

§ 422.516

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subsidy eligible individuals described in § 423.780(a) of this chapter; and

(iv) Is of the same plan type (for example, HMO or PPO) as the plan specified in paragraph (d)(2) of this section.

(2) An MA organization may transition individuals under paragraph (e)(1) of this section without requiring the individual to file the election form under § 422.66(a) if—

(i) The enrolled individual is eligible to enroll in the MA plan; and

(ii) The MA–PD plan into which individuals are transitioned describes changes to MA–PD benefits and provides information about the MA–PD plan in the Annual Notice of Change, which must be sent consistent with § 422.111(a), (d), and (e).

(3) For the purpose of approving a MA organization to transition enrollment under this paragraph (e), CMS determines whether a non-SNP MA plan would meet the criteria in paragraph (d)(2) of this section by adding the cohort of individuals identified by the MA organization for enrollment in a non-SNP MA plan to the April enrollment of such plan and calculating the resulting percentage of dual eligible enrollment.

(4) In cases where an MA organization does not transition current enrollees under paragraph (e)(1) of this section, the MA organization must send a written notice to enrollees who are not transitioned, consistent with § 422.506(a)(2).

(f) *Special considerations.* Actions taken pursuant to paragraph (d) of this section warrant special consideration to exempt affected MA organizations from the denial of an application for a new contract or service area expansion in accordance with §§ 422.502(b)(3) and (4), 422.503(b)(6) and (7), 422.506(a)(3) and (4), 422.508(c) and (d), and 422.512(e)(1) and (2).

(g) *Applicability to segments.* The rules under paragraphs (d) through (f) of this section also apply to segments of the MA plan as provided for local MA plans under § 422.262(c)(2).

[63 FR 35099, June 26, 1998, as amended at 65 FR 40328, June 29, 2000; 83 FR 16734, Apr. 16, 2018; 85 FR 33908, June 2, 2020; 88 FR 22334, Apr. 12, 2023]

§ 422.516 Validation of Part C reporting requirements.

(a) *Required information.* Each MA organization must have an effective procedure to develop, compile, evaluate, and report to CMS, to its enrollees, and to the general public, at the times and in the manner that CMS requires, and while safeguarding the confidentiality of the doctor-patient relationship, statistics and other information with respect to the following:

(1) The cost of its operations.

(2) The patterns of utilization of its services.

(3) The availability, accessibility, and acceptability of its services.

(4) To the extent practical, developments in the health status of its enrollees.

(5) Information demonstrating that the MA organization has a fiscally sound operation.

(6) Other matters that CMS may require.

(b) *Significant business transactions.* Each MA organization must report to CMS annually, within 120 days of the end of its fiscal year (unless for good cause shown, CMS authorizes an extension of time), the following:

(1) A description of significant business transactions (as defined in § 422.500) between the MA organization and a party in interest.

(2) With respect to those transactions—

(i) A showing that the costs of the transactions listed in paragraph (c) of this section do not exceed the costs that would be incurred if these transactions were with someone who is not a party in interest; or

(ii) If they do exceed, a justification that the higher costs are consistent with prudent management and fiscal soundness requirements.

(3) A combined financial statement for the MA organization and a party in interest if either of the following conditions is met:

(i) Thirty-five percent or more of the costs of operation of the MA organization go to a party in interest.

(ii) Thirty-five percent or more of the revenue of a party in interest is from the MA organization.

(c) *Requirements for combined financial statements.* (1) The combined financial

statements required by paragraph (b)(3) of this section must display in separate columns the financial information for the MA organization and each of the parties in interest.

(2) Inter-entity transactions must be eliminated in the consolidated column.

(3) The statements must have been examined by an independent auditor in accordance with generally accepted accounting principles and must include appropriate opinions and notes.

(4) Upon written request from an MA organization showing good cause, CMS may waive the requirement that the organization's combined financial statement include the financial information required in this paragraph (c) with respect to a particular entity.

(d) *Reporting and disclosure under ERISA.* (1) For any employees' health benefits plan that includes an MA organization in its offerings, the MA organization must furnish, upon request, the information the plan needs to fulfill its reporting and disclosure obligations (with respect to the particular MA organization) under the Employee Retirement Income Security Act of 1974 (ERISA).

(2) The MA organization must furnish the information to the employer or the employer's designee, or to the plan administrator, as the term "administrator" is defined in ERISA.

(e) *Loan information.* Each organization must notify CMS of any loans or other special financial arrangements it makes with contractors, subcontractors and related entities.

(f) *Enrollee access to information.* Each MA organization must make the information reported to CMS under § 422.502(f)(1) available to its enrollees upon reasonable request.

(g) *Data validation.* Each Part C sponsor must subject information collected under paragraph (a) of this section to a yearly independent audit to determine their reliability, validity, completeness, and comparability in accordance with specifications developed by CMS.

[63 FR 35099, June 26, 1998, as amended at 75 FR 19812, Apr. 15, 2010]

§ 422.520 Prompt payment by MA organization.

(a) *Contract between CMS and the MA organization.* (1) The contract between

CMS and the MA organization must provide that the MA organization will pay 95 percent of the "clean claims" within 30 days of receipt if they are submitted by, or on behalf of, an enrollee of an MA private fee-for-service plan or are claims for services that are not furnished under a written agreement between the organization and the provider.

(2) The MA organization must pay interest on clean claims that are not paid within 30 days in accordance with sections 1816(c)(2)(B) and 1842(c)(2)(B).

(3) All other claims from non-contracted providers must be paid or denied within 60 calendar days from the date of the request.

(b)(1) *Contracts between MA organizations and providers and suppliers.* Contracts or other written agreements between MA organizations and providers must contain a prompt payment provision, the terms of which are developed and agreed to by both the MA organization and the relevant provider.

(2) The MA organization is obligated to pay contracted providers under the terms of the contract between the MA organization and the provider.

(c) *Failure to comply.* If CMS determines, after giving notice and opportunity for hearing, that an MA organization has failed to make payments in accordance with paragraph (a) of this section, CMS may provide—

(1) For direct payment of the sums owed to providers, or MA private fee-for-service plan enrollees; and

(2) For appropriate reduction in the amounts that would otherwise be paid to the organization, to reflect the amounts of the direct payments and the cost of making those payments.

(d) A CMS decision to not conduct a hearing under paragraph (c) of this section does not disturb any potential remedy under State law for 1866(a)(1)(O) of the Act.

[63 FR 35099, June 26, 1998, as amended at 65 FR 40328, June 29, 2000; 70 FR 4738, Jan. 28, 2005]

§ 422.521 Effective date of new significant regulatory requirements.

CMS will not implement, other than at the beginning of a calendar year, requirements under this part that impose a new significant cost or burden on MA