

## § 422.56

area (in which the enrollee no longer resides).

(4) *Protection of enrollee rights.* An MA organization that offers a continuation of enrollment option must convey all enrollee rights conferred under this rule, with the understanding that—

(i) The ultimate responsibility for all appeals and grievance requirements remain with the organization that is receiving payment from CMS; and

(ii) Organizations that require enrollees to give advance notice of intent to use the continuation of enrollment option, must stipulate the notification process in the communication materials.

(e) *Capitation payments.* CMS's capitation payments to all MA organizations, for all Medicare enrollees, are based on rates established on the basis of the enrollee's permanent residence, regardless of where he or she receives services.

[63 FR 35071, June 26, 1998; 63 FR 52611, Oct. 1, 1998, as amended at 65 FR 40316, June 29, 2000; 70 FR 4716, Jan. 28, 2005; 83 FR 16722, Apr. 16, 2018]

## § 422.56 Enrollment in an MA MSA plan.

(a) *General.* An individual is not eligible to elect an MA MSA plan unless the individual provides assurances that are satisfactory to CMS that he or she will reside in the United States for at least 183 days during the year for which the election is effective.

(b) *Individuals eligible for or covered under other health benefits program.* Unless otherwise provided by the Secretary, an individual who is enrolled in a Federal Employee Health Benefit plan under 5 U.S.C. chapter 89, or is eligible for health care benefits through the Veteran's Administration under 10 U.S.C. chapter 55 or the Department of Defense under 38 U.S.C. chapter 17, may not enroll in an MA MSA plan.

(c) *Individuals eligible for Medicare cost-sharing under Medicaid State plans.* An individual who is entitled to coverage of Medicare cost-sharing under a State plan under title XIX of the Act is not eligible to enroll in an MA MSA plan.

(d) *Other limitations.* An individual who receives health benefits that cover all or part of the annual deductible

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under the MA MSA plan may not enroll in an MA MSA plan. Examples of this type of coverage include, but are not limited to, primary health care coverage other than Medicare, current coverage under the Medicare hospice benefit, supplemental insurance policies not specifically permitted under § 422.104, and retirement health benefits.

[63 FR 35071, June 26, 1998; 63 FR 52612, Oct. 1, 1998, as amended at 70 FR 4716, Jan. 28, 2005]

## § 422.57 Limited enrollment under MA RFB plans.

An RFB society that offers an MA RFB plan may offer that plan only to members of the church, or convention or group of churches with which the society is affiliated.

## § 422.60 Election process.

(a) *Acceptance of enrollees: General rule.* (1) Except for the limitations on enrollment in an MA MSA plan provided by § 422.62(d)(1) and except as specified in paragraph (a)(2) of this section, each MA organization must accept without restriction (except for an MA RFB plan as provided by § 422.57) individuals who are eligible to elect an MA plan that the MA organization offers and who elect an MA plan during initial coverage election periods under § 422.62(a)(1), annual election periods under § 422.62(a)(2), and under the circumstances described in § 422.62(b)(1) through (b)(4).

(2) MA organizations must accept elections during the open enrollment periods specified in § 422.62(a)(3) and (4) if their MA plans are open to new enrollees.

(b) *Capacity to accept new enrollees.* (1) MA organizations may submit information on enrollment capacity of plans.

(2) If CMS determines that an MA plan offered by an MA organization has a capacity limit, and the number of MA eligible individuals who elect to enroll in that plan exceeds the limit, the MA organization offering the plan may limit enrollment in the plan under this part, but only if it provides priority in acceptance as follows:

(i) First, for individuals who elected the plan prior to the CMS determination that capacity has been exceeded,