

## § 417.402

(2) Cannot be delayed until the enrollee returns to the HMO's or CMP's geographic area.

[50 FR 1346, Jan. 10, 1985, as amended at 56 FR 51986, Oct. 17, 1991; 58 FR 38072, July 15, 1993; 60 FR 45675, Sept. 1, 1995]

### § 417.402 Effective date of initial regulations.

(a) The changes made to section 1876 of the Act by section 114 of the Tax Equity and Fiscal Responsibility Act of 1982 became effective on February 1, 1985, the effective date of the initial implementing regulations.

(b) No new cost plan contracts are accepted by CMS. CMS will, however, accept and approve applications to modify cost plan contracts in order to expand service areas, provided they are submitted on or before September 1, 2006, and CMS determines that the organization continues to meet regulatory requirements and the requirements in its cost plan contract. Section 1876 cost plan contracts will not be extended or renewed beyond December 31, 2007, where conditions in paragraph (c) of this section are present.

(c) *Mandatory HMO or CMP and contract non-renewal or service area reduction.* CMS will non-renew all or a portion of an HMO's or CMP's contracted service area using procedures in § 417.492(b) and § 417.494(a) for any period beginning on or after January 1, 2013, where—

(1) There were two or more coordinated care plan-model MA regional plans not offered by the same MA organization in the same service area or portion of a service area for the entire previous calendar year meeting the conditions in paragraph(c)(3) of this section; or

(2) There were two or more coordinated care plan-model MA local plans not offered by the same MA organization in the same service area or portion of a service area for the entire previous calendar year meeting the conditions in paragraph (c)(3) of this section.

(3) *Minimum enrollment requirements.* With respect to any service area or portion of a service area that is within a Metropolitan Statistical Area (MSA) with a population of more than 250,000 and counties contiguous to the MSA that are not in another MSA with a

## 42 CFR Ch. IV (10–1–24 Edition)

population of more than 250,000, 5000 enrolled individuals. If the service area includes a portion in more than one MSA with a population of more than 250,000, the minimum enrollment determination is made with respect to each such MSA and counties contiguous to the MSA that are not in another MSA with a population of more than 250,000.

[63 FR 35066, June 26, 1998, as amended at 65 FR 40314, June 29, 2000; 67 FR 13288, Mar. 22, 2002; 70 FR 4713, Jan. 28, 2005; 73 FR 54248, Sept. 18, 2008; 76 FR 21560, Apr. 15, 2011; 76 FR 54633, Sept. 1, 2011]

### § 417.404 General requirements.

(a) In order to contract with CMS under the Medicare program, an entity must—

(1) Be determined by CMS to be an HMO or CMP (in accordance with §§ 117.142 and 417.407, respectively); and

(2) Comply with the contract requirements set forth in subpart L of this part.

(b) CMS enters into or renews a contract only if it determines that action would be consistent with the effective and efficient implementation of section 1876 of the Act.

[60 FR 45675, Sept. 1, 1995]

### § 417.406 Application and determination.

(a) *Responsibility for making determinations.* CMS is responsible for determining whether an entity meets the requirements to be an HMO or CMP.

(b) *Application requirements.* (1) The application requirements for HMOs are set forth in § 417.143.

(2) The requirements of § 417.143 also apply to CMPs except that there are no application fees.

(c) *Determination.* CMS uses the procedures set forth in § 417.144(a) through (d) to determine whether an entity is an HMO or CMP.

(d) *Oversight of continuing compliance.* (1) CMS oversees an entity's continued compliance with the requirements for an HMO as defined in § 417.1 or for a CMP as set forth in § 417.407.

(2) If an entity no longer meets those requirements, CMS terminates the contract of that entity in accordance with § 417.494.

[60 FR 45675, Sept. 1, 1995]