

May 1990

# MEDICARE

## Employer Insurance Primary Payer for 11 Percent of Disabled Beneficiaries





United States  
General Accounting Office  
Washington, D.C. 20548

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Human Resources Division

B-235025

May 10, 1990

The Honorable Lloyd Bentsen  
Chairman, Committee on Finance  
United States Senate

The Honorable John D. Dingell  
Chairman, Committee on Energy and Commerce  
House of Representatives

The Honorable Dan Rostenkowski  
Chairman, Committee on Ways and Means  
House of Representatives

The Omnibus Budget Reconciliation Act of 1986 (OBRA) (P.L. 99-509) made Medicare the secondary payer for medical expenses of certain disabled beneficiaries covered by large group health plans (LGHPs). Section 9319 of the act also directed that we determine (1) the number of beneficiaries for whom Medicare became the secondary payer because of their own or a family member's employment, (2) the resulting annual Medicare cost savings, and (3) the provision's effect on the employment of disabled individuals and family members, and the cost and availability of employer health insurance.

This report describes our work on the first requirement. A subsequent report will address the remaining requirements. Our field work on this subject, completed on August 28, 1989, was performed in accordance with generally accepted government auditing standards. Our methodology, discussed in appendix I, included use of mail questionnaires (see app. II and III) and data from the Health Care Financing Administration (HCFA) and the Social Security Administration (SSA). HCFA and SSA are agencies of the Department of Health and Human Services (HHS); HCFA administers the Medicare Program.

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## Background

Medicare is a federal health insurance program that covers most Americans aged 65 or older and some disabled persons under age 65. In 1988, the program covered on average 3.1 million disabled individuals under age 65.<sup>1</sup>

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<sup>1</sup>Disabled persons aged 65 and over generally gain Medicare eligibility as aged retirees.

- 100,000 were not working due to disability but met one or more of HCFA's indicators<sup>3</sup> of employee status and also were covered by an employer-sponsored LGHP. HCFA supplied this estimate.

## Agency Comments

HHS provided written comments on a draft of this report and generally agreed with our conclusions (see app. IV).

HHS does not question that our figures should be given a high degree of confidence but suggests that our estimate of beneficiaries eligible for coverage through a spouse's employment is extremely conservative. We estimate, using scientific sampling methodology, that this group represents 214,000 beneficiaries or 8 percent of the Medicare disabled population. HHS estimates from actuarial projections and contractor experience that this group represents 16-17 percent of the disabled population.

We disagree that our estimate is as conservative as HHS suggests. Our sample methodology does exclude nearly 11 percent of the disabled Medicare population for various reasons (see p. 11), but this group is not large enough to explain our differences with HHS's figures. Our estimate provides 95-percent confidence that between 7 and 8.5 percent of the sampled disabled population had LGHP coverage through a working spouse or other family member. Moreover, our figure is consistent with an earlier GAO estimate based on data from the Bureau of the Census's 1984 Current Population Survey (see p. 10).

HHS states that our referring to disabled individuals having employee status as having health coverage from a "previous" or "former" employer (1) suggests that we believe HCFA's definition is inconsistent with the statute and (2) could be used against HCFA in the event of litigation. We agree that our wording could suggest that HCFA's classifying disabled individuals who are not actively working as current employees is inconsistent with the statute and have made appropriate revisions. OBRA authorized HCFA to define "employee" in regulation. This report is not intended to dispute or endorse the appropriateness of HCFA's proposed definition. Our wording was an attempt to communicate that these disabled individuals, while classified as "employees," are not actively

<sup>3</sup>HCFA, under proposed regulations, sets forth three situations in which an individual is considered to have employee status. In addition, the proposed regulations list five factors, the presence of any one of which could be the basis for concluding that an individual is an employee. An example is a disabled individual who participates in an employer's benefit plan in which only employees may participate or has rights to return to duty if his/her condition improves.



