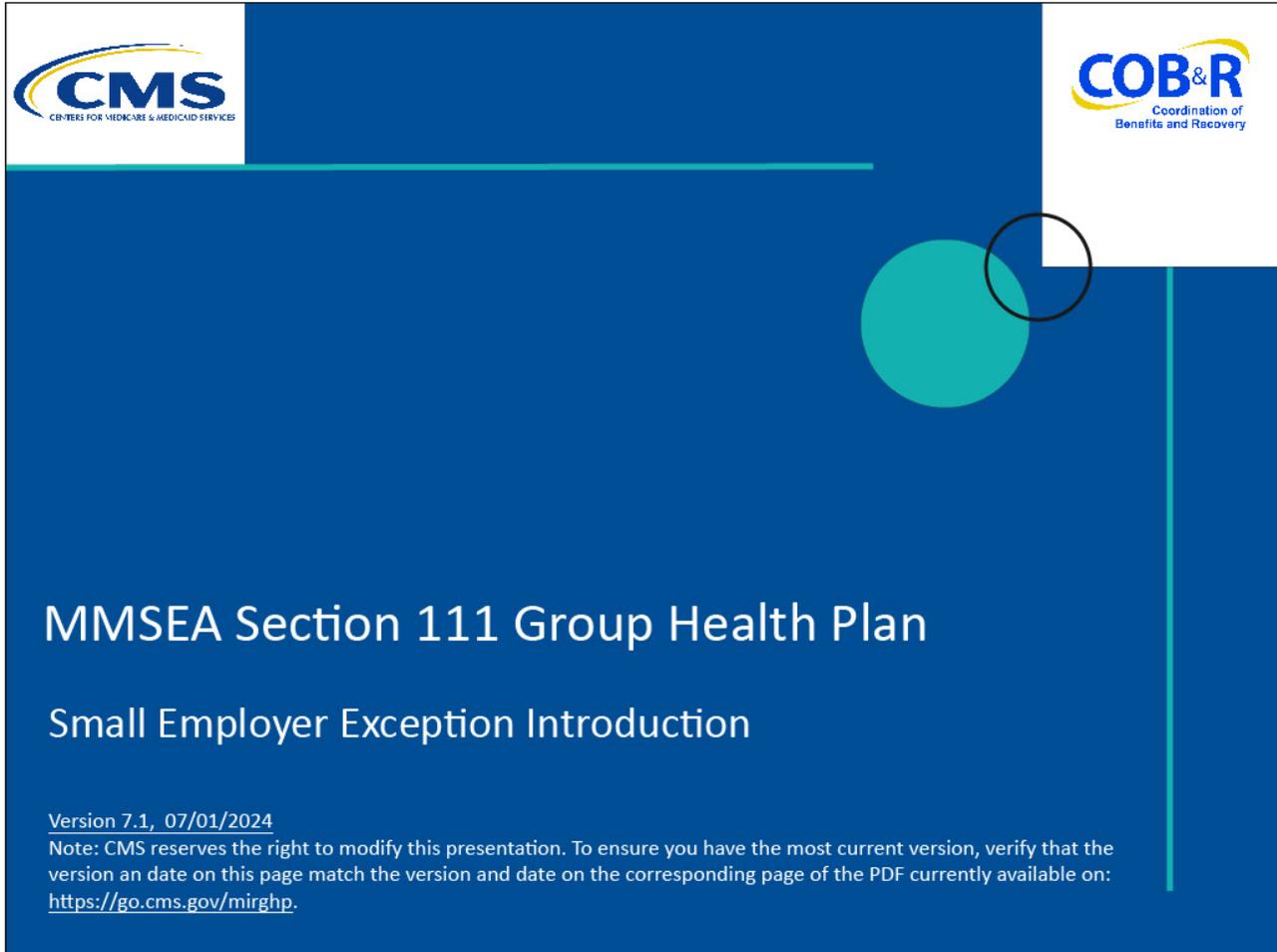


Small Employer Exception

Slide 1 of 23 - Small Employer Exception Introduction



CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES

COB&R
Coordination of
Benefits and Recovery

MMSEA Section 111 Group Health Plan

Small Employer Exception Introduction

Version 7.1, 07/01/2024
Note: CMS reserves the right to modify this presentation. To ensure you have the most current version, verify that the version and date on this page match the version and date on the corresponding page of the PDF currently available on:
<https://go.cms.gov/mirghp>.

Slide notes

Welcome to the Small Employer Exception course.

Slide 2 of 23 - Disclaimer

Disclaimer

While all information in this document is believed to be correct at the time of writing, this Computer Based Training (CBT) is for educational purposes only and does not constitute official Centers for Medicare and Medicaid Services (CMS) instructions for the MMSEA Section 111 implementation. All affected entities are responsible for following the instructions found at the following link:

<https://go.cms.gov/mirghp>.

Slide notes

While all information in this document is believed to be correct at the time of writing, this Computer Based Training (CBT) is for educational purposes only and does not constitute official Centers for Medicare & Medicaid Services

(CMS) instructions for the MMSEA Section 111 implementation. All affected entities are responsible for following the instructions found at the following link: <http://go.cms.gov/mirghp>.

Slide 3 of 23 - Course Overview

Course Overview

- What is a SEE
- Multi-Employer GHP
- Written Request for SEE
- SEE Application Guidelines
- Reporting a SEE
- Possible Outcomes



Slide notes

Topics in this course included an overview of the Small Employer Exception (SEE), Multi-Employer Group Health Plan (GHP), the written request for a SEE, SEE application guidelines, reporting a SEE, and possible response file outcomes.

