

**§ 422.57**

**42 CFR Ch. IV (10-1-99 Edition)**

(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 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 must submit information on enrollment capacity of plans they offer by May 1 of each year as provided by § 422.306(a)(1).

(2) If HCFA 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 HCFA 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.

(c) *Election forms.* (1) The election form must comply with HCFA instructions regarding content and format and have been approved by HCFA 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 HCFA instructions.

(d) *When an election is considered to have been made.* An election in an M+C