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**Contents**

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**Abbreviations**

GAO	General Accounting Office
HCFA	Health Care Financing Administration
HHS	Department of Health and Human Services
LGHP	large group health plan
OBRA	Omnibus Budget Reconciliation Act of 1986
SSA	Social Security Administration

- Not older than age 63-3/4 as of September 30, 1986.<sup>1</sup>

Our final universe was composed of 2,600,941 beneficiaries. From this universe, we selected a simple random sample of 5,776 beneficiaries, to whom we sent a questionnaire during April 1987. In it, we asked about marital status, employment, and health insurance coverage, and employment of any spouse—all as of December 31, 1986, the day before the law became effective. The response rate was 88 percent.

Through the survey, we learned that some disabled beneficiaries might be covered by an employment-based LGHP through a family member other than a spouse. These beneficiaries are disabled adult dependents who are (1) primarily sons or daughters of deceased, retired, or disabled workers; (2) at least 18 years of age; and (3) disabled before age 22. To the 1,046 beneficiaries in this subgroup, we sent a second questionnaire to obtain more specific information about health coverage through an employed family member. The response rate for the subgroup sample was 83 percent. (See app. II and III for the questionnaires.)

The overall response rate for the two questionnaires was 87 percent, and after removing unusable questionnaires, 82 percent. In making our statistical estimates, we assumed that the nonresponding and inadequately responding beneficiaries were not materially different from those who responded.

For beneficiaries who indicated coverage under a spouse's or other family member's employer-sponsored health insurance plan, we determined whether the plan was a large or small group plan. Using various resource materials and telephone contacts, we classified employers as having fewer than 100 or 100 or more employees as of December 31, 1986. References we consulted included Dun's Marketing Services Million Dollar Directory, Standard and Poor's Register of Corporations, and the American Hospital Association Guide. We contacted companies with fewer than 100 employees to confirm their size and that they did not belong to a multiple employer health plan or a labor union plan that covered employees of at least one company that employed 100 or more employees. Table I.1 shows our sample results.

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<sup>1</sup>Our design called for dropping beneficiaries older than 63-3/4 years as of September 30, 1986. This was because they would be in "aged Medicare" rather than "disabled Medicare" at the beginning of 1988 when we planned to resurvey beneficiaries with employed spouses as part of our study of the cost savings associated with OBRA. Disabled persons 65 and over generally are covered under Medicare on the basis of age and may be affected by its secondary payer provisions that pertain to aged employed individuals and spouses. We do not believe that excluding this group materially affects our sample results.

**Table I.2 Disabled Medicare Beneficiaries With LGHP Coverage Through a Working Family Member (1986 and 1988)**

Status	1986	1988
Disabled Medicare beneficiaries on the rolls as of July 1 and living within the United States, less those who	2,852,856	2,995,174
Have end-stage renal disease	(118,463)	(139,375)
Have risk-based health maintenance organization coverage <sup>a</sup>	(64,189)	(67,391)
Are in extended trial work <sup>a</sup>	(30,000)	(30,000)
<b>Subtotal of disabled beneficiaries</b>	<b>2,640,204</b>	<b>2,758,408</b>
Percentage of beneficiaries with a family member who has LGHP coverage	7.75	7.75
<b>Total disabled beneficiaries with LGHP coverage through a family member</b>	<b>204,507</b>	<b>213,663</b>

<sup>a</sup>Our estimate.

Associated with the statistical estimate that 7.75 percent of the disabled Medicare population has LGHP coverage through a working spouse or other family member is a standard error of 0.39 percentage points. Thus, although we use the point estimate of 7.75 percent for the sake of simplicity, strictly speaking we can estimate only (with 95-percent confidence) that the percentage is between 6.97 percent and 8.52 percent. Likewise, we use the point estimates of 204,507 and 213,663 for 1986 and 1988. But strictly speaking, we can estimate only (with 95-percent confidence) that the figure for 1986 is between 183,943 and 225,071; and for 1988, between 192,178 and 235,148.