Slide 4 of 23 - What is a Small Employer Exception

What is a Small Employer Exception

- Medicare is secondary payer to the working aged where either:
 - A single employer of 20 or more full and/or part-time employees is the sponsor of the GHP or contributor to the GHP, or
 - Two or more employers are sponsors or contributors to a multi-employer/multiple employer plan, and at least one of them has 20 or more full and/or part-time employees
- Working aged
 - Employed people age 65 or over and
 - People age 65 or over with employed spouses of any age who have GHP coverage because of their or their spouse's current employment status
- Multi-employer GHPs may request exception for specific working age beneficiaries to choose Medicare as the primary

Slide notes

Medicare is secondary payer to GHPs for the working aged where either a single employer of 20 or more full and/or part-time employees is the sponsor of the GHP or contributor to the GHP, or two or more employers are sponsors or contributors to a multi-employer/multiple employer plan, and at least one of them has 20 or more full and/or part-time employees.

When determining the "20 or more threshold," employers (i.e., individual or wholly owned entities) with more than one company must follow the IRS aggregation rules. The relevant IRS codes can be found in 26 U.S.C. sections 52(a), 52(b), 414 (n) (2).

The working aged are employed people age 65 or over and people age 65 or over with employed spouses of any age who have GHP coverage because of their or their spouse's current employment status.

In general, an individual has current employment status if the individual is an employee, the employer, or is associated with an employer in a business relationship.

Under the SEE provision of the Medicare Secondary Payer (MSP) statute, a multi-employer GHP may request an exception for certain individuals entitled to Medicare on the basis of age, i.e. 65 years of age and older.

If granted, Medicare would become the primary payer for these beneficiaries. Medicare is secondary payer to GHPs for the working aged where either a single employer of 20 or more full and/or part-time employees is the sponsor of the GHP or contributor to the GHP, or two or more employers are sponsors or contributors to a multi-employer/multiple employer plan, and at least one of them has 20 or more full and/or part-time employees.

When determining the “20 or more threshold,” employers (i.e., individual or wholly owned entities) with more than one company must follow the IRS aggregation rules. The relevant IRS codes can be found in 26 U.S.C. sections 52(a), 52(b), 414 (n) (2).

The working aged are employed people age 65 or over and people age 65 or over with employed spouses of any age who have GHP coverage because of their or their spouse’s current employment status.

In general, an individual has current employment status if the individual is an employee, the employer, or is associated with an employer in a business relationship.

Under the SEE provision of the Medicare Secondary Payer (MSP) statute, a multi-employer GHP may request an exception for certain individuals entitled to Medicare on the basis of age, i.e. 65 years of age and older.

If granted, Medicare would become the primary payer for these beneficiaries.

Slide 5 of 23 - What is a Small Employer Exception

What is a Small Employer Exception

- Employer must participate in the multi-employer plan
- Employer must have fewer than 20 full and/or part-time employees
- GHP coverage must be based on beneficiary's own or spouse's current employment
- Once granted, these beneficiaries will not be subject to Working Aged provision

Slide notes

In order to meet the criteria for this exception, the GHP coverage provided to these working aged Medicare beneficiaries must be provided by an employer that participates in the multi-employer plan.

The employer must have fewer than 20 full and/or part-time employees. Additionally, the GHP coverage must be based on the beneficiary's own or their spouse's current employment.

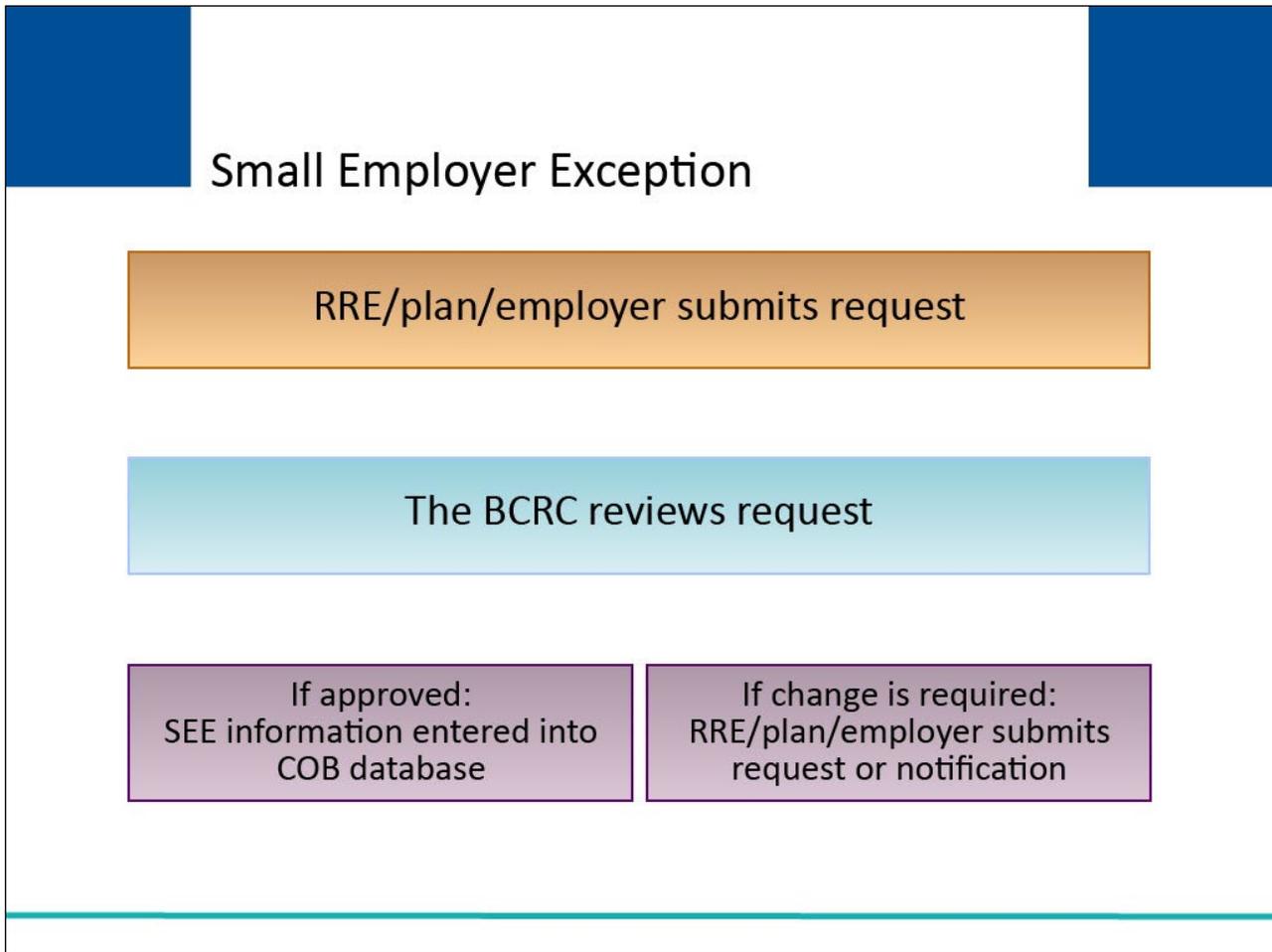
Once the exception has been granted, these specific Medicare beneficiaries will not be subject to the Working Aged provision as long as the employer continues to meet the requirements of the exception.

