

chapter 55 or the Department of Defense under 38 U.S.C. chapter 17, may not enroll in an M+C MSA plan.

(c) *Individuals eligible for Medicare cost-sharing under Medicaid State plans.* An individual who is entitled to coverage of Medicare cost-sharing under a State plan under title XIX of the Act is not eligible to enroll in an M+C MSA plan.

(d) *Other limitations.* An individual who receives health benefits that cover all or part of the annual deductible under the M+C MSA plan may not enroll in an M+C MSA plan. Examples of this type of coverage include, but are not limited to, primary health care coverage other than Medicare, current coverage under the Medicare hospice benefit, supplemental insurance policies not specifically permitted under § 422.104, and retirement health benefits.

[63 FR 35071, June 26, 1998; 63 FR 52612, Oct. 1, 1998]

§ 422.57 Limited enrollment under M+C RFB plans.

An RFB society that offers an M+C RFB plan may offer that plan only to members of the church, or convention or group of churches with which the society is affiliated.

§ 422.60 Election process.

(a) *Acceptance of enrollees: General rule.* (1) Except for the limitations on enrollment in an M+C MSA plan provided by § 422.62(d)(1) and except as specified in paragraph (a)(2) of this section, each M+C organization must accept without restriction (except for an M+C RFB plan as provided by § 422.57) individuals who are eligible to elect an M+C plan that the M+C organization offers and who elect an M+C plan during initial coverage election periods under § 422.62(a)(1), annual election periods under § 422.62(a)(2), and under the circumstances described in § 422.62(b)(1) through (b)(4).

(2) M+C organizations must accept elections during the open enrollment periods specified in § 422.62(a)(3), (a)(4), and (a)(5) if their M+C plans are open to new enrollees.

(b) *Capacity to accept new enrollees.* (1) M+C organizations may submit information on enrollment capacity of plans

they offer by July 1 of each year as provided by § 422.306(a)(1).

(2) If CMS determines that an M+C plan offered by an M+C organization has a capacity limit, and the number of M+C eligible individuals who elect to enroll in that plan exceeds the limit, the M+C organization offering the plan may limit enrollment in the plan under this part, but only if it provides priority in acceptance as follows:

(i) First, for individuals who elected the plan prior to the CMS determination that capacity has been exceeded, elections will be processed in chronological order by date of receipt of their election forms.

(ii) Then for other individuals in a manner that does not discriminate on the basis of any factor related to health as described in § 422.110.

(3) CMS considers enrollment limit requests for an M+C plan service area, other than those submitted with the adjusted community rate proposal, or for a portion of the plan service area, only if the health and safety of beneficiaries is at risk, such as if the provider network is not available to serve the enrollees in all or a portion of the service area.

(c) *Election forms.* (1) The election form must comply with CMS instructions regarding content and format and have been approved by CMS as described in § 422.80. The form must be completed and signed by the M+C eligible individual (or the individual who will soon become entitled to Medicare benefits) and include authorization for disclosure and exchange of necessary information between the U.S. Department of Health and Human Services and its designees and the M+C organization. Persons who assist beneficiaries in completing forms must sign the form and indicate their relationship to the beneficiary.

(2) The M+C organization must file and retain election forms for the period specified in CMS instructions.

(d) *When an election is considered to have been made.* An election in an M+C plan is considered to have been made on the date the election form is received by the M+C organization.

(e) *Handling of election forms.* The M+C organization must have an effective system for receiving, controlling,

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and processing election forms. The system must meet the following conditions and requirements:

(1) Each election form is dated as of the day it is received.

(2) Election forms are processed in chronological order, by date of receipt.

(3) The M+C organization gives the beneficiary prompt written notice of acceptance or denial in a format specified by CMS.

(4) In a format specified by CMS, a notice of acceptance—

(i) Informs the beneficiary of the date on which enrollment will be effective under § 422.68; and

(ii) If the M+C plan is enrolled to capacity, explains the procedures that will be followed when vacancies occur.

(5) A notice of denial explains the reasons for denial in a format specified by CMS.

(6) Upon receipt of the election form or from the date a vacancy occurs for an individual who was accepted for future enrollment, the M+C organization transmits, within the timeframes specified by CMS, the information necessary for CMS to add the beneficiary to its records as an enrollee of the M+C organization.

(f) *Exception for employer group health plans.*

(1) In cases in which an M+C organization has both a Medicare contract and a contract with an employer group health plan, and in which the M+C organization arranges for the employer to process election forms for Medicare-entitled group members, who wish to enroll under the Medicare contract, the effective date of the election may be retroactive. Consistent with § 422.250(b), payment adjustments based on a retroactive effective date may be made for up to a 90-day period.

(2) In order to obtain the effective date described in paragraph (f)(1) of this section, the beneficiary must certify that, at the time of enrollment in the M+C organization, he or she received the disclosure statement specified in § 422.111.

(3) Upon receipt of the election form from the employer, the M+C organiza-

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tion must submit the enrollment within timeframes specified by CMS.

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§ 422.62 Election of coverage under an M+C plan.

(a) *General: Coverage election periods—*

(1) *Initial coverage election period.* The initial coverage election period is the period during which a new M+C eligible individual may make an initial election. This period begins 3 months prior to the month the individual is first entitled to both Part A and Part B and ends the last day of the month preceding the month of entitlement.

(2) *Annual election period.* (i) Beginning in 1999, the month of November is the annual election period for the following calendar year. Organizations offering M+C plans in January 1999 must open enrollment to Medicare beneficiaries in November 1998.

(ii) During the annual election period, an individual eligible to enroll in an M+C plan may change his or her election from an M+C plan to original Medicare or to a different M+C plan, or from original Medicare to an M+C plan.

(3) *Open enrollment and disenrollment opportunities through 2001.* From 1998 through 2001, the number of elections or changes that an M+C eligible individual may make is not limited (except as provided for in paragraph (d) of this section for M+C MSA plans). Subject to the M+C plan being open to enrollees as provided under § 422.60(a)(2), an individual eligible to elect an M+C plan may change his or her election from an M+C plan to original Medicare or to a different M+C plan, or from original Medicare to an M+C plan.

(4) *Open enrollment and disenrollment during 2002.* (i) Except as provided in paragraphs (a)(4)(ii), (a)(4)(iii), and (a)(6) of this section, an individual who is eligible to elect an M+C plan in 2002 may elect an M+C plan or change his or her election from an M+C plan to original Medicare or to a different M+C plan, or from original Medicare to an M+C plan, but only once during the first 6 months of the year.

(ii) *Newly eligible M+C individual.* An individual who becomes an M+C eligible individual during 2002 may elect an