The percentage and absolute estimates of the average number of disabled Medicare beneficiaries with LGHP coverage through a working spouse or other family member are conservative. They exclude nearly 11 percent of the disabled Medicare population, that is, beneficiaries who

- live outside the United States (roughly 3.57 percent of the disabled Medicare population in 1986);
- have end-stage renal disease or are end-stage renal disease/disabled (roughly 4.15 percent of the disabled Medicare population in 1986);
- are in a risk-based health maintenance organization (roughly 2.25 percent of the disabled Medicare population in 1986); or
- are in the final 3 years of extended Medicare eligibility resulting from the completion of trial work with substantial gainful activity (roughly 0.97 percent of the disabled Medicare population).

The end result of these calculations was a rough estimate of 26,413 disabled Medicare beneficiaries with employer coverage in a LHGP through their own active employment. We rounded it to 26,000 to reflect the approximation inherent in it.

### Determining Beneficiaries With LGHP Coverage Through Their HCFA-Defined Employee Status After Becoming Disabled

The third group, disabled Medicare beneficiaries who come under OBRA through their nonworking "employee status" relationship with their employer at the time they became disabled, was delineated by HCFA in April 1988, about 1 year after we mailed our initial sample questionnaire. Because our data collection began before this group was defined, we chose not to study this group through an independent sampling process. Instead, we relied on HCFA's rough approximation of the group's size. A HCFA analyst estimated that between 50,000 and 150,000 beneficiaries are unable to work but still are "employees" and have LGHP insurance through the employer for whom they actively worked at the time they became disabled. We used the midpoint of his estimated range (100,000), which he agreed would be his "best guess." This analyst and other HCFA officials noted that HCFA has little information available for estimating this group's size. In fact, HCFA officials advised us that the 50,000-150,000 estimate was a preliminary figure and might be too low. They were unable, however, to provide a more precise estimate.

### Overall Estimate a Cumulation of Disparate Subestimates

Our overall estimate of 340,000 disabled beneficiaries affected by OBRA thus represents the sum of three very different types of estimates:

- A statistically valid projection of 214,000 beneficiaries insured through a family member's employment, based on our sample of 5,776 disabled Medicare beneficiaries;
- An estimate of 26,000 beneficiaries insured through their own employment, based on adjustments to and extrapolations from SSA estimates from a 1-percent sample of Medicare beneficiaries (i.e., roughly 30,000 disabled beneficiaries); and
- A HCFA estimate of 100,000 beneficiaries who are insured by their employer at the time they became disabled.

Because of the difference in the quality of the underlying estimates, we cannot assign an overall confidence interval to our estimate of 340,076 disabled beneficiaries affected by OBRA.



Appendix II  
Questionnaire Sent to Disabled  
Medicare Beneficiaries

IF YOU NEED HELP ANSWERING THESE  
QUESTIONS, PLEASE ASK A CLOSE  
FRIEND OR RELATIVE TO ASSIST YOU!

2. What is the full name of your spouse?  
(PLEASE PRINT CLEARLY)

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
First Name Middle Name Last Name

3. What is the birth date of your spouse?  
(PLEASE PRINT CLEARLY)

\_\_\_\_/\_\_\_\_/\_\_\_\_  
Month Day Year

4. What was the working situation of your spouse on  
December 31, 1986? (CHECK ONE)

Working full  
or  
part time

PLEASE TURN TO  
PAGE 3 AND ANSWER  
QUESTION 5

Not working,  
but looking  
for work

Homemaker

Unable to work

Retired

Other

Don't know



THIS ENDS THE QUESTIONS.  
PUT THE QUESTIONNAIRE IN  
THE ADDRESSED ENVELOPE AND  
MAIL IT AS SOON AS POSSIBLE.  
THANK YOU!

