during a special election period as described in §422.62(b), the effective date of coverage shall be determined by CMS, to the extent practicable, in a manner consistent with protecting the continuity of health benefits coverage.

(e) Special election period for individual age 65. For an election of coverage under original Medicare made during a special election period for an individual age 65 as described in §422.62(c), coverage is effective as of the first day of the first calendar month following the month in which the election is made.

(f) Annual 45-day period for disenrollment from MA plans to Original Medicare. Beginning in 2011, an election made from January 1 through February 14 to disenroll from an MA plan to Original Medicare, as described in §422.62(a)(7), is effective the first day of the first month following the month in which the election is made.

§ 422.74 Disenrollment by the MA organization.

(a) General rule. Except as provided in paragraphs (b) through (d) of this section, an MA organization may not—

(1) Disenroll an individual from any MA plan it offers; or

(2) Orally or in writing, or by any action or inaction, request or encourage an individual to disenroll.

(b) Basis for disenrollment—(1) Optional disenrollment. An MA organization may disenroll an individual from an MA plan it offers in any of the following circumstances:

(i) Any monthly basic and supplementary beneficiary premiums are not paid on a timely basis, subject to the grace period for late payment established under paragraph (d)(1) of this section.

(ii) The individual has engaged in disruptive behavior specified at paragraph (d)(2) of this section.

(iii) The individual provides fraudulent information on his or her election form or permits abuse of his or her enrollment card as specified in paragraph (d)(3) of this section.

(2) Required disenrollment. An MA organization must disenroll an individual from an MA plan it offers in any of the following circumstances:

(i) The individual no longer resides in the MA plan’s service area as specified under paragraph (d)(4) of this section, is no longer eligible under §422.50(a)(3)(ii), and optional continued enrollment has not been offered or elected under §422.54.

(ii) The individual loses entitlement to Part A or Part B benefits as described in paragraph (d)(5) of this section.

(iii) Death of the individual as described in paragraph (d)(6) of this section.

(iv) Individuals enrolled in a specialized MA plan for special needs individuals that exclusively serves and enrolls special needs individuals who no longer meet the special needs status of that plan (or deemed continued eligibility, if applicable).

(3) Plan termination or reduction of area where plan is available—(i) General rule. An MA organization that has its contract for an MA plan terminated, that terminates an MA plan, or that discontinues offering the plan in any portion of the area where the plan had previously been available, must disenroll affected enrollees in accordance with the procedures for disenrollment set forth at paragraph (d)(7) of this section, unless the exception in paragraph (b)(3)(ii) of this section applies.

(ii) Exception. When an MA organization discontinues offering an MA plan in a portion of its service area, the MA organization may elect to offer enrollees residing in all or portions of the affected area the option to continue enrollment in an MA plan offered by the organization, provided that there is no other MA plan offered in the affected area at the time of the organization’s election. The organization may require an enrollee who chooses to continue enrollment to agree to receive the full range of basic benefits (excluding emergency and urgently needed care) exclusively through facilities designated by the organization within the plan service area.

(c) Notice requirement. If the disenrollment is for any of the reasons...
specified in paragraphs (b)(1), (b)(2)(i), or (b)(3) of this section (that is, other than death or loss of entitlement to Part A or Part B) the MA organization must give the individual a written notice of the disenrollment with an explanation of why the MA organization is planning to disenroll the individual. Notices for reasons specified in paragraphs (b)(1) through (b)(2)(i) must—
(1) Be provided to the individual before submission of the disenrollment to CMS; and
(2) Include an explanation of the individual’s right to a hearing under the MA organization’s grievance procedures.

(d) Process for disenrollment—(1) Except as specified in paragraph (d)(1)(iv) of this section, an MA organization may disenroll an individual from the MA plan for failure to pay basic and supplementary premiums under the following circumstances:
(i) The MA organization can demonstrate to CMS that it made reasonable efforts to collect the unpaid premium amount, including:
(A) Alerting the individual that the premiums are delinquent;
(B) Providing the individual with a grace period, that is, an opportunity to pay past due premiums in full. The length of the grace period must—
(1) Be at least 2 months; and
(2) Begin on the first day of the month for which the premium is unpaid or the first day of the month following the date on which premium payment is requested, whichever is later.
(C) Advising the individual that failure to pay the premiums by the end of the grace period will result in termination of MA coverage.

(ii) The MA organization provides the enrollee with notice of disenrollment that meets the requirements set forth in paragraph (c) of this section.
(iii) If the enrollee fails to pay the premium for optional supplemental benefits but pays the basic premium and any mandatory supplemental premium, the MA organization has the option to discontinue the optional supplemental benefits and retain the individual as an MA enrollee.
(iv) An MA organization may not disenroll an individual who had monthly premiums withheld per §422.262(f)(1) and (g) of this part, or who is in premium withhold status, as defined by CMS.

