

(i) Disenrollment rates for Medicare enrollees for the 2 previous years, excluding disenrollment due to death or moving outside the plan's service area, calculated according to CMS guidelines.

(ii) Medicare enrollee satisfaction.

(iii) Health outcomes.

(iv) Plan-level appeal data.

(v) The recent record of plan compliance with the requirements of this part, as determined by the Secretary.

(vi) Other performance indicators.

(9) *Supplemental benefits.* Whether the plan offers mandatory and optional supplemental benefits, including any reductions in cost sharing offered as a mandatory supplemental benefit as permitted under section 1852(a)(3) of the Act (and implementing regulations at § 422.102) and the terms, conditions, and premiums for those benefits.

(10) The names, addresses, and phone numbers of contracted providers from whom the enrollee may obtain in-network coverage in other parts of the service area.

(11) If an MA organization exercises the option in § 422.101(b)(3) or (b)(4) related to an MA plan, then it must make the local coverage determination that applies to members of that plan readily available to providers, including through a web site on the Internet.

(12) To the extent an MA organization has a web site or provides MA plan information through the Internet, then it must also post copies of its Evidence of Coverage, Summary of Benefits and information (names, addresses, phone numbers, specialty) on the network of contracted providers on an Internet web site. Such posting does not relieve the MA organization of its responsibility under § 422.111(a) to provide hard copies to enrollees.

(g) CMS may require an MA organization to disclose to its enrollees or potential enrollees, the MA organization's performance and contract compliance deficiencies in a manner specified by CMS.

[63 FR 35077, June 26, 1998, as amended at 64 FR 7980, Feb. 17, 1999; 65 FR 40321, June 29, 2000; 68 FR 50857, Aug. 22, 2003; 70 FR 4722, Jan. 28, 2005; 70 FR 52026, Sept. 1, 2005; 73 FR 54220, 54249, Sept. 18, 2008; 75 FR 19805, Apr. 15, 2010]

#### § 422.112 Access to services.

(a) *Rules for coordinated care plans.* An MA organization that offers an MA coordinated care plan may specify the networks of providers from whom enrollees may obtain services if the MA organization ensures that all covered services, including supplemental services contracted for by (or on behalf of) the Medicare enrollee, are available and accessible under the plan. To accomplish this, the MA organization must meet the following requirements:

(1) *Provider network.* (i) Maintain and monitor a network of appropriate providers that is supported by written agreements and is sufficient to provide adequate access to covered services to meet the needs of the population served. These providers are typically used in the network as primary care providers (PCPs), specialists, hospitals, skilled nursing facilities, home health agencies, ambulatory clinics, and other providers.

(ii) *Exception:* MA regional plans, upon CMS pre-approval, can use methods other than written agreements to establish that access requirements are met.

(2) *PCP panel.* Establish a panel of PCPs from which the enrollee may select a PCP. If an MA organization requires its enrollees to obtain a referral in most situations before receiving services from a specialist, the MA organization must either assign a PCP for purposes of making the needed referral or make other arrangements to ensure access to medically necessary specialty care.

(3) *Specialty care.* Provide or arrange for necessary specialty care, and in particular give women enrollees the option of direct access to a women's health specialist within the network for women's routine and preventive health care services provided as basic benefits (as defined in § 422.2). The MA organization arranges for specialty care outside of the plan provider network when network providers are unavailable or inadequate to meet an enrollee's medical needs.

(4) *Service area expansion.* If seeking a service area expansion for an MA plan, demonstrate that the number and type of providers available to plan enrollees

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are sufficient to meet projected needs of the population to be served.

(5) *Credentialed providers.* Demonstrate to CMS that its providers in an MA plan are credentialed through the process set forth at §422.204(a).

(6) *Written standards.* Establish written standards for the following:

(i) Timeliness of access to care and member services that meet or exceed standards established by CMS. Timely access to care and member services within a plan’s provider network must be continuously monitored to ensure compliance with these standards, and the MA organization must take corrective action as necessary.

(ii) Policies and procedures (coverage rules, practice guidelines, payment policies, and utilization management) that allow for individual medical necessity determinations.

(iii) Provider consideration of beneficiary input into the provider’s proposed treatment plan.

(7) *Hours of operation.* Ensure that—

(i) The hours of operation of its MA plan providers are convenient to the population served under the plan and do not discriminate against Medicare enrollees; and

(ii) Plan services are available 24 hours a day, 7 days a week, when medically necessary.

(8) *Cultural considerations.* Ensure that services are provided in a culturally competent manner to all enrollees, including those with limited English proficiency or reading skills, and diverse cultural and ethnic backgrounds.

(9) *Ambulance services, emergency and urgently needed services, and post-stabilization care services coverage.* Provide coverage for ambulance services, emergency and urgently needed services, and post-stabilization care services in accordance with §422.113.