# Questionnaire Sent to Disabled Adult Dependents



**U.S. GENERAL ACCOUNTING OFFICE  
REQUIRED STUDY OF MEDICARE'S SECONDARY  
PAYER PROGRAM FOR DISABILITY BENEFICIARIES**

9151992

Pete Oswald  
B-1 Equitable Building  
6325 Security Blvd.  
Baltimore, MD 21207

-----LABEL

**INSTRUCTIONS**

Please read each question carefully and answer **ONLY** those that apply to the disabled beneficiary. The answers you give are very important to our study, so please try to be as accurate as possible. If you need help answering these questions, please ask a close friend or relative to assist you.

We would like you to complete the questionnaire as soon as you receive it. When you are finished, place the questionnaire in the addressed envelope and mail it. No postage is required. If you have additional questions about the questionnaire or this study, please call Pete Green collect in our Seattle office at 1-206-442-5356, any afternoon.

1. **ON DECEMBER 31, 1986, what was the working situation of ANY parent, stepparent or other guardian of the disabled person listed above? Include persons living at home and outside of the household. (CHECK ALL THAT APPLY)**

	Employed Full or Part Time	Looking For Work	Homemaker	Unable To Work	Retired	Don't Know
MOTHER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FATHER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
STEPMOTHER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
STEPFATHER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OTHERS: (specify)						
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. **ON DECEMBER 31, 1986, did ANY parent, stepparent or other guardian have health insurance, OTHER THAN MEDICARE?**

YES       NO       DON'T KNOW

PLEASE GO ON TO  
QUESTION 3 ON THE  
REVERSE SIDE.

STOP. THIS ENDS THE QUESTIONS.  
PUT THIS QUESTIONNAIRE IN THE  
ADDRESSED ENVELOPE AND MAIL IT  
AS SOON AS POSSIBLE. THANKS  
AGAIN FOR YOUR HELP!

# Comments From the Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Washington, D.C. 20201

MAR 27 1990

Ms. Janet L. Shikles  
Director, Health Financing and Policy Issues  
United States General  
Accounting Office  
Washington, D.C. 20548

Dear Ms. Shikles:

Enclosed are the Department's comments on your draft report, "Medicare: Employer Insurance Primary Payer for 11 Percent of Disabled Beneficiaries." The comments represent the tentative position of the Department and are subject to reevaluation when the final version of this report is received.

The Department appreciates the opportunity to comment on this draft report before its publication.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "R. Kusserow".

Richard P. Kusserow  
Inspector General

Enclosure

Appendix IV  
Comments From the Department of Health  
and Human Services

Page 2

The report contains language which is legally troublesome in light of the statutory language and legislative history of the Medicare secondary payer (MSP) for the disabled provision.

Section 9319 of the Omnibus Budget Reconciliation Act of 1986 added the MSP for the disabled provision. Although the Senate amendment included health coverage for "former employees" as coverage to which Medicare would be secondary, the conference agreement eliminated this, including in the final provision only coverage based on current employee status. See H.R. Rep. No. 1012, 99th Cong., 2d Sess. 320-321 (1986). In implementing the provision, HCFA determined that certain disabled individuals were still current employees even though they were not actively working because of disability. The proposed rule published at 55 Fed. Reg. 8491 (March 8, 1990) adopts this position. The GAO draft report refers to these persons as having health coverage from "previous employers" or "former employers." Use of such language clearly suggests that GAO believes HCFA's implementation is inconsistent with the statutory authorization, and could be used against HCFA in the event of litigation over HCFA's construction. We have provided specific language substitutions below to address our concerns.

Now on p. 2

Page 3, lines 2 and 3, "whose link to a previous employer constitutes employee status" should be changed to "who are still considered employees of the employer which provides the health coverage."

Now on p. 3

Page 4, line 3, delete "former."

Now on p. 8

Now on p. 8

Page 7, paragraph "1," "place of employment" should be changed to "current employment" in two places. The same change should be made in the caption on page 8. Also on page 8, line 1, "their place of employment prior to becoming disabled" should be changed to "their continued employee status after becoming disabled."

