

§ 422.306

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(A) All portions of each single Metropolitan Statistical Area within the State.

(B) All portions of each Metropolitan Statistical Area within each Metropolitan Division within the State.

(iii) A consolidation of noncontiguous counties.

(3) *CMS response.* In response to the request, CMS makes the payment adjustment requested by the chief executive. This adjustment cannot be requested or made for payments to regional MA plans.

(4) *Budget neutrality adjustment for geographically adjusted payment areas.* If CMS adjusts a State's payment areas in accordance with paragraph (d)(2) of this section, CMS at that time, and each year thereafter, adjusts the capitation rates so that the aggregate Medicare payments do not exceed the aggregate Medicare payments that would have been made to all the State's payments areas, absent the geographic adjustment.

(f) *Separate payment for meaningful use of certified EHRs.* In the case of qualifying MA organizations, as defined in § 495.200 of this chapter, entitled to MA EHR incentive payments per § 495.204 of this chapter, such payments are made in accordance with sections 1853(l) and (m) of the Act and subpart C of part 495 of this chapter.

[70 FR 4729, Jan. 28, 2005, as amended at 75 FR 44564, July 28, 2010; 85 FR 72909, Nov. 16, 2020]

§ 422.306 Annual MA capitation rates.

Subject to adjustments at §§ 422.308(b) and (g), the annual capitation rate for each MA local area is determined under paragraph (a) of this section for 2005 and each succeeding year, except for years when CMS announces under § 422.312(b) that the annual capitation rates will be determined under paragraph (b) of this section, and is then adjusted to exclude the applicable phase-in percentage of the standardized costs for payments under section 1886(d)(5)(B) of the Act in the area for the year under paragraph (c) of this section and costs for kidney acquisitions in the area for the year under paragraph (d) of this section.

(a) *Minimum percentage increase rate.* The annual capitation rate for each

MA local area is equal to the minimum percentage increase rate, which is the annual capitation rate for the area for the preceding year increased by the national per capita MA growth percentage (defined at § 422.308(a)) for the year, but not taking into account any adjustment under § 422.308(b) for a year before 2004.

(b) *Greater of the minimum percentage increase rate or local area fee-for-service costs.* The annual capitation rate for each MA local area is the greater of—

(1) The minimum percentage increase rate under paragraph (a) of this section; or

(2) The amount determined, no less frequently than every 3 years, to be the adjusted average per capita cost for the MA local area, as determined under section 1876(a)(4) of the Act, based on 100 percent of fee-for-service costs for individuals who are not enrolled in an MA plan for the year, with the following adjustments:

(i) Adjusted as appropriate for the purpose of risk adjustment;

(ii) Adjusted to exclude costs attributable to payments under section 1886(h) of the Act for the costs of direct graduate medical education;

(iii) Adjusted to include CMS' estimate of the amount of additional per capita payments that would have been made in the MA local area if individuals entitled to benefits under this title had not received services from facilities of the Department of Defense or the Department of Veterans Affairs; and

(iv) Adjusted to exclude costs attributable to payments under sections 1848(o) and 1886(n) of the Act of Medicare FFS incentive payments for meaningful use of electronic health records.

(c) *Phase-out of the indirect costs of medical education from MA capitation rates.* Beginning with 2010, after the annual capitation rate for each MA local area is determined under paragraph (a) or (b), the amount is adjusted in accordance with section 1853(k)(4) of the Act to exclude from such amount the estimated costs for payments under section 1886(d)(5)(B) of the Act in the area for the year.

(d) *Exclusion of costs for kidney acquisitions from MA capitation rates.* Beginning with 2021, after the annual capitation rate for each MA local area is determined under paragraph (a) or (b) of this section, the amount is adjusted in accordance with section 1853(k)(5) of the Act to exclude the Secretary's estimate of the standardized costs for payments for organ acquisitions for kidney transplants covered under this title (including expenses covered under section 1881(d) of the Act) in the area for the year.

[70 FR 4729, Jan. 28, 2005, as amended at 73 FR 54250, Sept. 18, 2008; 75 FR 19806, Apr. 15, 2010; 75 FR 44564, July 28, 2010; 85 FR 33907, June 2, 2020]

§ 422.308 Adjustments to capitation rates, benchmarks, bids, and payments.

CMS performs the following calculations and adjustments to determine rates and payments:

(a) *National per capita growth percentage.* (1) The national per capita growth percentage for a year, applied under § 422.306, is CMS' estimate of the rate of growth in per capita expenditures under this title for an individual entitled to benefits under Part A and enrolled under Part B. CMS may make separate estimates for aged enrollees, disabled enrollees, and enrollees who have ESRD.

(2) The amount calculated in paragraph (a)(1) of this section must exclude expenditures attributable to sections 1848(a)(7) and (o) and sections 1886(b)(3)(B)(ix) and (n) of the Act.

(b) *Adjustment for over or under projection of national per capita growth percentages.* CMS will adjust the minimum percentage increase rate at § 422.306(a)(2) and the adjusted average per capita cost rate at § 422.306(b)(2) for the previous year to reflect any differences between the projected national per capita growth percentages for that year and previous years, and the current estimates of those percentages for those years. CMS will not make this adjustment for years before 2004.