In order to meet the criteria for this exception, the GHP coverage provided to these working aged Medicare beneficiaries must be provided by an employer that participates in the multi-employer plan.

The employer must have fewer than 20 full and/or part-time employees. Additionally, the GHP coverage must be based on the beneficiary's own or their spouse's current employment.

Once the exception has been granted, these specific Medicare beneficiaries will not be subject to the Working Aged provision as long as the employer continues to meet the requirements of the exception.

Slide 6 of 23 - Small Employer Exception



Slide notes

The period of time a SEE is in effect is not controlled by Section 111 MSP Input Files. There is a process to request a SEE that is outside of Section 111.

The Responsible Reporting Entity (RRE)/plan/employer submits a SEE request for an individual to the Benefits Coordination & Recovery Center (BCRC). The BCRC reviews, and if approved, enters the SEE information into a Coordination of Benefits (COB) database table.

If a subsequent change is needed, the RRE/plan/employer must go through that process, interacting with the BCRC to request or notify the BCRC of any changes. Section 111 MSP Input File records have no effect on this SEE database table.

The table is read in the Section 111 processing of MSP files if a SEE Medicare ID is submitted on the record and then the information on the SEE data is used in determining MSP.

Sending update, add, or delete records on the MSP file will not affect the SEE Start and End Dates currently on record in the BCRC.

Slide 7 of 23 - Multi-Employer GHP

Multi-Employer GHP

- Any trust, plan, association or any other arrangement made by one or more employer to
 - Contribute, sponsor, directly provide health benefits, or
 - Facilitate directly or indirectly the acquisition of health insurance by an employer member
- If such facilitation exists, the employer is a participant in a Multi-Employer GHP even if it has a separate contract with an insurer
- The GHP can delegate the responsibility for requesting the SEE to the insurer

Slide notes

Any trust, plan, association, or any other arrangement made by one or more employers to contribute, sponsor, directly provide health benefits, or facilitate directly or indirectly the acquisition of health insurance by an employer member.

If such facilitation exists, the employer is a participant in a Multi-Employer GHP even if it has a separate contract with an insurer. The GHP can delegate the responsibility for requesting the SEE to the insurer.

Slide 8 of 23 - Limitations of the Small Employer Exception

Limitations of the Small Employer Exception

- SEE applies only to the Working Aged provision
 - Medicare is the secondary payer for all Medicare beneficiaries enrolled on the basis of disability who are covered by a multi-employer plan on the basis of their own or a family member's current employment if at least one participating employer has 100 or more full and/or part-time employees
 - Medicare is the secondary payer for all Medicare beneficiaries enrolled on the basis of ESRD who are covered by a multi-employer plan on any basis
- SEE provision of MSP Statute can be found at 42 U.S.C. 1395y(b)(1)(A)(iii) and 42 CFR 411.172(b)

Slide notes

The SEE applies only to the Working Aged provision. Medicare is the secondary payer for all Medicare beneficiaries enrolled on the basis of disability who are covered by a multi-employer plan on the basis of their own or a family member's current employment if at least one participating employer has 100 or more full and/or part-time employees.

Medicare is the secondary payer for all Medicare beneficiaries enrolled on the basis of End Stage Renal Disease (ESRD) who are covered by a multi-employer plan on any basis.

The Small Employer Exception provision of the MSP statute can be found at 42 U.S.C.1395y(b)(1)(A)(iii) and 42 CFR 411.172(b).

Slide 9 of 23 - Written Request for SEE

Written Request for SEE

Must submit a written request

- Include all supporting documents
- Identify associated beneficiaries

Must be approved by the BCRC (on behalf of CMS)

- Exception applies only to specifically named and approved beneficiaries
- Key data elements will be stored

Click the link below for more information and for information updates

[Small Employer Exception](#)

Slide notes

To request Medicare approval of a SEE, the Multi-Employer GHP (or insurer on behalf of the GHP) must submit a written request for exception to the MSP rules, with all required supporting documents to the BCRC.

The documents should state that the plan seeks to elect Medicare as the primary payer for identified beneficiaries who are associated with identified employers participating in the specific multi-employer plan.

The GHP can delegate the responsibility for requesting the SEE to the insurer. The BCRC, working on behalf of CMS, must approve the exception.

An approved exception will apply only with respect to the specifically named and approved beneficiaries associated with a specifically named employer participant in a specifically identified multi-employer plan.

This exception applies only to individuals entitled to Medicare on the basis of age.

Once approved, the BCRC will store the associated Medicare ID, Employer Identification Number (EIN), policy number, and SEE Start and End Dates associated with the beneficiaries covered by the SEE.

To request Medicare approval of a SEE, the Multi-Employer GHP (or insurer on behalf of the GHP) must submit a written request for exception to the MSP rules, with all required supporting documents to the BCRC.

