

§ 422.270

the Medicare Part B premium (determined without regard to the application of subsections (b), (h), and (i) of section 1839 of the Act).

(c) *Disclosure relating to rebates.* MA organizations must disclose to CMS information on the amount of the rebate provided, as required at § 422.254(d). MA organizations must distinguish, for each MA plan, the amount of rebate applied to enhance original Medicare benefits from the amount of rebate applied to enhance Part D benefits. [70 FR 4725, Jan. 28, 2005, as amended at 76 FR 21567, Apr. 15, 2011]

§ 422.270 Incorrect collections of premiums and cost-sharing.

(a) *Definitions.* As used in this section—

(1) Amounts incorrectly collected—

(i) Means amounts that—

(A) Exceed the limits approved under § 422.262;

(B) In the case of an MA private fee-for-service plan, exceed the MA monthly basic beneficiary premium or the MA monthly supplemental premium submitted under § 422.262; and

(C) In the case of an MA MSA plan, exceed the MA monthly beneficiary supplemental premium submitted under § 422.262, or exceed permissible cost sharing amounts after the deductible has been met per § 422.103; and

(ii) Includes amounts collected from an enrollee who was believed to be entitled to Medicare benefits but was later found not to be entitled.

(2) *Other amounts due* are amounts due for services that were—

(i) Emergency, urgently needed services, or other services obtained outside the MA plan; or

(ii) Initially denied but, upon appeal, found to be services the enrollee was entitled to have furnished by the MA organization.

(b) *Basic commitments.* An MA organization must agree to refund all amounts incorrectly collected from its Medicare enrollees, or from others on behalf of the enrollees, and to pay any other amounts due the enrollees or others on their behalf.

(c) *Refund methods*—(1) *Lump-sum payment.* The MA organization must use lump-sum payments for the following:

(i) Amounts incorrectly collected that were not collected as premiums.

(ii) Other amounts due.

(iii) All amounts due if the MA organization is going out of business or terminating its MA contract for an MA plan(s).

(2) *Premium adjustment or lump-sum payment, or both.* If the amounts incorrectly collected were in the form of premiums, or included premiums as well as other charges, the MA organization may refund by adjustment of future premiums or by a combination of premium adjustment and lump-sum payments.

(3) *Refund when enrollee has died or cannot be located.* If an enrollee has died or cannot be located after reasonable effort, the MA organization must make the refund in accordance with State law.

(d) *Reduction by CMS.* If the MA organization does not make the refund required under this section by the end of the contract period following the contract period during which an amount was determined to be due to an enrollee, CMS will reduce the premium the MA organization is allowed to charge an MA plan enrollee by the amounts incorrectly collected or otherwise due. In addition, the MA organization would be subject to sanction under subpart O of this part for failure to refund amounts incorrectly collected from MA plan enrollees.

§ 422.272 Release of MA bid pricing data.

(a) *Terminology.* For purposes of this section, the term “MA bid pricing data” means the following information that MA organizations must submit for each MA plan bid for the annual bid submission:

(1) The pricing-related information described at § 422.254(a)(1); and

(2) The information required for MSA plans, described at § 422.254(e).

(b) *Release of MA bid pricing data.* Subject to paragraph (c) of this section and to the annual timing identified in paragraph (d) of this section, CMS will release to the public MA bid pricing data for MA plan bids accepted or approved by CMS for a contract year under § 422.256. The annual release will contain MA bid pricing data from the

42 CFR Ch. IV (10–1–23 Edition)

final list of MA plan bids accepted or approved by CMS for a contract year that is at least 5 years prior to the upcoming calendar year.

(c) *Exclusions from release of MA bid pricing data.* For the purpose of this section, the following information is excluded from the data released under paragraph (b) of this section:

(1) For an MA plan bid that includes Part D benefits, the information described at § 422.254(b)(1)(ii), (c)(3)(ii), and (c)(7).

(2) Additional information that CMS requires to verify the actuarial bases of the bids for MA plans for the annual bid submission, as follows:

(i) Narrative information on base period factors, manual rates, cost-sharing methodology, optional supplement benefits, and other required narratives.

(ii) Supporting documentation.

(3) Any information that could be used to identify Medicare beneficiaries or other individuals.

(4) Bid review correspondence and reports.

(d) *Timing of data release.* CMS will release MA bid pricing data as provided in paragraph (b) of this section on an annual basis after the first Monday in October.

[81 FR 80556, Nov. 15, 2016]

Subpart G—Payments to Medicare Advantage Organizations

SOURCE: 70 FR 4729, Jan. 28, 2005, unless otherwise noted.

§ 422.300 Basis and scope.

This subpart is based on sections 1106, 1128J(d), 1852, 1853, 1854, and 1858 of the Act. It sets forth the requirements for making payments to MA organizations offering local and regional MA policies, including calculation of MA capitation rates and benchmarks, conditions under which payment is based on plan bids, adjustments to capitation rates (including risk adjustment), collection of risk adjustment data, conditions for use and disclosure of risk adjustment data, collection of improper payments and other payment rules. Section 422.458 specifies the require-

ments for risk sharing payments to MA regional organizations.

[88 FR 6665, Feb. 1, 2023]

§ 422.304 Monthly payments.

(a) *General rules.* Except as provided in paragraph (b) of this section, CMS makes advance monthly payments of the amounts determined under paragraphs (a)(1) and (a)(2) of this section for coverage of original fee-for-service benefits for an individual in an MA payment area for a month.

(1) *Payment of bid for plans with bids below benchmark.* For MA plans that have average per capita monthly savings (as described at § 422.264(b) for local plans and § 422.264(d) for regional plans), CMS pays:

(i) The unadjusted MA statutory non-drug monthly bid amount defined in § 422.252, risk-adjusted as described in § 422.308(c) and adjusted (if applicable) for variations in rates within the plan's service area (described at § 422.258(a)(2)) and for the effects of risk adjustment on beneficiary premiums under § 422.262; and

(ii) The amount (if any) of the rebate described in paragraph (a)(3) of this section.

(2) *Payment of benchmark for plans with bids at or above benchmark.* For MA plans that do not have average per capita monthly savings (as described at § 422.264(b) for local plans and § 422.264(d) for regional plans), CMS pays the unadjusted MA area-specific non-drug monthly benchmark amount specified at § 422.258, risk-adjusted as described at § 422.308(c) and adjusted (if applicable) for variations in rates within the plan's service area (described at § 422.258(a)(2)) and for the effects of risk adjustment on beneficiary premiums under § 422.262.

(3) *Payment of rebate for plans with bids below benchmarks.* The rebate amount under paragraph (a)(1)(ii) of this section is the amount of the monthly rebate computed under § 422.266(a) for that plan, less the amount (if any) applied to reduce the Part B premium, as provided under § 422.266(b)(3).

(b) *Separate payment for Federal drug subsidies.* In the case of an enrollee in an MA-PD plan, defined at § 422.252, the