

(c) *Novation agreement defined.* A novation agreement is an agreement among the current owner of the MA organization, the prospective new owner, and CMS—

(1) That is embodied in a document executed and signed by all three parties;

(2) That meets the requirements of § 422.552; and

(3) Under which CMS recognizes the new owner as the successor in interest to the current owner's Medicare contract.

(d) *Effect of change of ownership without novation agreement.* Except to the extent provided in paragraph (b)(2) of this section, the effect of a change of ownership without a novation agreement is that—

(1) The current MA organization, with respect to the affected contract, has substantially failed to comply with the regulatory requirements as described in § 422.510(a)(4)(ix) and the contract may be subject to intermediate enrollment and marketing sanctions as outlined in § 422.750(a)(1) and (a)(3). Intermediate sanctions imposed as part of this section remain in place until CMS approves the change of ownership (including execution of an approved novation agreement), or the contract is terminated.

(i)(A) If the new owner does not participate in the Medicare program in the same service area as the affected contract, it must apply for, and enter into, a contract in accordance with subpart K of this part and part 423 if applicable; and

(B) If the application is conditionally approved, must submit, within 30 days of the conditional approval, the documentation required under § 422.550(c) for review and approval by CMS; or

(ii) If the new owner currently participates in the Medicare program and operates in the same service area as the affected contract, it must, within 30 days of imposition of intermediate sanctions as outlined in paragraph (d)(1) of this section, submit the documentation required under § 422.550(c) for review and approval by CMS.

(2) If the new owner fails to begin the processes required under paragraph (d)(1)(i) or (d)(1)(ii) of this section within 30 days of imposition of inter-

mediate sanctions as outlined in paragraph (d)(1) of this section, the existing contract is subject to termination in accordance with § 422.510(a)(4)(ix).

(e) *Effect of change of ownership with novation agreement.* If the MA organization submits a novation agreement that meets the requirements of § 422.552, and CMS signs it, the new owner becomes the successor in interest to the current owner's Medicare contract.

(f) *Sale of beneficiaries not permitted.*

(1) CMS only recognizes the sale or transfer of an organization's entire MA line of business, consisting of all MA contracts held by the MA organization with the exception of the sale or transfer of a full contract between wholly owned subsidiaries of the same parent organization, which is permitted.

(2) CMS does not recognize or allow a sale or transfer that consists solely of the sale or transfer of individual beneficiaries or groups of beneficiaries enrolled in a plan benefit package.

[60 FR 45681, Sept. 1, 1995. Redesignated and amended at 63 FR 35067, 35106, June 26, 1998; 63 FR 52614, Oct. 1, 1998; 65 FR 40328, June 29, 2000; 70 FR 4738, Jan. 28, 2005; 86 FR 6101, Jan. 19, 2021; 89 FR 30826, Apr. 23, 2024]

§ 422.552 Novation agreement requirements.

(a) *Conditions for CMS approval of a novation agreement.* CMS approves a novation agreement if the following conditions are met:

(1) *Advance notification.* The MA organization notifies CMS at least 60 days before the date of the proposed change of ownership. The MA organization also provides CMS with updated financial information and a discussion of the financial and solvency impact of the change of ownership on the surviving organization.

(2) *Advance submittal of agreement.* The MA organization submits to CMS, at least 30 days before the proposed change of ownership date, three signed copies of the novation agreement containing the provisions specified in paragraph (b) of this section, and one copy of other relevant documents required by CMS.

(3) *CMS's determination.* CMS determines that—