The documents should state that the plan seeks to elect Medicare as the primary payer for identified beneficiaries who are associated with identified employers participating in the specific multi-employer plan.

The GHP can delegate the responsibility for requesting the SEE to the insurer. The BCRC, working on behalf of CMS, must approve the exception.

An approved exception will apply only with respect to the specifically named and approved beneficiaries associated with a specifically named employer participant in a specifically identified multi-employer plan.

This exception applies only to individuals entitled to Medicare on the basis of age.

Once approved, the BCRC will store the associated Medicare ID, Employer Identification Number (EIN), policy number and SEE Start and End Dates associated with the beneficiaries covered by the SEE.

Slide 10 of 23 - SEE Application Guidelines

SEE Application Guidelines

- Effective date for a granted SEE cannot be earlier than the date that a complete request is received (i.e., the date when all supporting documentation has been received)
- A SEE may be requested for individuals currently enrolled in Medicare on the basis of age or within 3 months of individuals attaining age 65

Slide notes

Plan administrators/insurers should note the following before applying for a Small Employer Exception:

The effective date for a granted SEE cannot be earlier than the date that a complete request is received (i.e., the date when all supporting documentation has been received).

A SEE may be requested for individuals currently enrolled in Medicare on the basis of age or within 3 months of individuals attaining age 65.

Slide 11 of 23 - SEE Application Guidelines

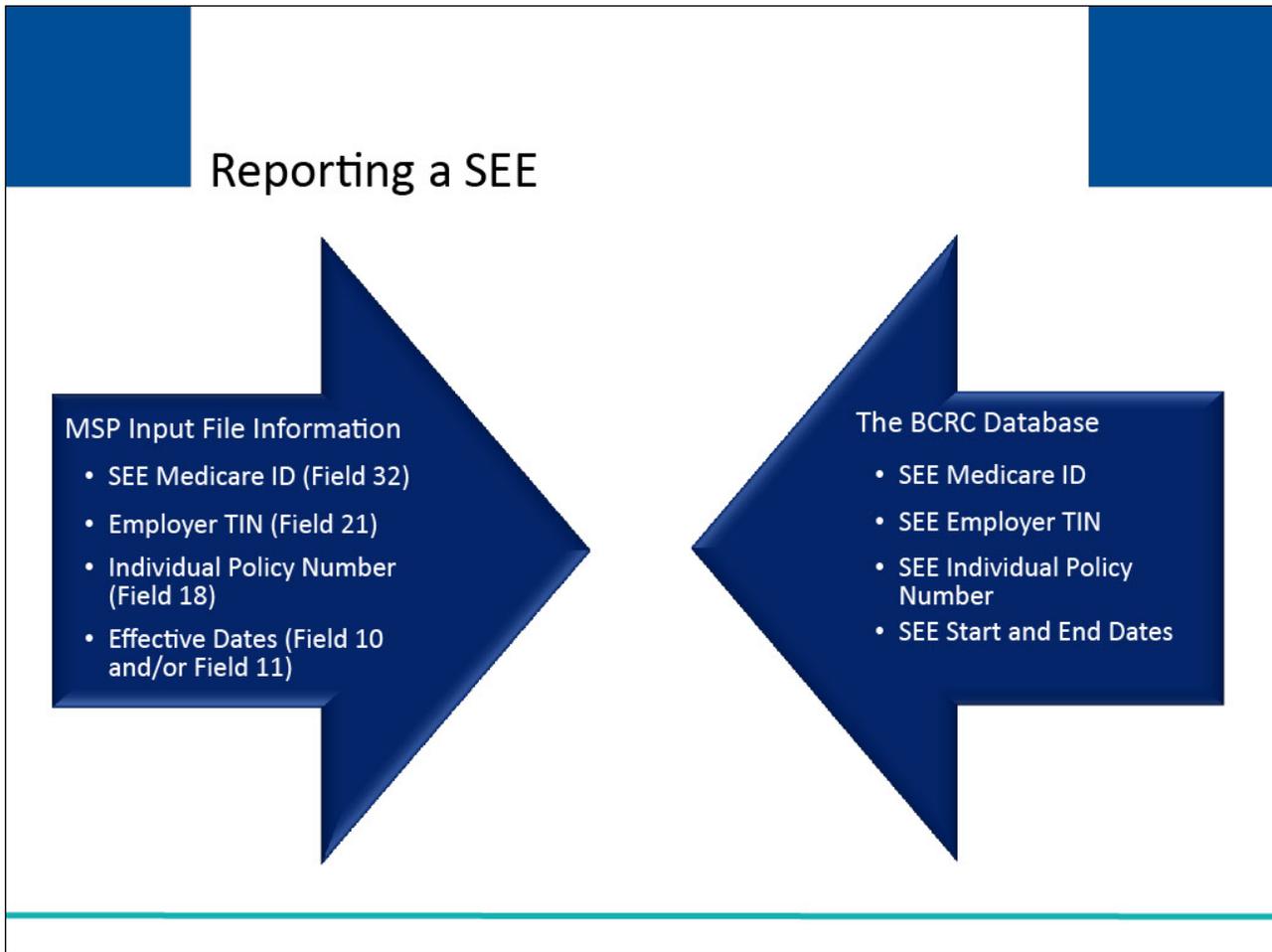
SEE Application Guidelines

- Notify the BCRC when
 - Exempt employer meets 20-employee threshold
 - Individual's coverage has changed
- Notify each employee or spouse when
 - The BCRC approves requested SEE or
 - Medicare becomes secondary due to change in employer size

Slide notes

The plan must notify the BCRC when the exempt employer meets the 20-employee threshold or when there has been a change in the individual's GHP coverage.

The plan is required to notify each employee or spouse when the BCRC approves requested SEE or when Medicare becomes secondary due to change in employer size.

