

aggregate Medicare payments that would have been made to all the State's payments areas, absent the geographic adjustment.

(f) *Separate payment for meaningful use of certified EHRs.* In the case of qualifying MA organizations, as defined in § 495.200 of this chapter, entitled to MA EHR incentive payments per § 495.204 of this chapter, such payments are made in accordance with sections 1853(l) and (m) of the Act and subpart C of part 495 of this chapter.

[70 FR 4729, Jan. 28, 2005, as amended at 75 FR 44564, July 28, 2010; 85 FR 72909, Nov. 16, 2020]

#### § 422.306 Annual MA capitation rates.

Subject to adjustments at §§ 422.308(b) and (g), the annual capitation rate for each MA local area is determined under paragraph (a) of this section for 2005 and each succeeding year, except for years when CMS announces under § 422.312(b) that the annual capitation rates will be determined under paragraph (b) of this section, and is then adjusted to exclude the applicable phase-in percentage of the standardized costs for payments under section 1886(d)(5)(B) of the Act in the area for the year under paragraph (c) of this section and costs for kidney acquisitions in the area for the year under paragraph (d) of this section.

(a) *Minimum percentage increase rate.* The annual capitation rate for each MA local area is equal to the minimum percentage increase rate, which is the annual capitation rate for the area for the preceding year increased by the national per capita MA growth percentage (defined at § 422.308(a)) for the year, but not taking into account any adjustment under § 422.308(b) for a year before 2004.

(b) *Greater of the minimum percentage increase rate or local area fee-for-service costs.* The annual capitation rate for each MA local area is the greater of—

(1) The minimum percentage increase rate under paragraph (a) of this section; or

(2) The amount determined, no less frequently than every 3 years, to be the adjusted average per capita cost for the MA local area, as determined under section 1876(a)(4) of the Act, based on 100 percent of fee-for-service costs for

individuals who are not enrolled in an MA plan for the year, with the following adjustments:

(i) Adjusted as appropriate for the purpose of risk adjustment;

(ii) Adjusted to exclude costs attributable to payments under section 1886(h) of the Act for the costs of direct graduate medical education;

(iii) Adjusted to include CMS' estimate of the amount of additional per capita payments that would have been made in the MA local area if individuals entitled to benefits under this title had not received services from facilities of the Department of Defense or the Department of Veterans Affairs; and

(iv) Adjusted to exclude costs attributable to payments under sections 1848(o) and 1886(n) of the Act of Medicare FFS incentive payments for meaningful use of electronic health records.

(c) *Phase-out of the indirect costs of medical education from MA capitation rates.* Beginning with 2010, after the annual capitation rate for each MA local area is determined under paragraph (a) or (b), the amount is adjusted in accordance with section 1853(k)(4) of the Act to exclude from such amount the phase-in percentage for the year of the estimated costs for payments under section 1886(d)(5)(B) of the Act in the area for the year.

(d) *Exclusion of costs for kidney acquisitions from MA capitation rates.* Beginning with 2021, after the annual capitation rate for each MA local area is determined under paragraph (a) or (b) of this section, the amount is adjusted in accordance with section 1853(k)(5) of the Act to exclude the Secretary's estimate of the standardized costs for payments for organ acquisitions for kidney transplants covered under this title (including expenses covered under section 1881(d) of the Act) in the area for the year.

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