

§ 422.262

42 CFR Ch. IV (10–1–23 Edition)

CMS within 10 business days of the release of its QBP status. The request must specify the given measure(s) in question and the basis for reconsideration such as a calculation error or incorrect data was used to determine the QBP status. The error could impact an individual measure's value or the overall star rating.

(ii) The reconsideration official's decision is final and binding unless a request for an informal hearing is filed in accordance with paragraph (2) of this section.

(2) *Informal hearing request.* An MA organization may request an informal hearing on the record following the reconsideration official's decision regarding its QBP status.

(i) The MA organization seeking an appeal of the reconsideration official's decision regarding its QBP status must do so by providing written notice to CMS within 10 business days of the issuance of the reconsideration decision. The notice must specify the errors the MA organization asserts that CMS made in making the QBP determination and how correction of those errors could result in the organization's qualification for a QBP or a higher QBP.

(ii) The MA organization may not request an informal hearing of its QBP status unless it has already requested and received a reconsideration decision in accordance with paragraph (c)(1) of this section.

(iii) The informal hearing request must pertain only to the measure(s) and value(s) in question that precipitated the request for reconsideration.

(iv) The informal hearing is conducted by a CMS hearing officer on the record. The hearing officer receives no testimony, but may accept written statements with exhibits from each party in support of their position in the matter.

(v) The MA organization must provide clear and convincing evidence that CMS' calculations of the measure(s) and value(s) in question were incorrect.

(vi) The hearing officer issues the decision by electronic mail to the MA organization.

(vii) The hearing officer's decision is final and binding.

(3) *Limits to requesting an administrative review.* (i) CMS may limit the measures or bases for which a contract may request an administrative review of its QBP status.

(ii) An administrative review cannot be requested for the following: the methodology for calculating the star ratings (including the calculation of the overall star ratings); cut-off points for determining measure thresholds; the set of measures included in the star rating system; and the methodology for determining QBP determinations for low enrollment contracts and new MA plans.

(4) *Designation of a hearing officer.* CMS designates a hearing officer to conduct the appeal of the QBP status. The officer must be an individual who did not directly participate in the initial QBP determination.

(d) *Reopening of QBP determinations.* CMS may, on its own initiative, revise an MA organization's QBP status at any time after the initial release of the QBP determinations through April 1 of each year. CMS may take this action on the basis of any credible information, including the information provided during the administrative review process that demonstrates that the initial QBP determination was incorrect.

[76 FR 21566, Apr. 15, 2011, as amended at 83 FR 16733, Apr. 16, 2018]

§ 422.262 Beneficiary premiums.

(a) *Determination of MA monthly basic beneficiary premium.* (1) For an MA plan with an unadjusted statutory non-drug bid amount that is less than the relevant unadjusted non-drug benchmark amount, the basic beneficiary premium is zero.

(2) For an MA plan with an unadjusted statutory non-drug bid amount that is equal to or greater than the relevant unadjusted non-drug benchmark amount, the basic beneficiary premium is the amount by which (if any) the bid amount exceeds the benchmark amount. All approved basic premiums must be charged; they cannot be waived.

(b) *Consolidated monthly premiums.* Except as specified in paragraph (b)(2) of this section, MA organizations must charge enrollees a consolidated monthly MA premium.

(1) The consolidated monthly premium for an MA plan (other than a MSA plan) is the sum of the MA monthly basic beneficiary premium (if any), the MA monthly supplementary beneficiary premium (if any), and the MA monthly prescription drug beneficiary premium (if any).

(2) *Special rule for MSA plans.* For an individual enrolled in an MSA plan offered by an MA organization, the monthly beneficiary premium is the supplemental premium (if any).

(c) *Uniformity of premiums*—(1) *General rule.* Except as permitted for supplemental premiums pursuant to § 422.106(d), for MA contracts with employers and labor organizations, the MA monthly bid amount submitted under § 422.254, the MA monthly basic beneficiary premium, the MA monthly supplemental beneficiary premium, the MA monthly prescription drug premium, and the monthly MSA premium of an MA organization may not vary among individuals enrolled in an MA plan (or segment of the plan as provided for local MA plans under paragraph (c)(2) of this section). In addition, the MA organization cannot vary the level of cost-sharing charged for basic benefits or supplemental benefits (if any) among individuals enrolled in an MA plan (or segment of the plan).

(2) *Segmented service area option.* An MA organization may apply the uniformity requirements in paragraph (c)(1) of this section to segments of an MA local plan service area (rather than to the entire service area) as long as such a segment is composed of one or more MA payment areas. The information specified under § 422.254 is submitted separately for each segment. This provision does not apply to MA regional plans.

(d) *Monetary inducement prohibited.* An MA organization may not provide for cash or other monetary rebates as an inducement for enrollment or for any other reason or purpose.

(e) *Timing of payments.* The MA organization must permit payments of MA monthly basic and supplemental beneficiary premiums and monthly prescription drug beneficiary premiums on a monthly basis and may not terminate coverage for failure to make time-

ly payments except as provided in § 422.74(b).

(f) *Beneficiary payment options.* An MA organization must permit each enrollee, at the enrollee's option, to make payment of premiums (if any) under this part to the organization through-

(1) Withholding from the enrollee's Social Security benefit payments, or benefit payments by the Railroad Retirement Board or the Office of Personnel Management, in the manner that the Part B premium is withheld;

(2) An electronic funds transfer mechanism (such as automatic charges of an account at a financial institution or a credit or debit card account);

(3) According to other means that CMS may specify, including payment by an employer or under employment-based retiree health coverage on behalf of an employee, former employee (or dependent), or by other third parties such as a State.

(i) Regarding the option in paragraph (f)(1) of this section, MA organizations may not impose a charge on beneficiaries for the election of this option.

(ii) An enrollee may opt to make a direct payment of premium to the plan.

(g) *Prohibition on improper billing of premiums.* MA organizations shall not bill an enrollee for a premium payment period if the enrollee has had the premium for that period withheld from his or her Social Security, Railroad Retirement Board or Office of Personnel Management check.

(h) *Retroactive collection of premiums.* In circumstances where retroactive collection of premium amounts is necessary and the enrollee is without fault in creating the premium arrearage, the Medicare Advantage organization shall offer the enrollee the option of payment either by lump sum, by equal monthly installment spread out over at least the same period for which the premiums were due, or through other arrangements mutually acceptable to the enrollee and the Medicare Advantage organization. For monthly installments, for example, if 7 months of premiums are due, the member would have at least 7 months to repay.

[63 FR 18134, Apr. 14, 1998, as amended at 74 FR 1541, Jan. 12, 2009]