Slide 12 of 23 - Reporting a SEE**Slide notes**

When you report an Active Covered Individual for whom a SEE has been granted on the MSP Input File, place the individual's Medicare ID in Small Employer Exception Medicare ID Field 32, place the Employer Tax Identification Number in Employer TIN Field 21, place the subscriber's policy number in Individual Policy Number Field 18, the Effective Date in Field 10, and the Termination Date (if applicable) in Field 11.

Note: The date submitted in the Coverage Termination Date (Field 11) should be the last day that the Active Covered Individual is covered through a GHP due to current employment (with the exception of situations involving ESRD).

If the BCRC can match the Medicare ID, Employer TIN, and Individual Policy Number to its records, the Insurance Effective Dates from the submitted MSP file will then be compared to the SEE Start and End Dates.

Please note: Existing Field 16 (Employer Size) will be used in conjunction with records of previously approved Small Employer Exception requests to ensure that we know when Medicare is primary for a particular beneficiary with the exception.

Slide 13 of 23 - SEE Response Code

SEE Response Code

- SEE Response Code (Field 81)
 - SA - SEE Accepted
 - SP - SEE Partial
 - SN - SEE Not Applicable

Slide notes

To determine what has happened to the SEE record you submitted on the MSP Input File, you must check the SEE Response Code Field 81 on the MSP Response File.

The SEE Response Code is SA if the SEE is accepted, SP if the SEE is partially accepted, or SN if the SEE is not applicable.

Slide 14 of 23 - When There is SEE Match

When There is SEE Match

- SEE Accepted
 - GHP Coverage Period within SEE Period

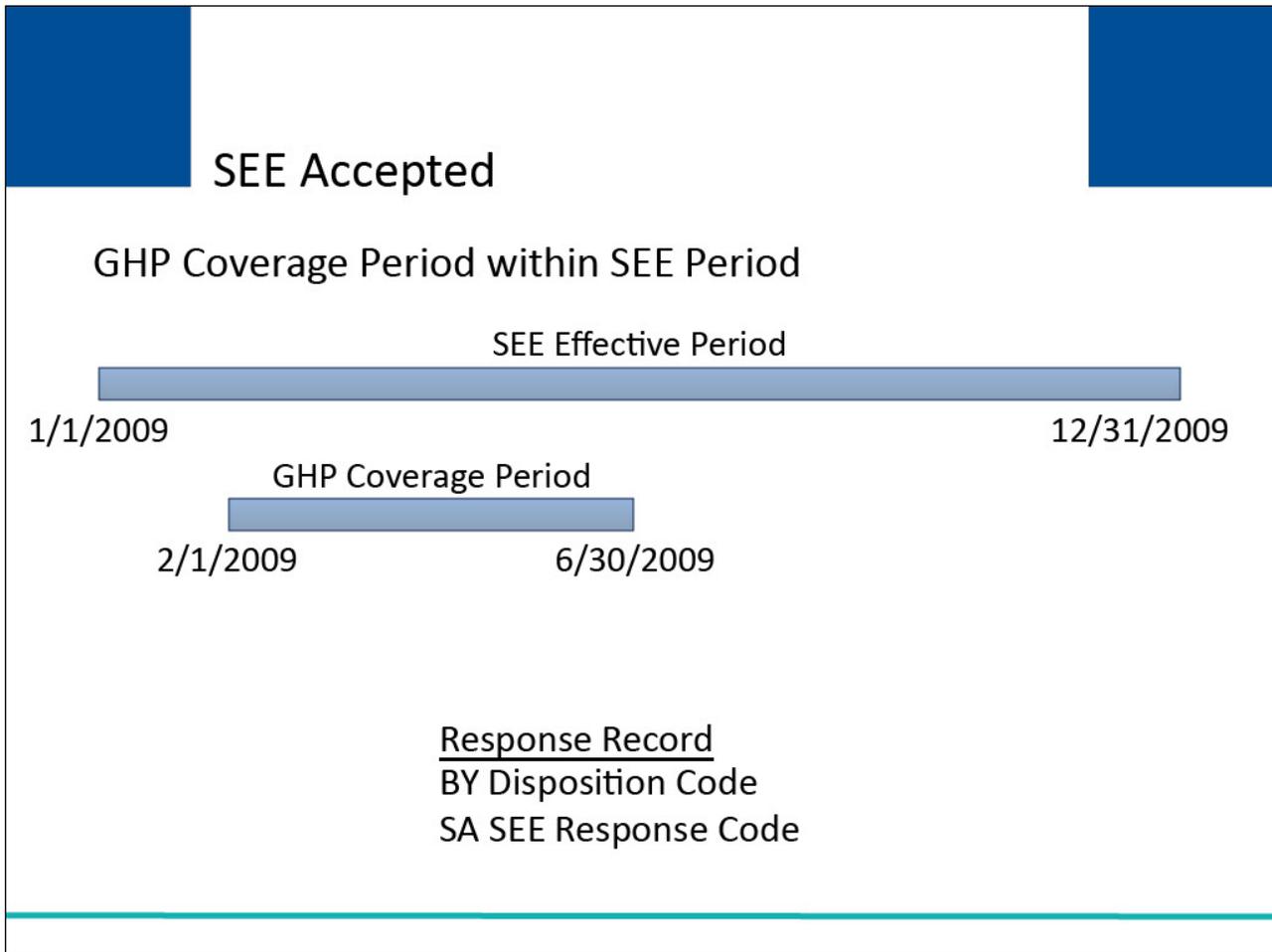
- SEE Partial
 - GHP Coverage Effective Date prior to SEE Start Date
 - GHP Coverage begins within SEE Effective Period

Slide notes

The following slides will outline the process and results of situations where there is a SEE match within the BCRC database. For the first example, the GHP Coverage Period is entirely within the SEE Period and the SEE is accepted.

For the 2nd and 3rd example, the SEE Medicare ID is partially accepted because the GHP Coverage Period is not entirely within the SEE Period.

Slide 15 of 23 - SEE Accepted



Slide notes

If the Insurance Coverage Period is entirely within the SEE Effective Period, no MSP Occurrence will be created, and the coverage will not be considered primary to Medicare.