(v) Extension of grace period for good cause and reinstatement. When an individual is disenrolled for failure to pay the plan premium, CMS may reinstate enrollment in the MA plan, without interruption of coverage, if the individual shows good cause for failure to pay within the initial grace period, and pays all overdue premiums within 3 calendar months after the disenrollment date. The individual must establish by a credible statement that failure to pay premiums within the initial grace period was due to circumstances for which the individual had no control, or which the individual could not reasonably have been expected to foresee.

(vi) No extension of grace period. A beneficiary’s enrollment in the MA plan may not be reinstated if the only basis for such reinstatement is a change in the individual’s circumstances subsequent to the involuntary disenrollment for non-payment of premiums.

(2) Disruptive behavior—(i) Definition of disruptive behavior. An MA plan enrollee is disruptive if his or her behavior substantially impairs the plan’s ability to arrange for or provide services to the individual or other plan members. An individual cannot be considered disruptive if such behavior is related to the use of medical services or compliance (or noncompliance) with medical advice or treatment.

(ii) Basis of disenrollment for disruptive behavior. An organization may disenroll an individual whose behavior is disruptive as defined in 422.74(d)(2)(i) only after it meets the requirements described in this section and CMS has reviewed and approved the request.

(iii) Effort to resolve the problem. The MA organization must make a serious effort to resolve the problems presented by the individual, including providing reasonable accommodations, as determined by CMS, for individuals with mental or cognitive conditions, including mental illness and developmental disabilities. In addition, the
MA organization must inform the individual of the right to use the organization's grievance procedures. The beneficiary has a right to submit any information or explanation that he or she may wish to the MA organization.

(iv) Documentation. The MA organization must document the enrollee’s behavior, its own efforts to resolve any problems, as described in paragraph (iii), and any extenuating circumstances. The MA organization may request from CMS the ability to decline future enrollment by the individual. The MA organization must submit this information and any documentation received by the beneficiary to CMS.

(v) CMS review of the proposed disenrollment. CMS will review the information submitted by the MA organization and any information submitted by the beneficiary (which the MA organization must forward to CMS) to determine if the MA organization has fulfilled the requirements to request disenrollment for disruptive behavior. If the organization has fulfilled the necessary requirements, CMS will review the information and make a decision to approve or deny the request for disenrollment, including conditions on future enrollment, within 20 working days. During the review, CMS will ensure that staff with appropriate clinical or medical expertise review the case before making the final decision. The MA organization will be required to provide a reasonable accommodation, as determined by CMS, for the individual in such exceptional circumstances that CMS deems necessary. CMS will notify the MA organization within 5 working days after making its decision.

(vi) Effective date of disenrollment. If CMS permits an MA organization to disenroll an individual for disruptive behavior, the termination is effective the first day of the calendar month after the month in which the MA organization gives the individual notice of the disenrollment that meets the requirements set forth in paragraph (c) of this section, unless otherwise determined by CMS.

(3) Individual commits fraud or permits abuse of enrollment card.—(i) Basis for disenrollment. An MA organization may disenroll the individual from an MA plan if the individual—
(A) Knowingly provides, on the election form, fraudulent information that materially affects the individual's eligibility to enroll in the MA plan; or
(B) Intentionally permits others to use his or her enrollment card to obtain services under the MA plan.

(ii) Notice of disenrollment. The MA organization must give the individual a written notice of the disenrollment that meets the requirements set forth in paragraph (c) of this section.

(iii) Report to CMS. The MA organization must report to CMS any disenrollment based on fraud or abuse by the individual.

(4) Individual no longer resides in the MA plan’s service area.—(i) Basis for disenrollment. Unless continuation of enrollment is elected under §422.54, the MA organization must disenroll an individual if the MA organization establishes, on the basis of a written statement from the individual or other evidence acceptable to CMS, that the individual has permanently moved—
(A) Out of the MA plan’s service area; or
(B) From the residence in which the individual resided at the time of enrollment in the MA plan to an area outside the MA plan’s service area, for those individuals who enrolled in the MA plan under the eligibility requirements at §422.50(a)(3)(ii) or (a)(4).

(ii) Special rule. If the individual has not moved from the MA plan’s service area (or residence, as described in paragraph (d)(4)(i)(B) of this section), but has left the service area (or residence) for more than 6 months, the MA organization must disenroll the individual from the plan, unless the exception in paragraph (d)(4)(iii) of this section applies.

(iii) Exception. If the MA plan offers a visitor/traveler benefit when the individual is out of the service area but within the United States (as defined in §400.200 of this chapter) for a period of consecutive days longer than 6 months but less than 12 months, the MA organization may elect to offer to the individual the option of remaining enrolled in the MA plan if—
(A) The individual is disenrolled on the first day of the 13th month after
§ 422.100 General requirements.

(a) Basic rule. Subject to the conditions and limitations set forth in this subpart, an MA organization offering an MA plan must provide enrollees in that plan with coverage of the basic benefits described in paragraph (c) of this section and a description of alternatives for obtaining benefits under the MA program.

(b) Services of noncontracting providers and suppliers. (1) An MA organization