

that the disenrollment is effective the first day of the calendar month following the last month of entitlement to Part A or Part B benefits.

(6) *Death of the individual.* If the individual dies, disenrollment is effective the first day of the calendar month following the month of death.

(7) *Plan termination or area reduction.*

(i) If the plan terminates or is terminated or the service area or continuation area are reduced with respect to all M+C enrollees in the area in which they reside, the M+C organization must give each Medicare enrollee a written notice of the effective date of the plan termination or area reduction and a description of alternatives for obtaining benefits under the M+C program.

(ii) The notice must be sent before the effective date of the plan termination or area reduction.

(e) *Consequences of disenrollment—(1) Disenrollment for non-payment of premiums, disruptive behavior, fraud or abuse, loss of Part A or Part B.* An individual who is disenrolled under paragraph (b)(1)(i), (b)(1)(ii), (b)(1)(iii), or paragraph (b)(2)(ii) of this section is deemed to have elected original Medicare.

(2) *Disenrollment based on plan termination, area reduction, or individual moves out of area.* (i) An individual who is disenrolled under paragraph (b)(2)(i) or (b)(3) of this section has a special election period in which to make a new election as provided in § 422.62(b)(1) and (b)(2).

(ii) An individual who fails to make an election during the special election period is deemed to have elected original Medicare.

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**§ 422.80 Approval of marketing materials and election forms.**

(a) *HCFA review of marketing materials.* An M+C organization may not distribute any marketing materials (as defined in paragraph (b)), or election forms, or make such materials or forms available to individuals eligible to elect an M+C plan, unless—

(1) At least 45 days before the date of distribution the M+C organization has submitted the material or form to

HCFA for review under the guidelines in paragraph (c); and

(2) HCFA has not disapproved the distribution of the material or form.

(b) *Definition of marketing materials.* Marketing materials include any informational materials targeted to Medicare beneficiaries which:

(1) Promote the M+C organization, or any M+C plan offered by the M+C organization;

(2) Inform Medicare beneficiaries that they may enroll, or remain enrolled in, an M+C plan offered by the M+C organization;

(3) Explain the benefits of enrollment in an M+C plan, or rules that apply to enrollees;

(4) Explain how Medicare services are covered under an M+C plan, including conditions that apply to such coverage;

(5) Examples of marketing materials include, but are not limited to:

(i) General audience materials such as general circulation brochures, newspapers, magazines, television, radio, billboards, yellow pages, or the internet.

(ii) Marketing representative materials such as scripts or outlines for telemarketing or other presentations.

(iii) Presentation materials such as slides and charts.

(iv) Promotional materials such as brochures or leaflets, including materials for circulation by third parties (e.g., physicians or other providers).

(v) Membership communication materials such as membership rules, subscriber agreements (evidence of coverage), member handbooks, and newsletters.

(vi) Letters to members about contractual changes; changes in providers, premiums, benefits, plan procedures etc.

(vii) Membership or claims processing activities (e.g., materials on rules involving non-payment of premiums, confirmation of enrollment or disenrollment, or annual notification information).

(c) *Guidelines for HCFA review.* In reviewing marketing material or election forms under paragraph (a) of this section, HCFA determines that the marketing materials:

(1) Provide, in a format (and, where appropriate, print size), and using

standard terminology that may be specified by HCFA, the following information to Medicare beneficiaries interested in enrolling:

(i) Adequate written description of rules (including any limitations on the providers from whom services can be obtained), procedures, basic benefits and services, and fees and other charges.

(ii) Adequate written description of any supplemental benefits and services.

(iii) Adequate written explanation of the grievance and appeals process, including differences between the two, and when it is appropriate to use each.

(iv) Any other information necessary to enable beneficiaries to make an informed decision about enrollment.

(2) Notify the general public of its enrollment period (whether time-limited or continuous) in an appropriate manner, through appropriate media, throughout its service and continuation area.

(3) Include in the written materials notice that the M+C organization is authorized by law to refuse to renew its contract with HCFA, that HCFA also may refuse to renew the contract, and that termination or non-renewal may result in termination of the beneficiary's enrollment in the plan.

(4) Contain no statements that are inaccurate or misleading or otherwise make misrepresentations.

(5) For markets with a significant non-English speaking population, provide materials in the language of these individuals.

(d) *Deemed approval (one-stop shopping)*. If HCFA has not disapproved the distribution of marketing materials or forms submitted by an M+C organization with respect to an M+C plan in an area, HCFA is deemed not to have disapproved the distribution in all other areas covered by the M+C plan and organization except with regard to any portion of the material or form that is specific to the particular area.

(e) *Standards for M+C organization marketing*. (1) In conducting marketing activities, M+C organizations may not:

(i) Provide for cash or other monetary rebates as an inducement for enrollment or otherwise. This does not prohibit explanation of any legitimate benefits the beneficiary might obtain

as an enrollee of the M+C plan, such as eligibility to enroll in a supplemental benefit plan that covers deductibles and coinsurance, or preventive services.

(ii) Engage in any discriminatory activity such as, for example, attempts to recruit Medicare beneficiaries from higher income areas without making comparable efforts to enroll Medicare beneficiaries from lower income areas.

(iii) Solicit door-to-door for Medicare beneficiaries.

(iv) Engage in activities that could mislead or confuse Medicare beneficiaries, or misrepresent the M+C organization. The M+C organization may not claim that it is recommended or endorsed by HCFA or Medicare or that HCFA or Medicare recommends that the beneficiary enroll in the M+C plan. It may, however, explain that the organization is approved for participation in Medicare.

(v) Distribute marketing materials for which, before expiration of the 45-day period, the M+C organization receives from HCFA written notice of disapproval because it is inaccurate or misleading, or misrepresents the M+C organization, its marketing representatives, or HCFA.

(2) In its marketing, the M+C organization must:

(i) Demonstrate to HCFA's satisfaction that marketing resources are allocated to marketing to the disabled Medicare population as well as beneficiaries age 65 and over.

(ii) Establish and maintain a system for confirming that enrolled beneficiaries have in fact, enrolled in the M+C plan, and understand the rules applicable under the plan.

(f) *Employer group retiree Marketing*. HCFA may permit M+C organizations to develop marketing materials designed for members of an employer group who are eligible for employer-sponsored benefits through the M+C organization, and to furnish these materials only to such group members. While such materials must be submitted for approval under paragraph (a) of this section, HCFA will only review portions of these materials that related to M+C plan benefits.

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