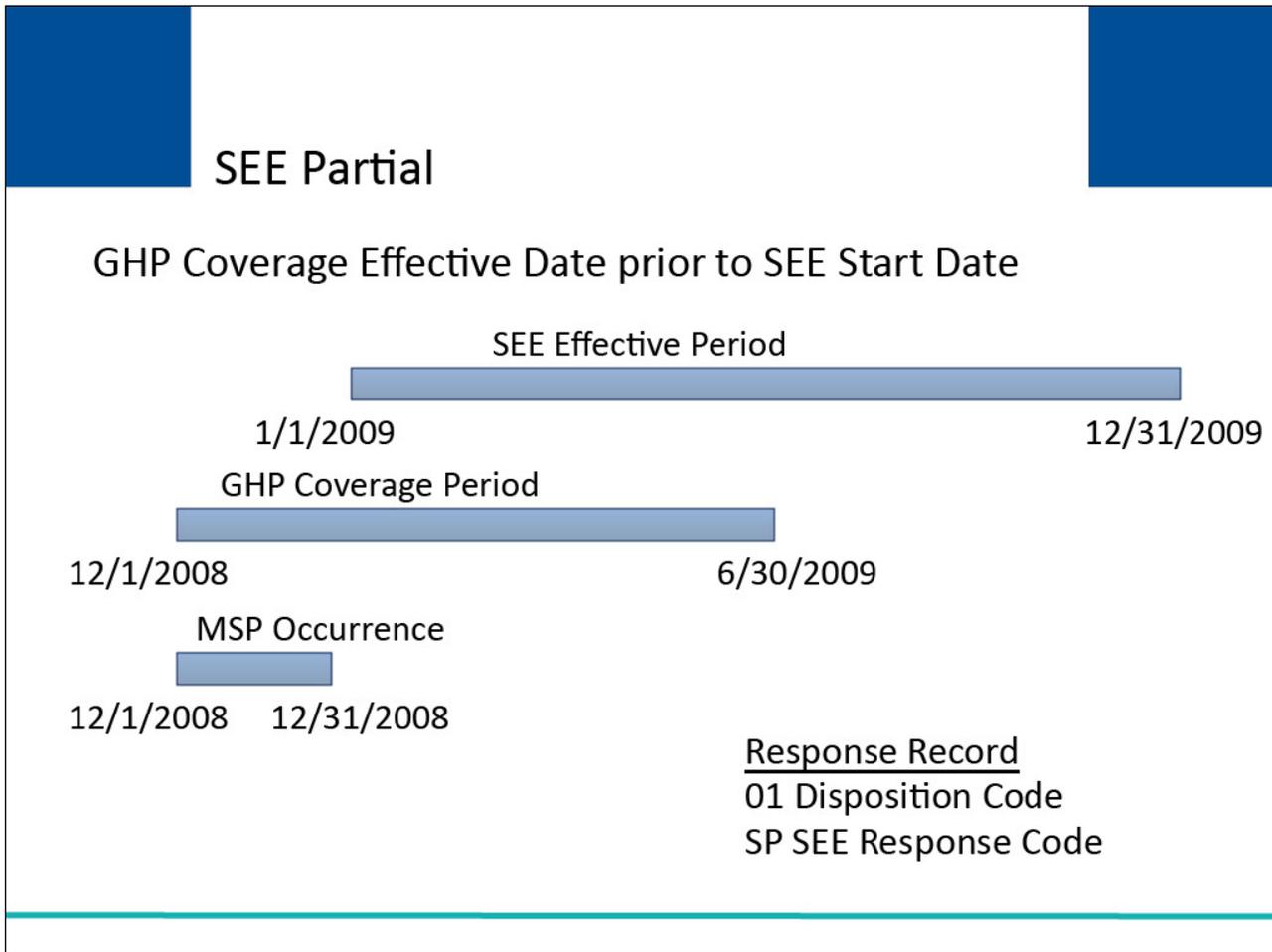
For example, the SEE Effective Period is from 1/1/2009 through 12/31/2009. The GHP Coverage Period is from 2/1/2009 through 6/30/2009.

Since the GHP coverage is entirely between the SEE Start and End Dates, no MSP Occurrence is created for the period of time of the GHP Coverage (2/1/2009 - 6/30/2009).

The response record for this example will be returned with a BY Disposition because the record was bypassed and an SA SEE Response Code (in Field 81) because the SEE Medicare ID was accepted and not submitted to the Medicare Common Working File (CWF).

In this example, Medicare is the primary payer.

Slide 16 of 23 - SEE Partial



Slide notes

If the Insurance Effective Date is prior to the SEE Start Date, an MSP Occurrence will be generated if the individual was covered by Medicare for that period.

