

§ 417.486

require all related entities to agree that—

(1) HHS, the Comptroller General, or their designees have the right to inspect, evaluate, and audit any pertinent books, documents, papers, and records of the subcontractor involving transactions related to the subcontract; and

(2) The right under paragraph (b)(1) of this section to information for any particular contract period will exist for a period equivalent to that specified in § 417.482(f).

[50 FR 1346, Jan. 10, 1985, as amended at 58 FR 38082, July 15, 1993]

§ 417.486 Disclosure of information and confidentiality.

The contract must provide that the HMO or CMP agrees to the following:

(a) To submit to CMS—

(1) All financial information required under subpart O of this part and for final settlement; and

(2) Any other information necessary for the administration or evaluation of the Medicare program.

(b) To comply with the requirements set forth in part 420, subpart C, of this chapter pertaining to the disclosure of ownership and control information.

(c) To comply with the requirements of the Privacy Act, as implemented by 45 CFR part 5b and subpart B of part 401 of this chapter, with respect to any system of records developed in performing carrier or intermediary functions under §§ 417.532 and 417.533.

(d) To meet the confidentiality requirements of § 482.24(b)(3) of this chapter for medical records and for all other enrollee information that is—

(1) Contained in its records or obtained from CMS or other sources; and

(2) Not covered under paragraph (c) of this section.

[50 FR 1346, Jan. 10, 1985, as amended at 58 FR 38082, July 15, 1993; 60 FR 45680, Sept. 1, 1995]

§ 417.488 Notice of termination and of available alternatives: Risk contract.

A risk contract must provide that the HMO or CMP agrees to give notice as follows if the contract is terminated:

(a) At least 60 days before the effective date of termination, to give its Medicare enrollees a written notice that—

(1) Specifies the termination date; and

(2) Describes the alternatives available for obtaining Medicare services after termination.

(b) To pay the cost of the written notices.

[60 FR 45680, Sept. 1, 1995]

§ 417.490 Renewal of contract.

A contract with an HMO or CMP is renewed automatically for the next 12-month period unless CMS or the HMO or CMP decides not to renew, in accordance with § 417.492.

[50 FR 1346, Jan. 10, 1985, as amended at 58 FR 38082, July 15, 1993]

§ 417.492 Nonrenewal of contract.

(a) *Nonrenewal by the HMO or CMP.*

(1) If an HMO or CMP does not intend to renew its contract, it must—

(i) Give written notice to CMS at least 90 days before the end of the current contract period;

(ii) Notify each Medicare enrollee by mail at least 60 days before the end of the contract period; and

(iii) Notify the general public at least 30 days before the end of the contract period, by publishing a notice in one or more newspapers of general circulation in each community or county located in the HMO's or CMP's geographic area.

(2) CMS may accept a nonrenewal notice submitted less than 90 days before the end of a contract period if—

(i) The HMO or CMP notifies its Medicare enrollees and the public in accordance with paragraph (a)(1) of this section; and

(ii) Acceptance would not otherwise jeopardize the effective and efficient administration of the Medicare program.

(b) *Nonrenewal by CMS—(1) Notice of nonrenewal.* If CMS decides not to renew a contract, it gives written notice of nonrenewal as follows:

(i) To the HMO or CMP at least 90 days before the end of the contract period.

(ii) To the HMO's or CMP's Medicare enrollees at least 60 days before the end of the contract period.

(iii) To the general public at least 30 days before the end of the contract period.

(2) *Notice of appeal rights.* CMS gives the HMO or CMP written notice of its right to appeal the nonrenewal decision, in accordance with subpart R of this part, if CMS's decision was based on any of the reasons specified in § 417.494(b).

[50 FR 1346, Jan. 10, 1985, as amended at 58 FR 38079, July 15, 1993; 60 FR 45681, Sept. 1, 1995]

§ 417.494 Modification or termination of contract.

(a) *Modification or termination by mutual consent.* (1) CMS and an HMO or CMP may modify or terminate a contract at any time by written mutual consent.

(2) If the contract is modified, the HMO or CMP must notify its Medicare enrollees of any changes that CMS determines are appropriate for notification.

(3) If the contract is terminated, the HMO or CMP must notify its Medicare enrollees, and CMS notifies the general public, at least 30 days before the termination date.

(b) *Termination by CMS.* (1) CMS may terminate a contract for any of the following reasons:

(i) The HMO or CMP has failed substantially to carry out the terms of the contract.

(ii) The HMO or CMP is carrying out the contract in a manner that is inconsistent with the effective and efficient implementation of section 1876 of the Act.

(iii) The HMO or CMP has failed substantially to comply with the composition of enrollment requirements specified in § 417.413(d).

(iv) CMS determines that the HMO or CMP no longer meets the requirements of section 1876 of the Act and this subpart for being an HMO or CMP.

(2) If CMS decides to terminate a contract, it sends a written notice informing the HMO or CMP of its right to appeal the termination in accordance with subpart R of this part.

(3) An HMO or CMP with a risk contract must notify its Medicare enrollees of the termination as described in § 417.488.

(4) CMS notifies the HMO's or CMP's Medicare enrollees and the general public of the termination at least 30 days before the effective date of termination.

(c) *Termination by the HMO or CMP.* The HMO or CMP may terminate the contract if CMS has failed substantially to carry out the terms of the contract.

(1) The HMO or CMP must notify CMS at least 90 days before the effective date of the termination and must include in its notice the reasons for the termination.

(2) The HMO or CMP must notify its Medicare enrollees of the termination at least 60 days before the termination date. Risk HMOs or CMPs must also provide a written description of alternatives available for obtaining Medicare services after termination of the contract. The HMO or CMP is responsible for the cost of these notices.

(3) The HMO or CMP must notify the general public of the termination at least 30 days before the termination date.

(4) The contract is terminated effective 60 days after the HMO or CMP mails the notice to Medicare enrollees as required in paragraph (c)(2) of this section.

(5) CMS's liability for payment ends as of the first day of the month after the last month for which the contract is in effect.

[50 FR 1346, Jan. 10, 1985, as amended at 52 FR 22322, June 11, 1987; 56 FR 46571, Sept. 13, 1991; 58 FR 38079, 38082, July 15, 1993; 60 FR 45681, Sept. 1, 1995]

§ 417.500 Sanctions against HMOs and CMPs.

(a) *Basis for imposition of sanctions.* CMS may impose the intermediate sanctions specified in paragraph (d) of this section, as an alternative to termination of contract, if CMS determines that an HMO or CMP does one or more of the following:

(1) Fails substantially to provide the medically necessary services required to be provided to a Medicare enrollee and the failure adversely affects (or has