

(2) An HMO or CMP must assume financial responsibility for services that the Medicare enrollee attempted to obtain from the HMO or CMP, but that the HMO or CMP failed to furnish or unreasonably denied, and that are found, upon appeal by the enrollee under subpart Q of this part, to be services that the enrollee was entitled to have furnished to him or her by the HMO or CMP.

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**§417.416 Qualifying condition: Furnishing of services.**

(a) *Condition.* The HMO or CMP must furnish the required services to its Medicare enrollees through providers and suppliers that meet applicable Medicare statutory definitions and implementing regulations. The HMO or CMP must also ensure that the required services, additional services, and any other supplemental services for which the Medicare enrollee has contracted are available and accessible and are furnished in a manner that ensures continuity.

(b) *Standard: Conformance with conditions of participation, conditions for coverage, and conditions for certification.* (1) Hospitals, SNFs, HHAs, CORFs, and providers of outpatient physical therapy or speech-language pathology services must meet the applicable conditions of participation in Medicare, as set forth elsewhere in this chapter.

(2) Suppliers must meet the conditions for coverage or conditions for certification of their services, as set forth elsewhere in this chapter.

(3) If more than one type of practitioner is qualified to furnish a particular service, the HMO or CMP may select the type of practitioner to be used.

(c) *Standard: Physician supervision.* The HMO or CMP must provide for supervision by a physician of other health care professionals who are directly involved in the provision of health care as generally authorized under section 1861 of the Act. Except as specified in paragraph (d) of this section, with respect to medical services furnished in an HMO's or CMP's clinic or the office of a physician with whom

the HMO or CMP has a service agreement, the HMO or CMP must ensure that—

(1) Services furnished by paramedical, ancillary, and other nonphysician personnel are furnished under the direct supervision of a physician;

(2) A physician is present to perform medical (as opposed to administrative) services whenever the clinics or offices are open; and

(3) Each patient is under the care of a physician.

(d) *Exceptions to physician supervision requirement.* The following services may be furnished without the direct personal supervision of a physician:

(1) Services of physician assistants and nurse practitioners (as defined in §491.2 of this chapter), and the services and supplies incident to their services. The conditions for payment, as set forth in §§405.2414 and 405.2415 of this chapter for services furnished by rural health clinics and Federally qualified health centers, respectively, also apply when those services are furnished by an HMO or CMP.

(2) When furnished by an HMO or CMP, services of clinical psychologists who meet the qualifications specified in §410.71(d) of this chapter, and the services and supplies incident to their professional services.

(3) When an HMO or CMP contracts on—

(i) A risk basis, the services of a clinical social worker (as defined at §410.73 of this chapter) and the services and supplies incident to their professional services; or

(ii) A cost basis, the services of a clinical social worker (as defined in §410.73 of this chapter). Services incident to the professional services of a clinical social worker furnished by an HMO or CMP contracting on a cost basis are not covered by Medicare and payment will not be made for these services.

(e) *Standard: Accessibility and continuity.* (1) The HMO or CMP must ensure that the required services and any other services for which Medicare enrollees have contracted are accessible, with reasonable promptness, to the enrollees with respect to geographic location, hours of operation, and provision