

(i) Resides in the service area of the MA plan.

(ii) Resides outside of the service area of the MA plan and is enrolled in a health plan offered by the MA organization during the month immediately preceding the month in which the individual is entitled to both Medicare Part A and Part B, provided that an MA organization chooses to offer this option and that CMS determines that all applicable MA access requirements of § 422.112 are met for that individual through the MA plan's established provider network. The MA organization must furnish the same benefits to these enrollees as to enrollees who reside in the service area;

(4) Has been a member of an Employer Group Health Plan (EGHP) that includes the elected MA plan, even if the individual lives outside of the MA plan service area, provided that an MA organization chooses to offer this option and that CMS determines that all applicable MA access requirements at § 422.112 are met for that individual through the MA plan's established provider network. The MA organization must furnish the same benefits to all enrollees, regardless of whether they reside in the service area;

(5) Completes and signs an election form or completes another CMS-approved election method offered by the MA organization and provides information required for enrollment; and

(6) Agrees to abide by the rules of the MA organization after they are disclosed to him or her in connection with the election process.

(b) An MA eligible individual may not be enrolled in more than one MA plan at any given time.

[63 FR 35071, June 26, 1998; 63 FR 52611, Oct. 1, 1998, as amended at 65 FR 40316, June 29, 2000; 68 FR 50855, Aug. 22, 2003; 70 FR 4715, Jan. 28, 2005; 70 FR 52026, Sept. 1, 2005]

§ 422.52 Eligibility to elect an MA plan for special needs individuals.

(a) *General rule.* In order to elect a specialized MA plan for a special needs individual (Special Needs MA plan, or SNP), the individual must meet the eligibility requirements specified in this section.

(b) *Basic eligibility requirements.* Except as provided in paragraph (c) of

this section, to be eligible to elect an SNP, an individual must:

(1) Meet the definition of a special needs individual, as defined at § 422.2;

(2) Meet the eligibility requirements for that specific SNP; and

(3) Be eligible to elect an MA plan under § 422.50.

(c) *Exception to § 422.50.* CMS may waive § 422.50(a)(2) concerning the exclusion of persons with ESRD.

(d) *Deeming continued eligibility.* If an SNP determines that the enrollee no longer meets the eligibility criteria, but can reasonably be expected to again meet that criteria within a 6-month period, the enrollee is deemed to continue to be eligible for the MA plan for a period of not less than 30 days but not to exceed 6 months.

(e) *Restricting Enrollment.* An SNP must restrict future enrollment to only special needs individuals as established under § 422.2.

(f) *Exceptions.* (1) As specified in § 422.4, CMS may designate certain MA plans that disproportionately serve special needs individuals, as defined in § 422.2 as SNPs.

(2) Individuals already enrolled in an MA plan that CMS subsequently designates as an SNP may continue to be enrolled in the plan and may not be involuntarily disenrolled because they do not meet the definition of special needs individuals in § 422.2.

[70 FR 4716, Jan. 28, 2005]

§ 422.54 Continuation of enrollment for MA local plans.

(a) *Definition.* *Continuation area* means an additional area (outside the service area) within which the MA organization offering a local plan furnishes or arranges to furnish services to its continuation-of-enrollment enrollees. Enrollees must reside in a continuation area on a permanent basis. A continuation area does not expand the service area of any MA local plan.

(b) *Basic rule.* An MA organization may offer a continuation of enrollment option to MA local plan enrollees when they no longer reside in the service area of a plan and permanently move into the geographic area designated by the MA organization as a continuation area. The intent to no longer reside in

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an area and permanently live in another area is verified through documentation that establishes residency, such as a driver's license or voter registration card.

(c) *General requirements.* (1) An MA organization that wishes to offer a continuation of enrollment option must meet the following requirements:

(i) Obtain CMS's approval of the continuation area, the marketing materials that describe the option, and the MA organization's assurances of access to services.

(ii) Describe the option(s) in the member materials it offers and make the option available to all MA local plan enrollees residing in the continuation area.

(2) An enrollee who moves out of the service area and into the geographic area designated as the continuation area has the choice of continuing enrollment or disenrolling from the MA local plan. The enrollee must make the choice of continuing enrollment in a manner specified by CMS. If no choice is made, the enrollee must be disenrolled from the plan.

(d) *Specific requirements—*

(1) *Continuation of enrollment benefits.* The MA organization must, at a minimum, provide or arrange for the Medicare-covered benefits as described in § 422.101(a).

(2) *Reasonable access.* The MA organization must ensure reasonable access in the continuation area—

(i) Through contracts with providers, or through direct payment of claims that satisfy the requirements in § 422.100(b)(2), to other providers who meet the requirement in subpart E of this part; and

(ii) By ensuring that the access requirements of § 422.112 are met.

(3) *Reasonable cost sharing.* For services furnished in the continuation area, an enrollee's cost-sharing liability is limited to the cost-sharing amounts required in the MA local plan's service area (in which the enrollee no longer resides).

(4) *Protection of enrollee rights.* An MA organization that offers a continuation of enrollment option must convey all enrollee rights conferred under this rule, with the understanding that—

(i) The ultimate responsibility for all appeals and grievance requirements remain with the organization that is receiving payment from CMS; and

(ii) Organizations that require enrollees to give advance notice of intent to use the continuation of enrollment option, must stipulate the notification process in the marketing materials.

(e) *Capitation payments.* CMS's capitation payments to all MA organizations, for all Medicare enrollees, are based on rates established on the basis of the enrollee's permanent residence, regardless of where he or she receives services.

[63 FR 35071, June 26, 1998; 63 FR 52611, Oct. 1, 1998, as amended at 65 FR 40316, June 29, 2000; 70 FR 4716, Jan. 28, 2005]

§ 422.56 Enrollment in an MA MSA plan.

(a) *General.* An individual is not eligible to elect an MA MSA plan unless the individual provides assurances that are satisfactory to CMS that he or she will reside in the United States for at least 183 days during the year for which the election is effective.

(b) *Individuals eligible for or covered under other health benefits program.* Unless otherwise provided by the Secretary, an individual who is enrolled in a Federal Employee Health Benefit plan under 5 U.S.C. chapter 89, or is eligible for health care benefits through the Veteran's Administration under 10 U.S.C. chapter 55 or the Department of Defense under 38 U.S.C. chapter 17, may not enroll in an MA 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 MA MSA plan.

(d) *Other limitations.* An individual who receives health benefits that cover all or part of the annual deductible under the MA MSA plan may not enroll in an MA 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