

(ii) Substantially failed to comply with the requirements in subpart M of this part relating to grievances and appeals.

(iii) Failed to provide CMS with valid data as required under §422.310.

(iv) Failed to implement an acceptable quality assessment and performance improvement program as required under subpart D of this part.

(v) Substantially failed to comply with the prompt payment requirements in §422.520.

(vi) Substantially failed to comply with the service access requirements in §422.112 or §422.114.

(vii) Failed to comply with the requirements of §422.208 regarding physician incentive plans.

(viii) Substantially fails to comply with the requirements in subpart V of this part.

(ix) Failed to comply with the regulatory requirements contained in this part or part 423 of this chapter or both.

(x) Failed to meet CMS performance requirements in carrying out the regulatory requirements contained in this part or part 423 of this chapter or both.

(xi) Achieves a Part C summary plan rating of less than 3 stars for 3 consecutive contract years. Plan ratings issued by CMS before September 1, 2012 are not included in the calculation of the 3-year period.

(xii) Has failed to report MLR data in a timely and accurate manner in accordance with §422.2460 or that any MLR data required by this subpart is found to be materially incorrect or fraudulent.

(xiii) Fails to meet the preclusion list requirements in accordance with §422.222 and 422.224.

(xiv) The MA organization has committed any of the acts in §422.752(a) that support the imposition of intermediate sanctions or civil money penalties under subpart O of this part.

(xv) Following the issuance of a notice to the MA organization no later than August 1, CMS must terminate, effective December 31 of the same year, an individual MA plan if that plan does not have a sufficient number of enrollees to establish that it is a viable independent plan option.

(xvi) Meets the criteria in §422.514(d)(1) or (2).

(b) *Notice.* If CMS decides to terminate a contract it gives notice of the termination as follows:

(1) *Termination of contract by CMS.*

(i) CMS notifies the MA organization in writing at least 45 calendar days before the intended date of the termination.

(ii) The MA organization notifies its Medicare enrollees of the termination by mail at least 30 calendar days before the effective date of the termination.

(iii) The MA organization notifies the general public of the termination at least 30 calendar days before the effective date of the termination by releasing a press statement to news media serving the affected community or county and posting the press statement prominently on the organization's Web site.

(iv) In the event that CMS issues a termination notice to an MA organization on or before August 1 with an effective date of the following December 31, the MA organization must issue notification to its Medicare enrollees at least 90 days prior to the effective date of the termination.

(2) *Immediate termination of contract by CMS.* (i) The procedures specified in paragraph (b)(1) of this section do not apply if—

(A) CMS determines that a delay in termination, resulting from compliance with the procedures provided in this part prior to termination, would pose an imminent and serious risk to the health of the individuals enrolled with the MA organization; or

(B) The MA organization experiences financial difficulties so severe that its ability to make necessary health services available is impaired to the point of posing an imminent and serious risk to the health of its enrollees, or otherwise fails to make services available to the extent that such a risk to health exists; or

(C) The contract is being terminated based on the grounds specified in paragraph (a)(4)(i) of this section.

(ii) CMS notifies the MA organization in writing that its contract will be terminated on a date specified by CMS. If a termination is effective in the middle of a month, CMS has the right to

recover the prorated share of the capitation payments made to the MA organization covering the period of the month following the contract termination.

(iii) CMS notifies the MA organization's Medicare enrollees in writing of CMS's decision to terminate the MA organization's contract. This notice occurs no later than 30 days after CMS notifies the plan of its decision to terminate the MA contract. CMS simultaneously informs the Medicare enrollees of alternative options for obtaining Medicare services, including alternative MA organizations in a similar geographic area and original Medicare.

(iv) CMS notifies the general public of the termination no later than 30 days after notifying the plan of CMS's decision to terminate the MA contract. This notice is published in one or more newspapers of general circulation in each community or county located in the MA organization's service area.

(c) *Opportunity to develop and implement a corrective action plan*—(1) *General*. (i) Before providing a notice of intent to terminate the contract, CMS will provide the MA organization with notice specifying the MA organization's deficiencies and a reasonable opportunity of at least 30 calendar days to develop and implement a corrective action plan to correct the deficiencies.

(ii) The MA organization is solely responsible for the identification, development, and implementation of its corrective action plan and for demonstrating to CMS that the underlying deficiencies have been corrected within the time period specified by CMS in the notice requesting corrective action.

(2) *Exceptions*. The MA organization will not be provided with an opportunity to develop and implement a corrective action plan prior to termination if—

(i) CMS determines that a delay in termination, resulting from compliance with the procedures provided in this part prior to termination, would pose an imminent and serious risk to the health of the individuals enrolled with the MA organization;

(ii) The MA organization experiences financial difficulties so severe that its ability to make necessary health services available is impaired to the point

of posing an imminent and serious risk to the health of its enrollees, or otherwise fails to make services available to the extent that such a risk to health exists; or

(iii) The contract is being terminated based on the violation specified in (a)(4)(i) of this section.

(d) *Appeal rights*. If CMS decides to terminate a contract, it sends written notice to the MA organization informing it of its termination appeal rights in accordance with subpart N of this part.

(e) If CMS makes a determination to terminate a MA organization's contract under § 422.510(a), CMS also imposes the intermediate sanctions at § 422.750(a)(1) and (3) in accordance with the following procedures:

(1) The sanction goes into effect 15 days after the termination notice is sent.

(2) The MA organization has a right to appeal the intermediate sanction in the same proceeding as the termination appeal specified in paragraph (d) of this section.

(3) A request for a hearing does not delay the date specified by CMS when the sanction becomes effective.

(4) The sanction remains in effect—

(i) Until the effective date of the termination; or

(ii) If the termination decision is overturned on appeal, when a final decision is made by the hearing officer or Administrator.

[63 FR 35099, June 26, 1998, as amended at 65 FR 40328, June 29, 2000; 70 FR 52027, Sept. 1, 2005; 72 FR 68723, Dec. 5, 2007; 75 FR 19811, Apr. 15, 2010; 77 FR 22168, Apr. 12, 2012; 78 FR 31307, May 23, 2013; 79 FR 29959, May 23, 2014; 81 FR 80557, Nov. 15, 2016; 83 FR 16734, Apr. 16, 2018; 88 FR 22334, Apr. 12, 2023; 89 FR 30824, Apr. 23, 2024]

**§ 422.512 Termination of contract by the MA organization.**

(a) *Cause for termination*. The MA organization may terminate the MA contract if CMS fails to substantially carry out the terms of the contract.

(b) *Notice*. The MA organization must give advance notice as follows:

(1) To CMS, at least 90 days before the intended date of termination. This notice must specify the reasons why the MA organization is requesting contract termination.