

(2) Has not been medically determined to have end-stage renal disease, except that an individual who develops end-stage renal disease while enrolled in an M+C plan or in a health plan offered by the M+C organization is eligible to elect an M+C plan offered by that organization;

(3) Meets either of the following residency requirements:

(i) Resides in the service area of the M+C plan.

(ii) Resides outside of the service area of the M+C plan and is enrolled in a health plan offered by the M+C 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 M+C organization chooses to offer this option and that HCFA determines that all applicable M+C access requirements of § 422.112 are met for that individual through the M+C plan's established provider network. The M+C 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 M+C plan, even if the individual lives outside of the M+C plan service area, provided that an M+C organization chooses to offer this option and that HCFA determines that all applicable M+C access requirements at § 422.12 are met for that individual through the M+C plan's established provider network. The M+C 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 and gives information required for enrollment; and

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

(b) An M+C eligible individual may not be enrolled in more than one M+C 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]

§ 422.54 Continuation of enrollment.

(a) *Definition. Continuation area* means an additional area (outside the

service area) within which the M+C organization furnishes or arranges for furnishing 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 plan.

(b) *Basic rule.* An M+C organization may offer a continuation of enrollment option to enrollees when they no longer reside in the service area of a plan and permanently move into the geographic area designated by the M+C organization as a continuation of enrollment area. The intent to no longer reside in an area and permanently live in another area is verified through documentation that establishes residency, such as, driver's license, voter registration.

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

(i) Obtain HCFA's approval of the continuation area, the marketing materials that describe the option, and the M+C 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 enrollees residing in the continuation area.

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

(d) *Specific requirements—*

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

(2) *Reasonable access.* The M+C 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

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(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 M+C plan's service area (in which the enrollee no longer resides).

(4) *Protection of enrollee rights.* An M+C 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 HCFA; 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.* HCFA's capitation payments to all M+C 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]

§ 422.56 Limitations on enrollment in an M+C MSA plan.

(a) *General.* An individual is not eligible to elect an M+C MSA plan—

(1) If the number of individuals enrolled in M+C MSA plans has reached 390,000;

(2) Unless the individual provides assurances that are satisfactory to HCFA that he or she will reside in the United States for at least 183 days during the year for which the election is effective; or

(3) On or after January 1, 2003, unless the enrollment is the continuation of an enrollment in effect as of that date.

(b) *Individuals eligible for or covered under other health benefits program.* 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 De-

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fense 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