(c) *Risk adjustment—(1) General rule.* CMS will adjust the payment amounts under § 422.304(a)(1), (a)(2), and (a)(3) for age, gender, disability status, institu-

tional status, and other factors CMS determines to be appropriate, including health status, in order to ensure actuarial equivalence. CMS may add to, modify, or substitute for risk adjustment factors if those changes will improve the determination of actuarial equivalence.

(2) *Risk adjustment: Health status—(i) Data collection.* To adjust for health status, CMS applies a risk factor based on data obtained in accordance with § 422.310.

(ii) *Implementation.* CMS applies a risk factor that incorporates inpatient hospital and ambulatory risk adjustment data. This factor is phased as follows:

(A) 100 percent of payments for ESRD MA enrollees in 2005 and succeeding years.

(B) 75 percent of payments for aged and disabled enrollees in 2006.

(C) 100 percent of payments for aged and disabled enrollees in 2007 and succeeding years.

(3) *Uniform application.* Except as provided for MA RFB plans under § 422.304(c)(3), CMS applies this adjustment factor to all types of plans.

(4) *Authority to apply frailty adjustment under PACE payment rules for certain specialized MA plans for special needs individuals.* (i) *Application of payment rules.* For plan year 2011 and subsequent plan years, in the case of a plan described in paragraph (c)(4)(ii) of this section, the Secretary may apply the payment rules under section 1894(d) of the Act (other than paragraph (3) of that section) rather than the payment rules that would otherwise apply under this part, but only to the extent necessary to reflect the costs of treating high concentrations of frail individuals.

(ii) *Plan described.* A plan described in this paragraph is a fully integrated dual-eligible special needs plan, as defined at § 422.2, and has a similar average level of frailty (as determined by the Secretary) as the PACE program.

(5) *Application of coding adjustment.* (i) In applying the adjustment under paragraph (c)(1) of this section for health status to payment amounts, the Secretary ensures that such adjustment

reflects changes in treatment and coding practices in the fee-for-service sector and reflects differences in coding patterns between MA plans and providers under Part A and B to the extent that the Secretary has identified such differences.

(ii) In order to ensure payment accuracy, the Secretary annually conducts an analysis of the differences described in paragraph (c)(5)(i) of this section.

(A) The Secretary completes such analysis by a date necessary to ensure that the results of such analysis are incorporated on a timely basis into the risk scores for 2008 and subsequent years.

(B) In conducting such analysis, the Secretary uses data submitted with respect to 2004 and subsequent years, as available and updated as appropriate.

(iii) In calculating each year's adjustment, the adjustment factor is as follows:

(A) For 2014, not less than the adjustment factor applied for 2010, plus 1.3 percentage points.

(B) For each of the years 2015 through 2018, not less than the adjustment factor applied for the previous year, plus 0.25 percentage points.

(C) For 2019 and each subsequent year, not less than 5.7 percent.

(iv) Such adjustment is applied to risk scores until the Secretary implements risk adjustment using MA diagnostic, cost, and use data.

(6) *Improvements to risk adjustment for special needs individuals with chronic health conditions*—(i) *General rule*. For 2011 and subsequent years, for purposes of the adjustment under paragraph (c)(1) of this section with respect to individuals described in paragraph (c)(6)(ii) of the section, the Secretary uses a risk score that reflects the known underlying risk profile and chronic health status of similar individuals. Such risk score is used instead of the default risk score for new enrollees in MA plans that are not specialized MA plans for special needs individuals (as defined in section 1859(b)(6) of the Act).

(ii) *Individuals described*. An individual described in this clause is a special needs individual described in section 1859(b)(6)(B)(iii) of the Act who enrolls in a specialized MA plan for spe-

cial needs individuals on or after January 1, 2011.

(iii) *Evaluation*. For 2011 and periodically thereafter, the Secretary evaluates and revises the risk adjustment system under this paragraph in order to, as accurately as possible, account for—

(A) Higher medical and care coordination costs associated with frailty, individuals with multiple, comorbid chronic conditions, and individuals with a diagnosis of mental illness; and

(B) Costs that may be associated with higher concentrations of beneficiaries with the conditions specified in paragraph (c)(6)(iii)(A) of this section.

(iv) *Publication of evaluation and revisions*. The Secretary publishes, as part of an announcement under section 1853(b) of the Act, a description of any evaluation conducted under paragraph (c)(6)(iii) of this section during the preceding year and any revisions made under paragraph (c)(6)(iii) of this section as a result of such evaluation.

(d) *Adjustment for intra-area variations*. CMS makes the following adjustments to payments.

(1) *Intra-regional variations*. For payments for an MA regional plan for an MA region, CMS will adjust the payment amount specified at § 422.304(a)(1) and (a)(2) to take into account variations in local payment rates among the different MA local areas included in the region.

(2) *Intra-service area variations*. For payments to an MA local plan with a service area covering more than one MA local area (county), CMS will adjust the payment amount specified in § 422.304(a)(1) and (a)(2) to take into account variations in local payment rates among the different MA local areas included in the plan's service area.

(e) *Adjustment relating to risk adjustment: the government premium adjustment*. CMS will adjust payments to an MA plan as necessary to ensure that the sum of CMS' monthly payment made under § 422.304(a) and the plan's monthly basic beneficiary premium equals the unadjusted MA statutory non-drug bid amount, adjusted for risk and for intra-area or intra-regional payment variation.