

appropriate in seeking this information.

(c) *Determination and notice by CMS—*

(1) *Determination.* (i) On the basis of the investigation, CMS determines whether the HMO has failed to comply with any of the assurances it gave under subpart D of this part.

(ii) CMS publishes in the FEDERAL REGISTER a notice of each determination of non-compliance.

(2) *Notice of determination: Corrective action.* (i) CMS gives the HMO written notice of the determination.

(ii) The notice specifies the manner in which the HMO has not complied with its assurances and directs the HMO to initiate the corrective action that CMS considers necessary to bring the HMO into compliance.

(iii) The HMO must initiate this corrective action within 30 days of the date of the notice from CMS, or within any longer period that CMS determines to be reasonable and specifies in the notice. The HMO must carry out the corrective action within the time period specified by CMS in the notice.

(iv) The notice may provide the HMO an opportunity to submit, for CMS's approval, proposed methods for achieving compliance.

(d) *Remedy: Revocation of qualification.* If CMS determines that a qualified HMO has failed to initiate or to carry out corrective action in accordance with paragraph (c)(2) of this section—

(1) CMS revokes the HMO's qualification and notifies the HMO of this action.

(2) In the notice, CMS provides the HMO with an opportunity for reconsideration of the revocation, including, at the HMO's election, a fair hearing.

(3) The revocation of qualification is effective on the tenth calendar day after the day of the notice unless CMS receives a request for reconsideration by that date.

(4) If after reconsideration CMS again determines to revoke the HMO's qualification, this revocation is effective on the tenth calendar day after the date of the notice of reconsidered determination.

(5) CMS publishes in the FEDERAL REGISTER each determination it makes under this paragraph (d).

(6) A revocation under this paragraph (d) has the effect described in §417.164.

(e) *Notice by the HMO.* Within 15 days after the date CMS issues a notice of revocation, the HMO must prepare a notice that explains, in readily understandable language, the reasons for the determination that it is not a qualified HMO, and send the notice to the following:

(1) The HMO's enrollees.

(2) Each employer or public entity that has offered enrollment in the HMO in accordance with subpart E of this part.

(3) Each lawfully recognized collective bargaining representative or other representative of the employees of the employer or public entity.

(f) *Reimbursement of enrollees for services improperly denied, or for charges improperly imposed.* (1) If CMS determines, under paragraph (c)(1) of this section, that an HMO is out of compliance, CMS may require the HMO to reimburse its enrollees for the following—

(i) Expenses for basic or supplemental health services that the enrollee obtained from other sources because the HMO failed to provide or arrange for them in accordance with its assurances.

(ii) Any amounts the HMO charged the enrollee that are inconsistent with its assurances. (Rules applicable to charges for all enrollees are set forth in §§417.104 and 417.105. The additional rules applicable to Medicare enrollees are in §415.454.)

(2) This paragraph applies regardless of when the HMO failed to comply with the appropriate assurances.

(g) *Remedy: Civil suit—(1) Applicability.* This paragraph applies to any HMO or other entity to which a grant, loan, or loan guarantee was awarded, as set forth in subpart V of this part, on the basis of its assurances regarding the furnishing of basic and supplemental services or its operation and organization, as the case may be.

(2) *Basis for action.* If CMS determines that the HMO or other entity has failed to initiate or refuses to carry out corrective action in accordance with paragraph (c)(2) of this section, CMS may bring civil action in the U.S. district court for the district in which the HMO or other entity is located, to enforce