request in the form and manner prescribed by CMS or by filing the appropriate disenrollment form through other mechanisms as determined by CMS.

[63 FR 35071, June 26, 1998; 63 FR 52612, Oct. 1, 1998, as amended at 65 FR 40317, June 29, 2000; 70 FR 4717, Jan. 28, 2005; 76 FR 21561, Apr. 15, 2011; 83 FR 16722, Apr. 16, 2018; 85 FR 33901, June 2, 2020; 88 FR 22328, Apr. 12, 2023; 88 FR 50044, Aug. 1, 2023]

§ 422.64 Information about the MA program.

Each MA organization must provide, on an annual basis, and in a format and using standard terminology that may be specified by CMS, the information necessary to enable CMS to provide to current and potential beneficiaries the information they need to make informed decisions with respect to the available choices for Medicare coverage.

[65 FR 40317, June 29, 2000]

§ 422.66 Coordination of enrollment and disenrollment through MA organizations.

(a) *Enrollment.* An individual who wishes to elect an MA plan offered by an MA organization may make or change his or her election during the election periods specified in § 422.62 by filing the appropriate election form with the organization or through other mechanisms as determined by CMS.

(b) *Disenrollment*—(1) *Basic rule.* An individual who wishes to disenroll from an MA plan may change his or her election during the election periods specified in § 422.62 in either of the following manners:

(i) Elect a different MA plan by filing the appropriate election with the MA organization.

(ii) Submit a request for disenrollment to the MA organization in the form and manner prescribed by CMS or file the appropriate disenrollment request through other mechanisms as determined by CMS.

(2) *When a disenrollment request is considered to have been made.* A disenrollment request is considered to have been made on the date the disenrollment request is received by the MA organization.

(3) *Responsibilities of the MA organization.* The MA organization must—

(i) Submit a disenrollment notice to CMS within timeframes specified by CMS;

(ii) Provide enrollee with notice of disenrollment in a format specified by CMS; and

(iii) In the case of a plan where lock-in applies, include in the notice a statement explaining that he or she—

(A) Remains enrolled until the effective date of disenrollment; and

(B) Until that date, neither the MA organization nor CMS pays for services not provided or arranged for by the MA plan in which the enrollee is enrolled; and

(iv) File and retain disenrollment requests for the period specified in CMS instructions.

(4) *Effect of failure to submit disenrollment notice to CMS promptly.* If the MA organization fails to submit the correct and complete notice required in paragraph (b)(3)(i) of this section, the MA organization must reimburse CMS for any capitation payments received after the month in which payment would have ceased if the requirement had been met timely.

(5) *Retroactive disenrollment.* CMS may grant retroactive disenrollment in the following cases:

(i) There never was a legally valid enrollment.

(ii) A valid request for disenrollment was properly made but not processed or acted upon.

(c) *Election by default: Initial coverage election period*—(1) *Basic rule.* Subject to paragraph (c)(2) of this section, an individual who fails to make an election during the initial coverage election period is deemed to have elected original Medicare.

(2) *Default enrollment into MA dual eligible special needs plan*—(i) *Conditions for default enrollment.* During an individual's initial coverage election period, an individual may be deemed to have elected a MA special needs plan for individuals entitled to medical assistance under a State plan under Title XIX (including a fully integrated dual eligible special needs plan as defined in § 422.2) offered by the organization provided all the following conditions are met:

(A) At the time of the deemed election, the individual remains enrolled in an affiliated Medicaid managed care plan. For purposes of this section, an affiliated Medicaid managed care plan is one that is offered by the MA organization that offers the dual eligible MA special needs plan or is offered by an entity that shares a parent organization with such MA organization;

(B) The state has approved the use of the default enrollment process in the contract described in § 422.107 and provides the information that is necessary for the MA organization to identify individuals who are in their initial coverage election period;

(C) The MA organization offering the MA special needs plan has issued the notice described in paragraph (c)(2)(iv) of this section to the individual;

(D) Prior to the effective date described in paragraph (c)(2)(iii) of this section, the individual does not decline the default enrollment and does not elect to receive coverage other than through the MA organization;

(E) CMS has approved the MA organization to use default enrollment under paragraph (c)(2)(ii) of this section;

(F) The MA organization has a minimum overall quality rating from the most recently issued ratings, under the rating system described in §§ 422.160 through 422.166, of at least 3 stars or is a low enrollment contract or new MA plan as defined in § 422.252; and

(G) The MA organization does not have any prohibition on new enrollment imposed by CMS.

(ii) *CMS approval of default enrollment.* An MA organization must obtain approval from CMS before implementing any default enrollment as described in this section. CMS approval will be for a period not to exceed five years, although CMS may suspend or rescind approval prior to the expiration of this period if CMS determines the MA organization is not in compliance with the requirements of this section.

(iii) *Effective date of default enrollment.* Default enrollment in the dual eligible MA special needs plan is effective the month in which the individual is first entitled to both Part A and Part B.

