

HI 00805.384 Exceptional Conditions Special Enrollment Period (SEP) for Group Health Plan (GHP) or Employer Misrepresentation

A. Background

Often, the primary source of information about Medicare for working individuals is their employer or the carrier of their GHP. Despite the Centers for Medicare and Medicaid Services (CMS) efforts to provide information to the working population, the potential for the dissemination of misinformation exists. In some cases, individuals may receive erroneous information from their employer or GHP that results in the individual not engaging in timely Part B enrollment and consequently being assessed a premium surcharge.

B. SEP Eligibility

1. This SEP applies for individuals whose non-enrollment in premium Part A or Part B is unintentional, inadvertent, or erroneous and results from material misrepresentation or reliance on incorrect information provided by the individual's or their spouse's employer or GHP or brokers or agents of private health plans that may have been a source of misinformation. Note that the agents or brokers of health plans are not required to be direct employees of the health plan in order to qualify as sources of misinformation for the purposes of this SEP.
2. To be eligible for this SEP, an individual must demonstrate that they:
 - a. Did not enroll in premium Part A or Part B during their IEP, GEP or another SEP in which they were eligible based on information received from an employer or GHP, or brokers or agents of private health plans that may have been a source of misinformation, **and**
 - b. an employer, GHP, or brokers or agents of a private health plan materially misrepresented information or provided incorrect information relating to enrollment in premium Part A or Part B.

The material misrepresentation or incorrect information must have occurred on or after January 1, 2023.

Note: The person must have missed an enrollment period to be eligible for this SEP. An CMS L564 form is not required for this SEP enrollment.

C. Required Proof

1. Primary Proof

The individual will be required to provide documentation of the relevant misrepresentation to SSA. The documentation must show:

- information was provided directly from an employer, GHP, or agent or brokers prior to their IEP, GEP or another SEP, **and**
- the inaccuracy that caused the individual not to enroll timely.

Example: The individual receives a letter (or GHP website public notice) from their employer or GHP that materially misrepresents the Medicare enrollment process which caused them to not enroll in Medicare during their IEP.

2. Secondary Proof

Alternatively, a written and signed attestation from the beneficiary is sufficient evidence for eligibility for this SEP.

The written attestation must include a detailed account of the incident including:

- the name and title of the person who provided the misinformation;
- the name of the company
- the approximate date in which the misinformation was provided; and
- a description of what misinformation was provided.

D. SEP Duration

1. The SEP duration begins the day the individual contacts SSA about being misinformed and ends on the last day of the month, six months later.

Example: An individual discovers they received erroneous information from their GHP. They contact SSA with supporting documentation on May 16, 2023, then

The individual's SEP begins on May 16, 2023 and ends on November 30, 2023. The individual has until November 30, 2023 to enroll under the GHP or Employer Misrepresentation SEP.

The six-month duration of this SEP starts from the day the individual contacts SSA. In the example above the individual contacted SSA on May 16, 2023. We count the six months starting from June 1, 2023 and the duration ends the last day of the sixth month which is November 30, 2023.

D. Calculation of Premium Surcharge

There will be no premium surcharge when enrolled based on this SEP.

E. Effective Date

The individual's coverage begins the first day of the month following the month of enrollment.

Example: The individual enrolls on May 16, 2023. Coverage will begin on June 1, 2023.

F. Processing Instructions

See HI 00805.277 Processing SEP Enrollments for processing instructions.

G. References

HI 00805.277 Processing SEP Enrollments

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