

## § 422.400

less than the time period granted in paragraph (g)(1) of this section.

[63 FR 25379, May 7, 1998]

### **Subpart I—Organization Compliance With State Law and Preemption by Federal Law**

SOURCE: 63 FR 35099, June 26, 1998, unless otherwise noted.

#### **§ 422.400 State licensure requirement.**

Except in the case of a PSO granted a waiver under subpart H of this part, each MA organization must—

(a) Be licensed under State law, or otherwise authorized to operate under State law, as a risk-bearing entity (as defined in § 422.2) eligible to offer health insurance or health benefits coverage in each State in which it offers one or more MA plans;

(b) If not commercially licensed, obtain certification from the State that the organization meets a level of financial solvency and such other standards as the State may require for it to operate as an MA organization; and

(c) Demonstrate to CMS that—

(1) The scope of its license or authority allows the organization to offer the type of MA plan or plans that it intends to offer in the State; and

(2) If applicable, it has obtained the State certification required under paragraph (b) of this section.

#### **§ 422.402 Federal preemption of State law.**

The standards established under this part supersede any State law or regulation (other than State licensing laws or State laws relating to plan solvency) with respect to the MA plans that are offered by MA organizations.

[70 FR 4733, Jan. 28, 2005]

#### **§ 422.404 State premium taxes prohibited.**

(a) *Basic rule.* No premium tax, fee, or other similar assessment may be imposed by any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, or any of their political subdivisions or other governmental authorities with respect to any payment CMS makes on behalf of MA

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enrollees under subpart G of this part, or with respect to any payment made to MA plans by beneficiaries, or payment to MA plans by a third party on a beneficiary's behalf.

(b) *Construction.* Nothing in this section shall be construed to exempt any MA organization from taxes, fees, or other monetary assessments related to the net income or profit that accrues to, or is realized by, the organization from business conducted under this part, if that tax, fee, or payment is applicable to a broad range of business activity.

[63 FR 35099, June 26, 1998, as amended at 70 FR 4733, Jan. 28, 2005]

### **Subpart J—Special Rules for MA Regional Plans**

SOURCE: 70 FR 4733, Jan. 28, 2005, unless otherwise noted.

#### **§ 422.451 Moratorium on new local preferred provider organization plans.**

CMS will not approve the offering of a local preferred provider organization plan during 2006 or 2007 in a service area unless the MA organization seeking to offer the plan was offering a local preferred provider organization plan in the service area before December 31, 2005.

#### **§ 422.455 Special rules for MA Regional Plans.**

(a) *Coverage of entire MA region.* The service area for an MA regional plan will consist of an entire MA region established under paragraph (b) of this section, and an MA region may not be segmented as described in § 422.262(c)(2).

(b) *Establishment of MA regions—*(1) *MA region.* The term “MA region” means a region within the 50 States and the District of Columbia as established by CMS under this section.

(2) *Establishment—*(i) *Initial establishment.* By January 1, 2005, CMS will establish and publish the MA regions.

(ii) *Periodic review and revision of service areas.* CMS may periodically review MA regions and may revise the regions if it determines the revision to be appropriate.