(iv) *Notice requirement for default enrollments.* In addition to the information described in § 422.111 and no fewer than 60 calendar days prior to the enrollment effective date described in paragraph (c)(2)(iii) of this section, the MA organization must provide to each individual who qualifies for deemed enrollment under paragraph (c)(2) of this section a notice that includes the following:

(A) Information on the differences in premium, benefits and cost sharing between the individual's current Medicaid managed care plan and the dual eligible MA special needs plan and the process for accessing care under the MA plan;

(B) The individual's ability to decline the enrollment, up to and including the day prior to the enrollment effective date, and either enroll in Original Medicare or choose another MA plan; and

(C) A general description of alternative Medicare health and drug coverage options available to an individual in his or her Initial Coverage Election Period.

(d) *Conversion of enrollment (seamless continuation of coverage)*—(1) *Basic rule.* An MA plan offered by an MA organization must accept any individual (regardless of whether the individual has end-stage renal disease) who requests enrollment during his or her Initial Coverage Election Period while enrolled in a health plan offered by the MA organization during the month immediately preceding the MA plan enrollment effective date, and who meets the eligibility requirements at § 422.50.

(2) *Reserved vacancies.* Subject to CMS's approval, an MA organization may set aside a reasonable number of vacancies in order to accommodate enrollment of conversions. Any set aside vacancies that are not filled within a reasonable time must be made available to other MA eligible individuals.

(3) *Effective date of conversion.* If an individual chooses to remain enrolled with the MA organization as an MA enrollee, the individual's conversion to an MA enrollee is effective the month in which he or she is entitled to both Part A and Part B in accordance with the requirements in paragraph (d)(5) of this section.

(4) *Prohibition against disenrollment.* The MA organization may disenroll an

individual who is converting under the provisions of paragraph (a) of this section only under the conditions specified in § 422.74.

(5) *Election.* An individual who requests seamless continuation of coverage as described in paragraph (d)(1) of this section may complete a simplified election, in a form and manner approved by CMS that meets the requirements in § 422.60(c)(1).

(6) *Submittal of information to CMS.* The MA organization must transmit the information necessary for CMS to add the individual to its records as specified in § 422.60(e)(6).

(e) *Maintenance of enrollment.* (1) An individual who has made an election under this section is considered to have continued to have made that election until either of the following, which ever occurs first:

(i) The individual changes the election under this section.

(ii) The elected MA plan is discontinued or no longer serves the area in which the individual resides, as provided under § 422.74(b)(3), or the organization does not offer or the individual does not elect the option of continuing enrollment, as provided under § 422.54.

(2) An individual enrolled in an MA plan that becomes an MA-PD plan on January 1, 2006, will be deemed to have elected to enroll in that MA-PD plan.

(3) An individual enrolled in an MA plan that, as of December 31, 2005, offers any prescription drug coverage will be deemed to have elected an MA-PD plan offered by the same organization as of January 1, 2006.

(4) An individual who has elected an MA plan that does not provide prescription drug coverage will not be deemed to have elected an MA-PD plan and will remain enrolled in the MA plan as provided in paragraph (e)(1) of this section.

(5) An individual enrolled in an MA-PD plan as of December 31 of a year is deemed to have elected to remain enrolled in that plan on January 1 of the following year.

(f) *Exception for employer group health plans.* (1) In cases when an MA organization has both a Medicare contract and a contract with an employer group health plan, and in which the MA organization arranges for the employer to process election forms for Medicare-entitled group members who wish to disenroll from the Medicare contract, the effective date of the election may be retroactive. Consistent with § 422.308(f)(2), payment adjustments based on a retroactive effective date may be made for up to a 90-day period.

(2) Upon receipt of the election from the employer, the MA organization must submit a disenrollment notice to CMS within timeframes specified by CMS.

[63 FR 35071, June 26, 1998; 63 FR 52612, Oct. 1, 1998, as amended at 65 FR 40317, June 29, 2000; 70 FR 4718, Jan. 28, 2005; 70 FR 52026, Sept. 1, 2005; 83 FR 16722, Apr. 16, 2018]

§ 422.68 Effective dates of coverage and change of coverage.

(a) *Initial coverage election period.* An election made during an initial coverage election period as described in § 422.62(a)(1) is effective as follows:

(1) If made prior to the month of entitlement to both Part A and Part B, it is effective as of the first day of the month of entitlement to both Part A and Part B.

(2) If made during or after the month of entitlement to both Part A and Part B, it is effective the first day of the calendar month following the month in which the election is made.

(b) *Annual coordinated election periods.* For an election or change of election made during the annual coordinated election period as described in § 422.62(a)(2)(i), coverage is effective as of the first day of the following calendar year except that for the annual coordinated election period described in § 422.62(a)(2)(ii), elections made after December 31, 2005 through May 15, 2006 are effective as of the first day of the first calendar month following the month in which the election is made.

(c) *Open enrollment periods.* For an election, or change in election, made during an open enrollment period, as described in § 422.62(a)(3) through (5), coverage is effective as of the first day of the first calendar month following the month in which the election is made.

(d) *Special election periods.* For an election or change of election made during a special election period as described in § 422.62(b), the coverage or