

(6) Sets forth limitations on contractor liability.

**§ 421.302 Eligibility requirements for Medicare integrity program contractors.**

(a) CMS may enter into a contract with an entity to perform the functions described in § 421.304 if the entity meets the following conditions:

(1) Demonstrates the ability to perform the Medicare integrity program contractor functions described in § 421.304. For purposes of developing and periodically updating a list of DME under § 421.304(e), an entity is deemed to be eligible to enter into a contract under the Medicare integrity program to perform the function if the entity is a carrier with a contract in effect under section 1842 of the Act.

(2) Agrees to cooperate with the OIG, the DOJ, and other law enforcement agencies, as appropriate, including making referrals, in the investigation and deterrence of potential fraud and abuse of the Medicare program.

(3) Complies with conflict of interest provisions in 48 CFR chapters 1 and 3, and is not excluded under the conflict of interest provision at § 421.310.

(4) Maintains an appropriate written code of conduct and compliance policies that include, but are not limited to, an enforced policy on employee conflicts of interest.

(5) Meets other requirements that CMS establishes.

(b) A MAC as described in section 1874A of the Act may perform any or all of the functions described in § 421.304, except that the functions may not duplicate work being performed under a Medicare integrity program contract.

(c) If a MAC performs any or all functions described in § 421.304, CMS may require the MAC to comply with any or all of the requirements of paragraph (a) of this section as a condition of its contract.

**§ 421.304 Medicare integrity program contractor functions.**

The contract between CMS and a Medicare integrity program contractor specifies the functions the contractor performs. The contract may include any or all of the following functions:

(a) Conducting medical reviews, utilization reviews, and reviews of potential fraud related to the activities of providers of services and other individuals and entities (including entities contracting with CMS under parts 417 and 422 of this chapter) furnishing services for which Medicare payment may be made either directly or indirectly.

(b) Auditing, settling and determining cost report payments for providers of services, or other individuals or entities (including entities contracting with CMS under parts 417 and 422 of this chapter), as necessary to help ensure proper Medicare payment.

(c) Determining whether a payment is authorized under title XVIII, as specified in section 1862(b) of the Act, and recovering mistaken and conditional payments under section 1862(b) of the Act.

(d) Educating providers, suppliers, beneficiaries, and other persons regarding payment integrity and benefit quality assurance issues.

(e) Developing, and periodically updating, a list of items of DME that are frequently subject to unnecessary utilization throughout the contractor's entire service area or a portion of the area, in accordance with section 1834(a)(15)(A) of the Act.

**§ 421.306 Awarding of a contract.**

(a) CMS awards and administers Medicare integrity program contracts in accordance with acquisition regulations set forth at 48 CFR chapters 1 and 3, this subpart, all other applicable laws, and all applicable regulations. These requirements for awarding Medicare integrity program contracts are used as follows:

(1) When entering into new contracts.

(2) When entering into contracts that may result in the elimination of responsibilities of an individual fiscal intermediary or carrier under section 1816(l) or section 1842(c) of the Act, respectively.

(3) At any other time CMS considers appropriate.

(b) CMS may award an entity a Medicare integrity program contract by transfer if all of the following conditions apply: