
42 C.F.R. § 411.104

Current employment status.

(a) *General rule.* An individual has current employment status if—

(1) The individual is actively working as an employee, is the employer (including a self-employed person), or is associated with the employer in a business relationship; or

(2) The individual is not actively working and—

(i) Is receiving disability benefits from an employer for up to 6 months (the first 6 months of employer disability benefits are subject to FICA taxes); or

(ii) Retains employment rights in the industry and has not had his employment terminated by the employer, if the employer provides the coverage (or has not had his membership in the employee organization terminated, if the employee organization provides the coverage), is not receiving disability benefits from an employer for more than 6 months, is not receiving disability benefits from Social Security, and has GHP coverage that is not pursuant to COBRA continuation coverage (26 U.S.C. 4980B; 29 U.S.C. 1161–1168; 42 U.S.C. 300bb-1 et seq.). Whether or not the individual is receiving pay during the period of nonwork is not a factor.

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