

§ 422.2450

than an MSA contract, is equal to the base credibility factor determined under paragraph (f) of this section.

(2) The credibility adjustment for a partially credible MA MSA contract is the product of the base credibility factor, as determined under paragraph (f) of this section, multiplied by the deductible factor, as determined under paragraph (g) of this section.

(f) The base credibility factor for a partially credible experience is determined based on the number of member months for all enrollees under the contract and the factors shown in Table 1 of this section. When the number of member months used to determine credibility exactly matches a member month category listed in Table 1 of this section, the value associated with that number of member months is the base credibility factor. The base credibility factor for a number of member months between the values shown in Table 1 of this section is determined by linear interpolation.

(g) The deductible factor is based on the enrollment-weighted average deductible for all MSA plans under the MA MSA contract, where the deductible for each plan under the contract is weighted by the plan's portion of the total number of member months for all plans under the contract. When the weighted average deductible exactly matches a deductible category listed in Table 2 of this section, the value associated with that deductible is the deductible factor. The deductible factor for a weighted average deductible between the values shown in Table 2 of this section is determined by linear interpolation.

TABLE 1 TO § 422.2440—BASE CREDIBILITY FACTORS FOR MA CONTRACTS

Member months	Base credibility factor (additional percentage points)
<2,400	N/A (Non-credible).
2,400	8.4%.
6,000	5.3%.
12,000	3.7%.
24,000	2.6%.
60,000	1.7%.
120,000	1.2%.
180,000	1.0%.
>180,000	0.0% (Fully credible).

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TABLE 2 TO § 422.2440—DEDUCTIBLE FACTORS FOR MA MSA CONTRACTS

Weighted average deductible	Deductible factor
<\$2,500	1.000
\$2,500	1.164
\$5,000	1.402
≥\$10,000	1.736

[85 FR 33908, June 2, 2020]

§ 422.2450 [Reserved]

§ 422.2460 Reporting requirements.

(a) Except as provided in paragraph (b) of this section, for each contract year, each MA organization must submit to CMS, in a timeframe and manner specified by CMS, a report that includes the data needed by the MA organization to calculate and verify the medical loss ratio (MLR) and remittance amount, if any, for each contract under this part, including the amount of incurred claims for original Medicare covered benefits, supplemental benefits, and prescription drugs; total revenue; expenditures on quality improving activities; non-claims costs; taxes; licensing and regulatory fees; and any remittance owed to CMS under § 422.2410.

(b) For contract years 2018 through 2022, each MA organization must submit to CMS, in a timeframe and manner specified by CMS, the following information:

(1) *Fully credible and partially credible contracts.* For each contract under this part that has fully credible or partially credible experience, as determined in accordance with § 422.2440(d), the MA organization must report to CMS the MLR for the contract and the amount of any remittance owed to CMS under § 422.2410.

(2) *Non-credible contracts.* For each contract under this part that has non-credible experience, as determined in accordance with § 422.2440(d), the MA organization must report to CMS that the contract is non-credible.

(c) Total revenue included as part of the MLR calculation must be net of all projected reconciliations.

(d) Subject to paragraph (e) of this section, the MLR is reported once, and is not reopened as a result of any payment reconciliation processes.

(e) With respect to an MA organization that has already submitted to CMS the MLR report or MLR data required under paragraph (a) or (b) of this section, respectively, for a contract for a contract year, paragraph (d) of this section does not prohibit resubmission of the MLR report or MLR data for the purpose of correcting the prior MLR report or data submission. Such resubmission must be authorized or directed by CMS, and upon receipt and acceptance by CMS, is regarded as the contract's MLR report or data submission for the contract year for purposes of this subpart.

[83 FR 16736, Apr. 16, 2018, as amended at 87 FR 27899, May 9, 2022]

§ 422.2470 Remittance to CMS if the applicable MLR requirement is not met.

(a) *General requirement.* For each contract year, an MA organization must provide a remittance to CMS if the contract's MLR does not meet the minimum MLR requirement required by § 422.2410(b) of this subpart.

(b) *Amount of remittance.* For each contract that does not meet the MLR requirement for a contract year, the MA organization must remit to CMS the amount by which the MLR requirement exceeds the contract's actual MLR multiplied by the total revenue of the contract, as provided in § 422.2420(c), for the contract year.

(c) *Timing of remittance.* CMS deducts the remittance from plan payments in a timely manner after the MLR is reported, on a schedule determined by CMS.

(d) *Treatment of remittance.* Payment to CMS must not be included in the numerator or denominator of any year's MLR.

§ 422.2480 MLR review and non-compliance.

To ensure the accuracy of MLR reporting, CMS conducts selected review of data submitted under § 422.2460 to determine that the MLRs and remittance amounts under § 422.2410(b) and sanctions under § 422.2410(c) and (d), were accurately calculated, reported, and applied.

(a) The reviews include a validation of amounts included in both the nu-

merator and denominator of the MLR calculation reported to CMS.

(b) MA organizations are required to maintain evidence of the amounts reported to CMS and to validate all data necessary to calculate MLRs.

(c)(1) Documents and records must be maintained for 10 years from the date such calculations were reported to CMS with respect to a given MLR reporting year.

(2) MA organizations must require any third party vendor supplying drug or medical cost contracting and claim adjudication services to the MA organization to provide all underlying data associated with MLR reporting to that MA organization in a timely manner, when requested by the MA organization, regardless of current contractual limitations, in order to validate the accuracy of MLR reporting.

(d) Data submitted under § 422.2460, calculations, or any other MLR submission required by this subpart found to be materially incorrect or fraudulent—

(1) Is noted by CMS;

(2) Appropriate remittance amounts are recouped by CMS; and

(3) Sanctions may be imposed by CMS as provided in § 422.752.

[78 FR 31307, May 23, 2013, as amended at 83 FR 16736, Apr. 16, 2018]

§ 422.2490 Release of Part C MLR data.

(a) *Terminology.* Subject to the exclusions in paragraph (b) of this section, Part C MLR data consists of the information submitted under § 422.2460.

(b) *Exclusions from Part C MLR data.* For the purpose of this section, the following items are excluded from Part C MLR data:

(1) Narrative descriptions that MA organizations submit to support the information reported to CMS pursuant to the reporting requirements at § 422.2460, such as descriptions of expense allocation methods.

(2)(i) Information that is reported at the plan level, such as the number of member months associated with each plan under a contract, including information submitted for a contract consisting of only one plan.

(ii) Amounts that are reported as expenditures for a specific type of supplemental benefit, where the entire