§ 422.752 Basis for imposing intermediate sanctions and civil money penalties.

(a) All intermediate sanctions. For the violations listed in this paragraph, CMS may impose one or more of the sanctions specified in §422.750(a) of this subpart on any MA organization with a contract. The MA organization may also be subject to other remedies authorized under law.

(1) Fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has the substantial likelihood of adversely affecting) the individual.

(2) Imposes on MA enrollees premiums in excess of the monthly basic and supplemental beneficiary premiums permitted under section 1854 of the Act and subpart F of this part.

(3) Acts to expel or refuses to re-enroll a beneficiary in violation of the provisions of this part.

(4) Engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services.

(5) Misrepresents or falsifies information that it furnishes—

(i) To CMS; or

(ii) To an individual or to any other entity.

(6) Fails to comply with the requirements of §422.206, which prohibits interference with practitioners’ advice to enrollees.

(7) Fails to comply with §422.216, which requires the organization to enforce the limit on balance billing under a private fee-for-service plan.

(8) Employs or contracts with an individual or entity that is excluded from participation in Medicare under section 1128 or 1128A of the Act (or with an entity that employs or contracts with such an excluded individual or entity) for the provision of any of the following:

(i) Health care.

(ii) Utilization review.

(iii) Medical social work.

(iv) Administrative services.

(b) Suspension of enrollment and marketing. If CMS makes a determination that could lead to a contract termination under §422.510(a), CMS may impose the intermediate sanctions at §422.750(a)(1) and (a)(3).

(c) Civil money penalties—(1) CMS. In addition to, or in place of, any intermediate sanctions, CMS may impose civil money penalties in the amounts specified in §422.760 for any of the determinations at §422.510(a), except §422.510(a)(4).

(2) OIG. In addition to, or in place of any intermediate sanctions imposed by CMS, the OIG, in accordance with part 1003 of Chapter V of this title, may impose civil money penalties for the following:

(i) Violations listed at §422.752(a).

(ii) Determinations made pursuant to §422.510(a)(4).


§ 422.756 Procedures for imposing intermediate sanctions and civil money penalties.

(a) Notice of intermediate sanction and opportunity to respond—(1) Notice of intent. Before imposing the intermediate sanction, CMS—

(i) Sends a written notice to the MA organization stating the nature and basis of the proposed intermediate sanction and the MA organization’s right to a hearing as specified in paragraph (b) of this section; and

(ii) Sends the OIG a copy of the notice.

(2) Opportunity to respond. CMS allows the MA organization 10 calendar