

(1) Consists of a review of the evidence by an HCFA official who did not participate in the initial decision to impose a sanction; and

(2) Gives the M+C organization a concise written decision setting forth the factual and legal basis for the decision that affirms or rescinds the original determination.

(c) *Specific sanctions.* If HCFA determines that an M+C organization has acted or failed to act as specified in § 422.752 and affirms this determination in accordance with paragraph (b) of this section, HCFA may—

(1) Require the M+C organization to suspend acceptance of applications made by Medicare beneficiaries for enrollment in the sanctioned M+C plan during the sanction period;

(2) In the case of a violation under § 422.752(a), suspend payments to the M+C organization for Medicare beneficiaries enrolled in the sanctioned M+C plan during the sanction period; and

(3) Require the M+C organization to suspend all marketing activities for the sanctioned M+C plan to Medicare enrollees.

(d) *Effective date and duration of sanctions—*(1) *Effective date.* Except as provided in paragraph (d)(2) of this section, a sanction is effective 15 days after the date that the organization is notified of the decision to impose the sanction or, if the M+C organization timely seeks reconsideration under paragraph (b) of this section, on the date specified in the notice of HCFA's reconsidered determination.

(2) *Exception.* If HCFA determines that the M+C organization's conduct poses a serious threat to an enrollee's health and safety, HCFA may make the sanction effective on a date before issuance of HCFA's reconsidered determination.

(3) *Duration of sanction.* The sanction remains in effect until HCFA notifies the M+C organization that HCFA is satisfied that the basis for imposing the sanction has been corrected and is not likely to recur.

(e) *Termination by HCFA.* In addition to or as an alternative to the sanctions described in paragraph (c) of this section, HCFA may decline to authorize the renewal of an organization's con-

tract in accordance with § 422.506(b)(2) and (b)(3), or terminate the contract in accordance with § 422.510.

(f) *Civil money penalties.* (1) If HCFA determines that an M+C organization has committed an act or failed to comply with a requirement described in § 422.752, HCFA notifies the OIG of this determination, and also notifies OIG when HCFA reverses or terminates a sanction imposed under this part.

(2) In the case of a violation described in paragraph (a) of § 422.752, or a determination under paragraph (b) of § 422.752 based upon a violation under § 422.510(a)(4) (involving fraudulent or abusive activities), in accordance with the provisions of 42 CFR parts 1003 and 1005, the OIG may impose civil money penalties on the M+C organization in accordance with parts 1003 and 1005 of this title in addition to, or in place of, the sanctions that HCFA may impose under paragraph (c) of this section.

(3) In the case of a determination under paragraph (b) of § 422.752 other than a determination based upon a violation under § 422.510(a)(4), in accordance with the provisions of 42 CFR parts 1003 and 1005, HCFA may impose civil money penalties on the M+C organization in the amounts specified in § 422.758 in addition to, or in place of, the sanctions that HCFA may impose under paragraph (c) of this section.

§ 422.758 Maximum amount of civil money penalties imposed by HCFA.

If HCFA makes a determination under § 422.752(b), based on any determination under § 422.510(a) except a determination under § 422.510(a)(4), HCFA may impose civil money penalties in the following amounts:

(a) If the deficiency on which the determination is based has directly adversely affected (or has the substantial likelihood of adversely affecting) one or more M+C enrollees—\$25,000 for each determination.

(b) For each week that a deficiency remains uncorrected after the week in which the M+C organization receives HCFA's notice of the determination—\$10,000.

§ 422.760 Other applicable provisions.

The provisions of section 1128A of the Act (except subsections (a) and (b))