Now on p. 13

Now on p. 13

Page 17, in the caption, "Through a Predisability Employer" should be changed to "Through Their Continued Employee Status After Becoming Disabled." Also on page 17, in line 3 of the last paragraph, "predisability employer" should be changed to "employer at the time they became disabled."

Now on p. 13

Page 18, lines 3 and 4, "before becoming disabled" should be changed to "at the time they became disabled."

Now on p. 13

Page 19, in line 4, "by a former employer" should be changed to "by their employer at the time they became disabled."

Now on p. 1

There is also an error in footnote 1 which may be corrected if specific report language is addressed. In footnote 1 on page 2, "over age 65" should be changed to "age 65 and over."

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**Appendix IV  
Comments From the Department of Health  
and Human Services**

Comments of the Department of Health and Human Services on the  
General Accounting Office Draft Report, "Medicare: Employer  
Insurance Primary Payer for 11 Percent of Disabled Beneficiaries"

We have reviewed the subject report and generally agree with its conclusions, subject to our comments discussed below. We note that this report addresses the first of three areas on which GAO is to report in accordance with section 9319 of P.L. 99-509. The three areas are: (1) the number of beneficiaries for whom Medicare became the secondary payer as a result of their own or a family member's employment; (2) the annual Medicare cost savings to be derived from the provision; and (3) the provision's effect on the employment of disabled individuals and family members, and the cost and availability of employer health insurance.

A significant weakness of the report lies in the lack of data or the poor quality of data. Of the 340,000 individuals identified as potentially being subject to the provision, GAO develops three subgroups: beneficiaries who are working (26,000 individuals), "active individuals" no longer actually working (100,000 individuals), and Medicare-eligible family members of employed individuals (214,000 individuals). While the estimate of 214,000 is the strongest statistically, the other two estimates are less so, with the estimate of "active individuals" being the most unreliable, based as it is on "educated guesses" from Medicare program staff.

However, while the estimate of 214,000 is statistically strong (representing approximately 8 percent of the disabled population), our figures are more on the order of 16 to 17 percent. The GAO figures are based on a scientific sampling methodology while ours are only actuarial projections buttressed by actual contractor experience. We do not question that the GAO figures should be accorded a high degree of confidence; we merely wish to suggest that the GAO's estimate of disabled beneficiaries eligible for coverage through their spouse's employment is, if anything, extremely conservative.

While the data problem reduces somewhat the reliability of the report, we believe GAO has done the best it can with what is available. We also believe there are sufficient "caveats" in the report so that the reader is put on notice concerning the quality of the data.

Implementation of section 6202 of the Omnibus Budget Reconciliation Act of 1989 may provide the Health Care Financing Administration (HCFA) with a better basis for determining the number of disabled individuals who have employer group health coverage through their spouse. This legislation mandates a series of data matches between the Internal Revenue Service, the Social Security Administration and HCFA. It will assist HCFA in identifying secondary payer cases. In particular, this provision will be useful in identifying both aged and disabled beneficiaries with health coverage through their spouse's employer group health plan. Thus, within a year, after the first round of data matches is completed, HCFA will have more complete information on this group of disabled beneficiaries.



**Appendix III  
Questionnaire Sent to Disabled  
Adult Dependents**

3. ON DECEMBER 31, 1986, was the disabled beneficiary covered by any of these health insurance plans? (CHECK ONLY ONE)

YES

NO

PLEASE GO ON TO  
QUESTIONS 4-6  
BELOW.

STOP. THIS ENDS THE QUESTIONS.  
PUT THIS QUESTIONNAIRE IN THE  
ADDRESSED ENVELOPE AND MAIL IT  
AS SOON AS POSSIBLE. THANKS  
AGAIN FOR YOUR HELP!

