

(v) With a dollar limit on emergency services costs for enrollees that is the lower of—

(A) The cost sharing established by the MA plan if the emergency services were provided through the MA organization; or

(B) A maximum cost sharing limit permitted per visit that corresponds to the MA plan MOOP limit as follows:

(1) For 2023, \$95 for a mandatory MOOP limit, \$110 for an intermediate MOOP limit, and \$125 for a lower MOOP limit.

(2) For 2024, \$100 for a mandatory MOOP limit, \$120 for an intermediate MOOP limit, and \$135 for a lower MOOP limit.

(3) For 2025, \$110 for a mandatory MOOP limit, \$125 for an intermediate MOOP limit, and \$140 for a lower MOOP limit.

(4) For 2026 and subsequent years, \$115 for a mandatory MOOP limit, \$130 for an intermediate MOOP limit, and \$150 for a lower MOOP limit.

(vi) For each year beginning on or after January 1, 2023, with a cost sharing limit on urgently needed services that does not exceed the limits specified for professional services in § 422.100(f)(6)(iii).

(3) *Stabilized condition.* The physician treating the enrollee must decide when the enrollee may be considered stabilized for transfer or discharge, and that decision is binding on the MA organization.

(c) *Maintenance care and post-stabilization care services* (hereafter together referred to as “post-stabilization care services”).

(1) *Definition.* *Post-stabilization care services* means covered services, related to an emergency medical condition, that are provided after an enrollee is stabilized in order to maintain the stabilized condition, or, under the circumstances described in paragraph (c)(2)(iii) of this section, to improve or resolve the enrollee’s condition.

(2) *MA organization financial responsibility.* The MA organization—

(i) Is financially responsible (consistent with § 422.214) for post-stabilization care services obtained within or outside the MA organization that are pre-approved by a plan provider or other MA organization representative;

(ii) Is financially responsible for post-stabilization care services obtained within or outside the MA organization that are not pre-approved by a plan provider or other MA organization representative, but administered to maintain the enrollee’s stabilized condition within 1 hour of a request to the MA organization for pre-approval of further post-stabilization care services;

(iii) Is financially responsible for post-stabilization care services obtained within or outside the MA organization that are not pre-approved by a plan provider or other MA organization representative, but administered to maintain, improve, or resolve the enrollee’s stabilized condition if—

(A) The MA organization does not respond to a request for pre-approval within 1 hour;

(B) The MA organization cannot be contacted; or

(C) The MA organization representative and the treating physician cannot reach an agreement concerning the enrollee’s care and a plan physician is not available for consultation. In this situation, the MA organization must give the treating physician the opportunity to consult with a plan physician and the treating physician may continue with care of the patient until a plan physician is reached or one of the criteria in § 422.113(c)(3) is met; and

(iv) Must limit charges to enrollees for post-stabilization care services to an amount no greater than what the organization would charge the enrollee if he or she had obtained the services through the MA organization. For purposes of cost sharing, post-stabilization care services begin upon inpatient admission.

(3) *End of MA organization’s financial responsibility.* The MA organization’s financial responsibility for post-stabilization care services it has not pre-approved ends when—

(i) A plan physician with privileges at the treating hospital assumes responsibility for the enrollee’s care;

(ii) A plan physician assumes responsibility for the enrollee’s care through transfer;

(iii) An MA organization representative and the treating physician reach an agreement concerning the enrollee’s care; or