§ 438.802  Basic requirements.

FFP is available in expenditures for payments under an MCO contract only if the contract—
(a) Meets the requirements of this part; and
(b) Is in effect.

§ 438.806  Prior approval.

(a) Comprehensive risk contracts. FFP is available under a comprehensive risk contract only if—
(1) The Regional Office has confirmed that the contractor meets the definition of an MCO or is one of the entities described in paragraphs (b)(2) through (b)(5) of § 438.6; and
(2) The contract meets all the requirements of section 1903(m)(2)(A) of the Act, the applicable requirements of section 1932 of the Act, and the implementing regulations in this part.

(b) MCO contracts. Prior approval by CMS is a condition for FFP under any MCO contract that extends for less than one full year or that has a value equal to, or greater than, the following threshold amounts:
(1) For 1998, the threshold is $1,000,000.
(2) For subsequent years, the amount is increased by the percentage increase in the consumer price index for all urban consumers.
(c) FFP is not available in an MCO contract that does not have prior approval from CMS under paragraph (b) of this section.

§ 438.808  Exclusion of entities.

(a) General rule. FFP is available in payments under MCO contracts only if the State excludes from the contracts any entities described in paragraph (b) of this section.

(b) Entities that must be excluded. (1) An entity that could be excluded under section 1128(b)(8) of the Act as being controlled by a sanctioned individual.
(2) An entity that has a substantial contractual relationship as defined in § 431.55(h)(3) of this chapter, either directly or indirectly, with an individual convicted of certain crimes as described in section 1128(b)(8)(B) of the Act.
(3) An entity that employs or contracts, directly or indirectly, for the furnishing of health care, utilization review, medical social work, or administrative services, with one of the following:
(i) Any individual or entity excluded from participation in Federal health care programs under either section 1128 or section 1128A of the Act.
(ii) Any entity that would provide those services through an excluded individual or entity.

§ 438.810  Expenditures for enrollment broker services.

(a) Terminology. As used in this section—
Choice counseling means activities such as answering questions and providing information (in an unbiased manner) on available MCO, PIHP,