4. ON DECEMBER 31, 1986, which plan or plans covered the disabled beneficiary?  
(CHECK ALL THAT APPLY)

MOTHER'S

FATHER'S

STEPMOTHER'S

STEPFATHER'S

OTHER (specify) \_\_\_\_\_

5. For EACH parent, stepparent or other guardian who had health insurance on DECEMBER 31, 1986, please indicate how that insurance was obtained.  
(CHECK ALL THAT APPLY)

	<u>Mother</u>	<u>Father</u>	<u>Stepmother</u>	<u>Stepfather</u>	<u>Other</u>	<u>Other</u>
private health insurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
retirement, under an employer plan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
retirement, under a labor union plan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
the person's employer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
a labor union plan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

6. For EACH parent, stepparent or other guardian who had health insurance on DECEMBER 31, 1986, through an employer, labor union or retirement plan, please provide the OFFICIAL name of the plan and the employer or labor union associated with that plan.

<u>Insured</u>	<u>Official plan name</u>	<u>Labor union/employer name</u>
MOTHER	_____	_____
FATHER	_____	_____
STEMMOTHER	_____	_____
STEFFATHER	_____	_____
OTHERS:	_____	_____
	_____	_____
	_____	_____

Stop. This ends the questions. Put this questionnaire in the addressed envelope and mail it as soon as possible. Thanks again for your help!

Appendix II  
Questionnaire Sent to Disabled  
Medicare Beneficiaries

IF YOU NEED HELP ANSWERING THESE  
QUESTIONS, PLEASE ASK A CLOSE  
FRIEND OR RELATIVE TO ASSIST YOU.

5. What was the name of your spouse's employer on  
December 31, 1986?

(PLEASE PRINT CLEARLY)

\_\_\_\_\_  
(EMPLOYER'S NAME)

6. On December 31, how long had your spouse worked for that  
employer?

(PLEASE PRINT CLEARLY)

\_\_\_\_\_ Years \_\_\_\_\_ Months

7. At that time, did your spouse's employer have a health  
insurance program that provided medical coverage to you?

(CHECK ONE)

Yes

NO

DON'T KNOW



THIS ENDS THE QUESTIONS. PUT THIS QUESTIONNAIRE IN THE  
ADDRESSED ENVELOPE AND MAIL IT AS SOON AS POSSIBLE.  
THANK YOU!

# Questionnaire Sent to Disabled Medicare Beneficiaries



U. S. GENERAL ACCOUNTING OFFICE  
STUDY OF MEDICARE'S SECONDARY  
PAYER PROGRAM FOR DISABILITY BENEFICIARIES

←----- LABEL

Please read each of the questions carefully. Answer only those questions that apply to you or your spouse (husband or wife). We would like you to complete this questionnaire as soon as you receive it. IF YOU NEED HELP ANSWERING THESE QUESTIONS, PLEASE ASK A CLOSE FRIEND OR RELATIVE TO ASSIST YOU.

\*\*\*\*\*

Please give us a telephone number where you can be reached in case we have questions about your answers:

( \_\_\_\_\_ ) \_\_\_\_\_  
Area Code Phone Number

1. What was your marital status as of December 31, 1986?  
(CHECK ONE)

Divorced     Widowed     Single     Married     Separated



PLEASE TURN TO  
PAGE 2 AND ANSWER  
QUESTION 2

THIS ENDS THE QUESTIONS.  
PLEASE PUT THE QUESTIONNAIRE  
IN THE ADDRESSED ENVELOPE AND  
MAIL IT AS SOON AS POSSIBLE.

## Determining Beneficiaries With LGHP Coverage Through Their Own Current Employment (Trial Work)

To estimate the average number of disabled Medicare beneficiaries in 1988 with employer coverage in a LGHP through their own active employment, we used Social Security statistics and discussions with SSA officials. First, we estimated the number of those on trial work with substantial gainful activity (generally those earning at least \$300 per month) or in the 39-month period of extended Medicare eligibility while performing substantial gainful activity. We assumed that disabled Medicare beneficiaries working at lower levels of income generally would not have health coverage from their employer and thus would not be subject to the Medicare secondary payer provision.

