

§ 422.64

(B) Failure to provide medical services in accordance with applicable quality standards; or

(ii) The organization (or its agent, representative, or plan provider) materially misrepresented the plan's provisions in marketing the plan to the individual.

(4) The individual meets such other exceptional conditions as CMS may provide.

(c) *Special election period for individual age 65.* Effective January 1, 2002, an M+C eligible individual who elects an M+C plan during the initial enrollment period, as defined under section 1837(d) of the Act, that surrounds his or her 65th birthday (this period begins 3 months before and ends 3 months after the month of the individual's 65th birthday) may discontinue the election of that plan and elect coverage under original Medicare at any time during the 12-month period that begins on the effective date of enrollment in the M+C plan.

(d) *Special rules for M+C MSA plans—*

(1) *Enrollment.* An individual may enroll in an M+C MSA plan only during an initial or annual election period described in paragraphs (a)(1) and (a)(2) of this section or during November 1998.

(2) *Disenrollment.* (i) Except as provided in paragraph (d)(2)(ii) of this section, an individual may disenroll from an M+C MSA plan only during—

(A) November 1998;

(B) An annual election period; or

(C) The special election period described in paragraph (b) of this section.

(ii) *Exception.* An individual who elects an M+C MSA plan during an annual election period and has never before elected an M+C MSA plan may revoke that election, no later than December 15 of that same year, by submitting to the organization that offers the M+C MSA plan a signed and dated 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]

42 CFR Ch. IV (10–1–02 Edition)

§ 422.64 Information about the M+C program.

Each M+C 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 M+C organizations.

(a) *Enrollment.* An individual who wishes to elect an M+C plan offered by an M+C 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 M+C 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 M+C plan by filing the appropriate election form with the M+C organization or through other mechanisms as determined by CMS.

(ii) Submit a signed and dated request for disenrollment to the M+C organization in the form and manner prescribed by CMS or file the appropriate disenrollment form 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 M+C organization.

(3) *Responsibilities of the M+C organization.* The M+C organization must—

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

(ii) Provide the enrollee with a copy of the request for disenrollment; and

(iii) In the case of a plan where lock-in applies, also provide the enrollee with a statement explaining that he or she—

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

(B) Until that date, neither the M+C organization nor CMS pays for services not provided or arranged for by the M+C 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 M+C organization fails to submit the correct and complete notice required in paragraph (b)(3)(i) of this section, the M+C 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.* An individual who fails to make an election during the initial coverage election period is deemed to have elected original Medicare.

(d) *Conversion of enrollment (seamless continuation of coverage)*—(1) *Basic rule.* An M+C plan offered by an M+C organization must accept any individual (regardless of whether the individual has end-stage renal disease) who is enrolled in a health plan offered by the M+C organization during the month immediately preceding the month in which he or she is entitled to both Part A and Part B, and who meets the eligibility requirements at § 422.50.

(2) *Reserved vacancies.* Subject to CMS's approval, an M+C 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 M+C eligible individuals.

(3) *Effective date of conversion.* If an individual chooses to remain enrolled with the M+C organization as an M+C enrollee, the individual's conversion to an M+C 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 M+C 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 form.* The individual who is converting must complete and sign an election form as described in § 422.60(c)(1).

(6) *Submittal of information to CMS.* The M+C 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.* 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:

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

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

(f) *Exception for employer group health plans.* (1) In cases when 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 disenroll from 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) Upon receipt of the election form from the employer, the M+C organization must submit a disenrollment notice to CMS within timeframes specified by CMS.

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