(10) *Prevailing patterns of community health care delivery.* Coordinated care and PFFS MA plans that meet Medicare access and availability requirements through direct contracting network providers must do so consistent with the prevailing community pattern of health care delivery in the areas where the network is being offered. Factors making up community patterns of health care delivery that CMS

will use as a benchmark in evaluating a proposed MA plan health care delivery network include, but are not limited to the following:

(i) The number and geographical distribution of eligible health care providers available to potentially contract with an MAO to furnish plan covered services within the proposed service area of the MA plans.

(ii) The prevailing market conditions in the service area of the MA plan. Specifically, the number and distribution of health care providers contracting with other health care plans (both commercial and Medicare) operating in the service area of the plan.

(iii) Whether the service area is comprised of rural or urban areas or some combination of the two.

(iv) Whether the MA plan’s proposed provider network meet Medicare time and distance standards for member access to health care providers including specialties.

(v) Other factors that CMS determines are relevant in setting a standard for an acceptable health care delivery network in a particular service area.

(b) *Continuity of care.* MA organizations offering coordinated care plans must ensure continuity of care and integration of services through arrangements with contracted providers that include—

(1) Policies that specify under what circumstances services are coordinated and the methods for coordination;

(2) Offering to provide each enrollee with an ongoing source of primary care and providing a primary care source to each enrollee who accepts the offer;

(3) Programs for coordination of plan services with community and social services generally available through contracting or noncontracting providers in the area served by the MA plan, including nursing home and community-based services; and

(4) Procedures to ensure that the MA organization and its provider network have the information required for effective and continuous patient care and quality review, including procedures to ensure that—

(i) The MA organization makes a “best-effort” attempt to conduct an initial assessment of each enrollee’s

health care needs, including following up on unsuccessful attempts to contact an enrollee, within 90 days of the effective date of enrollment;

(ii) Each provider, supplier, and practitioner furnishing services to enrollees maintains an enrollee health record in accordance with standards established by the MA organization, taking into account professional standards; and

(iii) There is appropriate and confidential exchange of information among provider network components.

(5) Procedures to ensure that enrollees are informed of specific health care needs that require follow-up and receive, as appropriate, training in self-care and other measures they may take to promote their own health; and

(6) Systems to address barriers to enrollee compliance with prescribed treatments or regimens.

(c) *Essential hospital.* An MA regional plan may seek, upon application to CMS, to designate a noncontracting hospital as an essential hospital as defined in section 1858(h) of the Act under the following conditions:

(1) The hospital that the MA regional plan seeks to designate as essential is a general acute care hospital identified as a “subsection(d)” hospital as defined in section 1886(d)(1)(B) of the Act.

(2) The MA regional plan provides convincing evidence to CMS that the MA regional plan needs to contract with the hospital as a condition of meeting access requirements under this section.

(3) The MA regional plan must establish that it made a “good faith” effort to contract with the hospital to be designated as an essential hospital and that the hospital refused to contract with it despite its “good faith” effort. A “good faith” effort to contract will be established to the extent that the MA regional plan can show it has offered the hospital a contract providing for the payment of rates in an amount no less than the amount the hospital would have received had payment been made under section 1886(d) of the Act.

(4) The MA regional plan must establish that there are no competing Medicare participating hospitals in the area to which MA regional plan enrollees

could reasonably be referred for inpatient hospital services.

(5) The hospital that is an essential hospital under this paragraph provides convincing evidence to CMS that the amounts normally payable under section 1886 of the Act (and which the MA regional plan has agreed to pay) will be less than the hospital’s actual costs of providing care to the MA regional plan’s enrollee.

(6) If CMS determines the requirements in paragraphs (c)(1) through (c)(5) of this section have been met, it will make payment to the essential hospital in accordance with section 1858(h)(2) of the Act based on the order in which claims are received, as limited by the amounts specified in section 1858(h)(3) of the Act.

(7) If CMS determines the requirements in paragraphs (c)(1) through (c)(4) of this section have been met, (and if they continue to be met upon annual renewal of the CMS contract with the MA organization offering the MA regional plan), then the hospital designated by the MA regional plan in paragraph (c)(1) of this section shall be “deemed” to be a network hospital to that MA regional plan based on the exception in paragraph (a)(1)(ii) of this section and normal in-network inpatient hospital cost sharing levels (including the catastrophic limit described in § 422.101(d)(2)) shall apply to all plan members accessing covered inpatient hospital services in that hospital.

[64 FR 7980, Feb. 17, 1999, as amended at 65 FR 40321, June 29, 2000; 70 FR 4722, Jan. 28, 2005; 70 FR 76197, Dec. 23, 2005; 75 FR 19805, Apr. 15, 2010]

**§ 422.113 Special rules for ambulance services, emergency and urgently needed services, and maintenance and post-stabilization care services.**

(a) *Ambulance services.* The MA organization is financially responsible for ambulance services, including ambulance services dispatched through 911 or its local equivalent, where other means of transportation would endanger the beneficiary’s health.

(b) *Emergency and urgently needed services—(1) Definitions.* (i) *Emergency medical condition* means a medical condition manifesting itself by acute