To make our estimate, we obtained figures as of December 1987 and December 1988 from SSA for the number of persons in the final 36 months of substantial gainful activity after completion of trial work. SSA cautions that these figures were based on a 1-percent random sample. They included an unknown (but presumed small) number of other beneficiaries whose Social Security cash benefits had been suspended (for example, prisoners or beneficiaries who had refused vocational rehabilitation). Averaging the two year-end figures, we estimated the mid-1988 figure (31,950) and used it to represent the average number of beneficiaries in 1988. We reduced this figure to 30,000 beneficiary years to provide some recognition of the non-trial-work beneficiaries. Then we increased it by one-third to incorporate an estimate of those in trial work with substantial gainful activity or the first 3 months of substantial gainful activity after completion of trial work. These adjustments provided an estimate of 40,000 beneficiaries in either trial work with substantial gainful activity or the 39 months of extended Medicare eligibility while performing substantial gainful activity after completing trial work.

We assumed the percentage of trial workers without health insurance was the same as that for the U.S. population as a whole. Therefore, we adjusted this number downward to reflect the percentage of civilian nonagricultural workers (24.1 percent) without employer-sponsored health insurance. (This percentage came from an issue brief published by the Employee Benefit Research Institute, based on March 1986 Bureau of the Census data.) We also assumed that the percentage of covered trial workers in small rather than large group health plans was the same (13 percent) as that obtained from our sample of family members who provide employer-sponsored health insurance for disabled Medicare beneficiaries. Therefore, we further adjusted downward the number of trial workers to reflect this factor.

**Appendix I  
Objective, Scope, and Methodology**

**Table I.1: Employment and Health Insurance Status of Family Members of Disabled Beneficiaries (1986)**

<b>Status</b>	<b>Total</b>	<b>Percent of usable responses</b>	<b>Error range<sup>a</sup> (percent)</b>
Sample population of disabled Medicare beneficiaries	5,776	N/A	N/A
Usable responses	4,738	100.00	N/A
Beneficiaries without a working family member:	3,699	78.07	1.20
Beneficiary is single, divorced, or widowed, and not a disabled adult dependent	1,758	37.10	1.40
Spouse is looking for work	84	1.77	0.39
Family member is a homemaker, unable to work, retired, or other	1,154	24.36	1.24
Beneficiary is a disabled adult dependent without a working family member	703	14.84	1.03
Beneficiaries with a working family member:	1,039	21.93	1.20
Beneficiary has a working family member but no employer-related health insurance	618	13.04	0.98
Beneficiary has an employer-sponsored health insurance plan:	421	8.89	0.83
Large group health plan	367	7.75	0.78
Small group health plan	54	1.14	0.32

<sup>a</sup>We are 95-percent confident that the disabled Medicare population does not differ from our sample by more than the number of percentage points shown.

Using our sample results, we estimated for the entire disabled Medicare population the number of Medicare beneficiaries with LGHP coverage obtained through a working family member (see table I.2). For the 1988 estimates, we assumed that the percentage of LGHP coverage<sup>2</sup> would not have changed dramatically in the 1-1/2 years between the “as of” date of the sample—December 31, 1986—and July 1, 1988.

<sup>2</sup>Another 1.14 percent had similar coverage under small group health plans not affected by OBRA. These two groups constituted an estimated 9 percent of disabled beneficiaries who had coverage through a working family member—consistent with an estimate we provided in an earlier report, The Congress Should Consider Amending The Medicare Secondary Payer Provisions To Include Disability Beneficiaries (GAO/HRD-85-102), based on data from the Bureau of the Census’s 1984 Current Population Survey.

# Objective, Scope, and Methodology

Amendments to Section 1862(b) of the Social Security Act contained in the Omnibus Budget Reconciliation Act of 1986 made Medicare the secondary payer for hospital and other medical expenses of disabled Medicare beneficiaries covered under a LGHP through their own or another family member's current employment. These amendments were effective January 1, 1987. OBRA also directed the Comptroller General to study and report to Congress the effect of these amendments. The report was to include an estimate of the number of disabled Medicare beneficiaries for whom Medicare had become secondary payer.