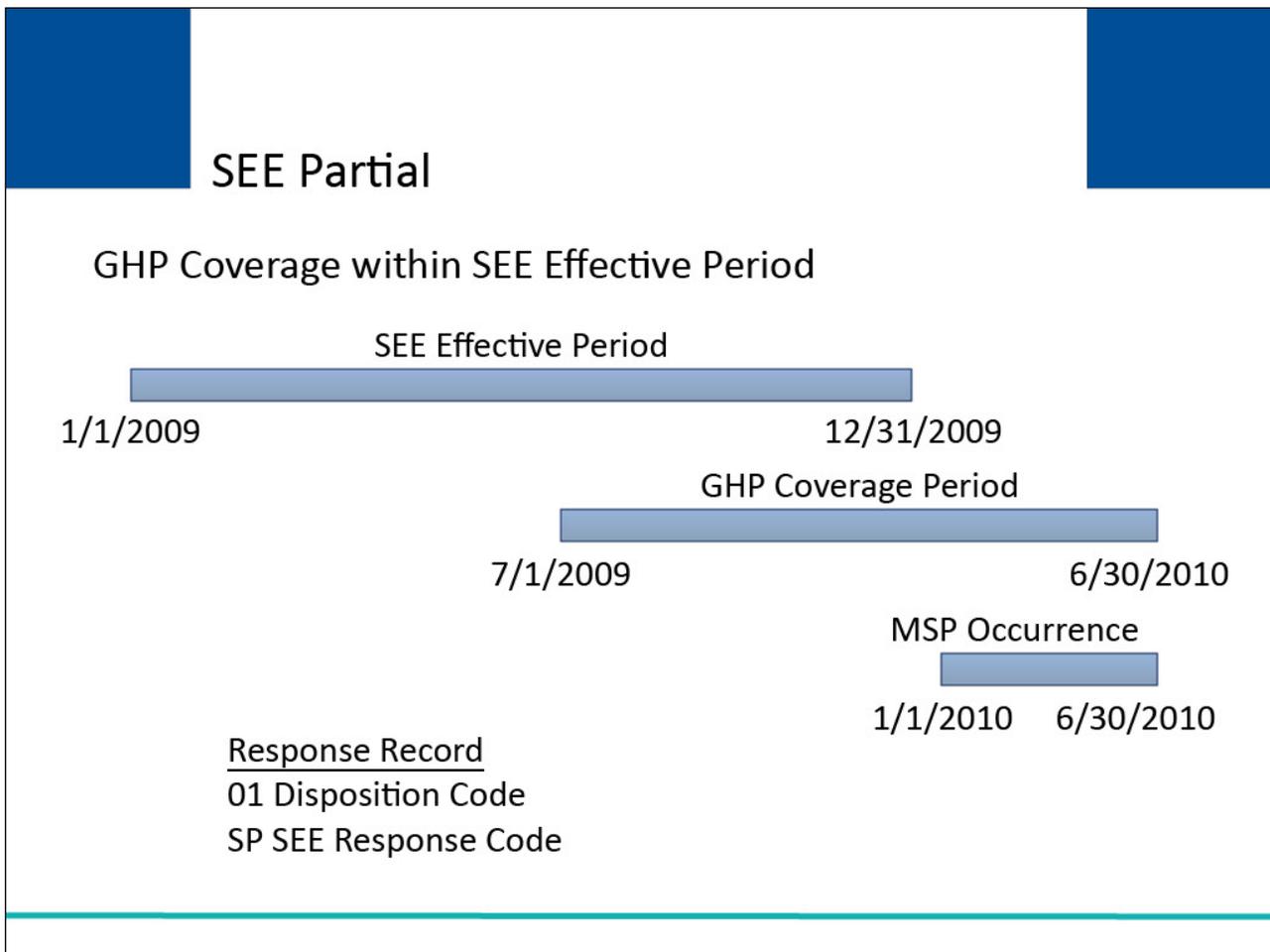
The MSP Effective Date will be set as the Insurance Effective Date submitted on the MSP Input File. The MSP Termination Date will be 1 calendar day prior to the SEE Start Date.

For example: If the SEE Effective Period is from 1/1/2009 through 12/31/2009 and the GHP Coverage Period is from 12/1/2008 through 6/30/2009, the GHP Coverage and SEE Effective Period are overlapping.

The GHP Effective Period starts prior to the SEE Effective Period. Therefore, an MSP Occurrence is built for the period of time of 12/1/2008 through 12/31/2008 which is before the SEE is effective.

The response record for this example will be returned with a 01 Disposition because the MSP Occurrence was created and a SP SEE Response Code because the SEE Medicare ID was partially accepted, i.e., the SEE Medicare ID was confirmed, but the Insurance Effective Period is outside of the SEE Effective Period.

Slide 17 of 23 - SEE Partial



Slide notes

If the Insurance Effective Date is prior to the SEE Start Date, an MSP Occurrence will be generated if the individual was covered by Medicare for that period.

The MSP Effective Date will be set as the Insurance Effective Date submitted on the MSP Input File. The MSP Termination Date will be one calendar day prior to the SEE Start Date.

For example: If the SEE Effective Period is from 1/1/2009 through 12/31/2009 and the GHP Coverage Period is from 12/1/2008 through 6/30/2009, the GHP Coverage and SEE Effective Period are overlapping.

The GHP Effective Period starts prior to the SEE Effective Period. Therefore, an MSP Occurrence is built for the period of time of 12/1/2008 through 12/31/2008 which is before the SEE is effective.

The response record for this example will be returned with a 01 Disposition because the MSP Occurrence was created and a SP SEE Response Code because the SEE Medicare ID was partially accepted, i.e., the SEE Medicare ID was confirmed, but the Insurance Effective Period is outside of the SEE Effective Period.

Slide 18 of 23 - When There is No SEE Match

When There is No SEE Match

- No match within the BCRC database
- SEE Start and End Dates do not match GHP Coverage Period

Slide notes

The following slides will explain what happens when there is no match within the BCRC database for a requested SEE and also what happens when the SEE Start and End Dates do not match the GHP Coverage Period.

