

(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