In responding to this objective, we considered three groups of disabled Medicare beneficiaries for whom employer-provided health insurance has become the primary payer, namely those with LGHP coverage through

1. a spouse's current employment or a parent's or other family member's current employment,
2. their own current employment (trial work) or its aftermath, and
3. their continued employee status, as defined by HCFA (see p. 3), after becoming disabled.

For each group of beneficiaries, we used a different methodology.

## Determining Beneficiaries With LGHP Coverage Through a Family Member's Current Employment

To estimate the number of beneficiaries in the first group, we obtained from HCFA a file that included all disabled persons receiving Medicare coverage as of September 30, 1986. We adjusted this file to obtain only beneficiaries with the following characteristics:

- Alive as of September 30, 1986;
- On Medicare due to disability as of September 30, 1986;
- Not disabled due to end-stage renal disease (a related secondary payer provision applies to disabled Medicare beneficiaries whose entitlement is solely based on end-stage renal disease);
- Living within the United States;
- Not in a health maintenance organization that provides beneficiaries with all Medicare-covered services for a fixed amount per person; and

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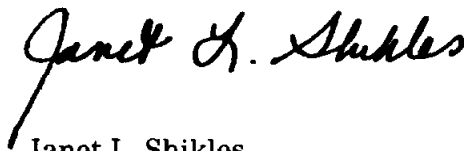
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working. In most cases, HHS's proposed revisions clearly achieve this. In several places, however, we used language different from HHS's to clarify this distinction.

HHS made additional comments of a more technical nature. These were considered and revisions were made to address them.

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We are sending copies to the Secretary of Health and Human Services, the Administrator of the Health Care Financing Administration, the Commissioner of Social Security, the Director of the Office of Management and Budget, and other interested parties. Copies also will be made available to others upon request. Please telephone me at (202) 275-5451 if you or your staff have any questions about this report. Other major contributors are listed in appendix V.



Janet L. Shikles  
Director, Health Financing and  
Policy Issues



Since 1981, the Congress has enacted a series of amendments to the Social Security Act that make Medicare the secondary payer if beneficiaries are covered by certain other health plans. Prior to these amendments, Medicare paid first (as primary payer) and the other plans paid at least part of what Medicare did not pay (as secondary payer).

OBRA's secondary payer provisions applied to three groups of disabled beneficiaries who have "employee" status and LGHP coverage:

- Individuals who have coverage through a working spouse or other family member (the largest group),
- Individuals who are employed in a trial work program,<sup>2</sup> and
- Individuals who are unable to work but whose link to an employer constitutes employee status. Factors that HCFA lists in proposed regulations as indicative of employee status include having a legally enforceable right to return to work in the event disability ceases and participating in an employer's benefit plan in which only employees may participate. HCFA published proposed rules defining employee status for disabled beneficiaries on March 8, 1990.

## Disabled Medicare Beneficiaries Affected by OBRA

We estimate that OBRA made Medicare the secondary payer for 340,000 disabled beneficiaries during 1988, or approximately 11 percent of the 3.1 million disabled Medicare beneficiaries:

- 214,000 had health insurance coverage through a family member's LGHP. We based this estimate on a random sample of 5,776 beneficiaries, drawn from HCFA files, to whom we sent a questionnaire regarding their families' employment and health insurance.
- 26,000 were in trial work programs, or had extended eligibility after completion of trial work, and had health insurance coverage through their employer's LGHP. We estimated this group from HCFA and Social Security Administration data.

<sup>2</sup>Under this program, disabled persons can attempt to re-enter the work force by working up to 9 months, not necessarily consecutively, and continue to receive monthly disability benefits and Medicare coverage even though they earned "substantial income" (defined as at least \$300 per month). A disabled person who continues to work beyond the 9-month trial work period can retain Medicare benefits for up to an additional 39 months.

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