Slide 19 of 23 - SEE Not Applicable

SEE Not Applicable

- MSP Occurrence generated, if applicable
- SN - SEE Response Code



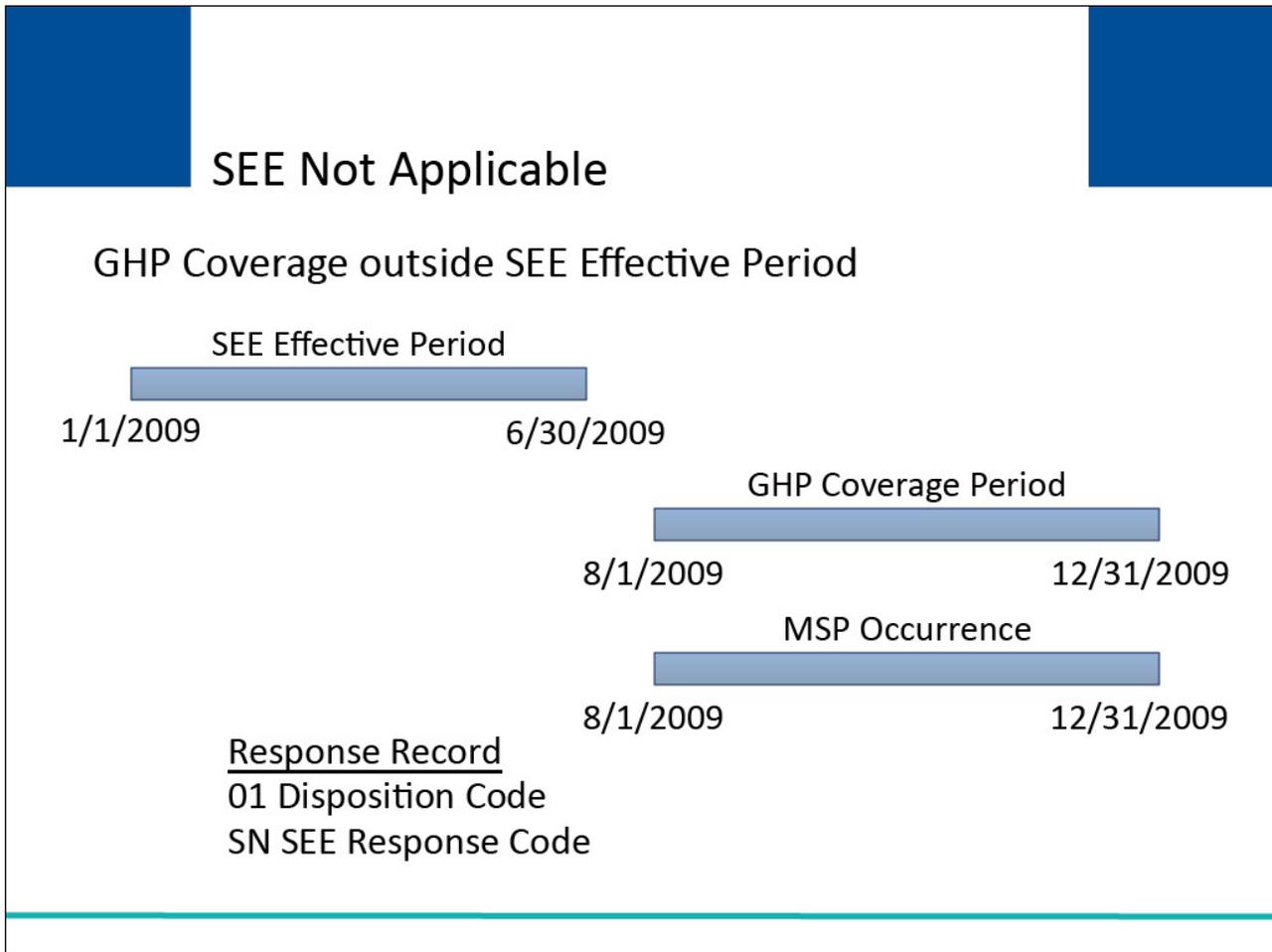
The diagram consists of two blue arrows pointing towards each other. The left arrow is labeled 'MSP Input File Information' and the right arrow is labeled 'The BCRC Database'. A large, bold red 'X' is superimposed over the space between the two arrows, signifying that the information from the input file does not match or is not applicable to the BCRC database.

Slide notes

If a SEE match is not found, an MSP occurrence will be generated, if applicable. A SEE Response of SN (SEE Not Applicable) will be returned to the submitter indicating that the SEE Medicare ID was not found.

This will give the submitter the opportunity to advise the multi-employer plan that CMS has no record of an approved SEE. The plan may then, if it wishes to do so, request a SEE.

Slide 20 of 23 - SEE Not Applicable



Slide notes

If the Insurance Coverage is outside of the SEE Effective Period, an MSP Occurrence will be created.

For example, if the SEE Effective Period is from 1/1/2009 through 6/30/2009, and the GHP Coverage Period is for 8/1/2009 through 12/31/2009, an MSP Occurrence is created for the period of time of the GHP Coverage (8/1/2009 through 12/31/2009). In this case, the Insurance Coverage Period is outside the SEE Effective Period.

The response record for this example will be returned with a 01 Disposition because the MSP Occurrence was created, and an SN SEE Response Code because the SEE was not applicable.

Please note: A complete list of the GHP Disposition Codes can be found in Appendix D (Disposition and Error Codes) of the Section 111 User Guide.

Slide 21 of 23 - Course Summary

Course Summary

- What is a SEE
- Multi-Employer GHP
- Written Request for SEE
- SEE Application Guidelines
- Reporting a SEE
- Possible Outcomes



Slide notes

Topics in this course included an overview of the Small Employer Exception (SEE), Multi-Employer Group Health Plan (GHP), the written request for a SEE, SEE application guidelines, reporting a SEE, and possible response file outcomes.

Slide 22 of 23 - Conclusion



You have completed the Small Employer Exception course. Information in this course can be referenced by using the GHP User Guide's table of contents and any subsequent alerts. These documents are available for download at the following link:
<https://go.cms.gov/mirghp>.

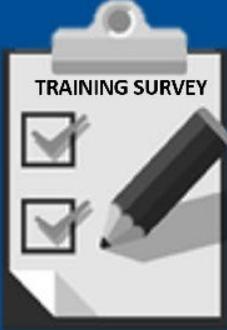
Slide notes

You have completed the Small Employer Exception course. Information in this course can be referenced by using the GHP User Guide's table of contents and any subsequent alerts. These documents are available for download at the following link: <http://go.cms.gov/mirghp>.

Slide 23 of 23 - GHP Training Survey



If you have any questions or feedback on this material,
please go to the following URL:
<http://www.surveymonkey.com/s/GHPTraining>.



Slide notes

If you have any questions or feedback on this material, please go to the following URL:
<http://www.surveymonkey.com/s/GHPTraining>.