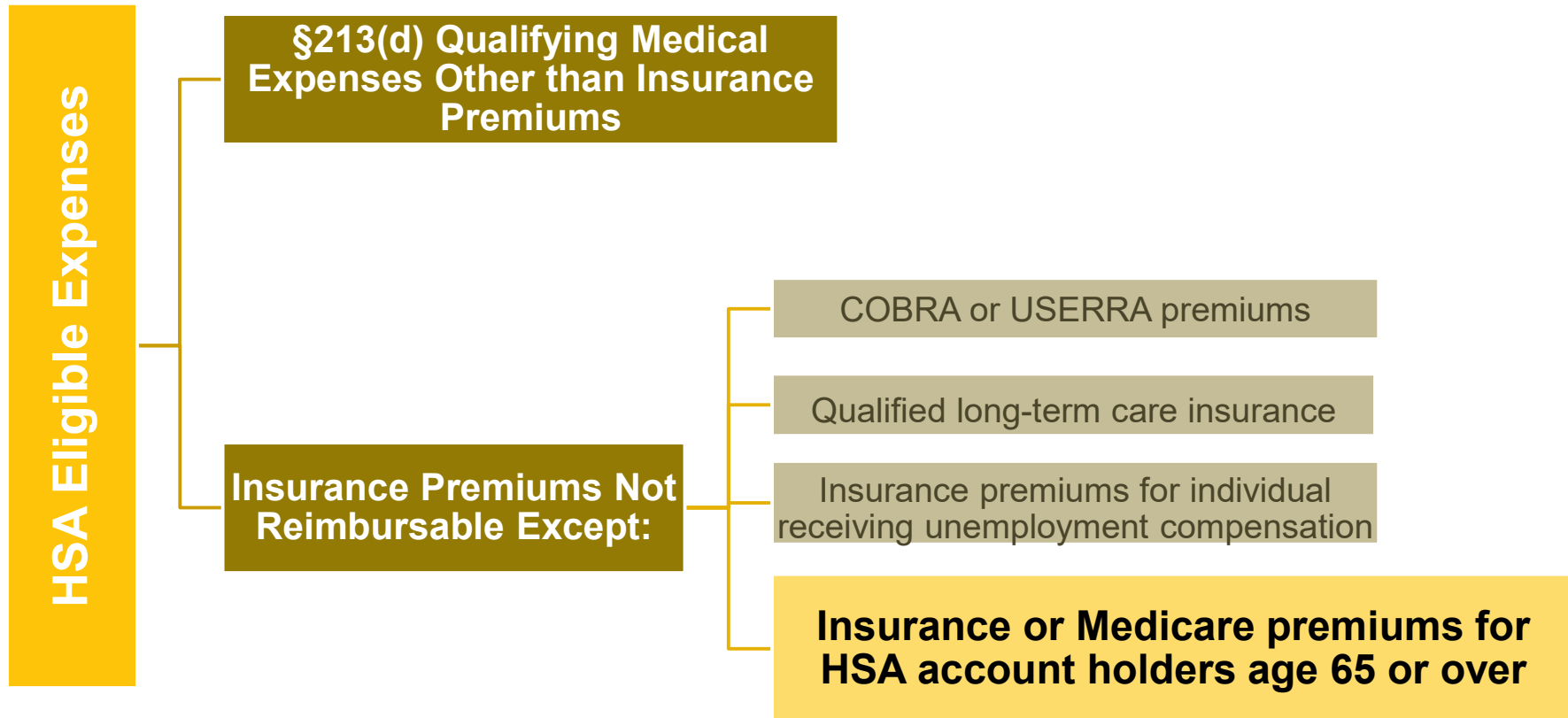
- 2024 HSA Contribution Limit (Include Employer & Employee Contributions)
 - Single Coverage = \$4150
 - Family Coverage = \$8300
 - Age 55 Catch-up Contribution = \$1000



- Example



Health Savings Accounts (HSAs) & Medicare



Cafeteria Plans & Medicare

Cafeteria Plans & Medicare

- Health FSAs cannot be used to reimburse insurance premiums, including Medicare

- Section 125 Election Changes
 - Generally employees cannot change their pre-tax election unless they experience an event that qualifies under the Section 125 rules
 - Entitlement to (enrollment in) Medicare allows a prospective election change to cancel or reduce pre-tax contributions for the individual enrolled in the plan
 - Loss of Medicare eligibility allows a prospective election to commence or increase pre-tax contributions for the individual who lost coverage

Questions?