
42 C.F.R. § 422.74

Disenrollment by the MA organization.

(a) *General rule.* Except as provided in paragraphs (b) through (d) of this section, an MA organization may not

—

- (1) Disenroll an individual from any MA plan it offers; or
- (2) Orally or in writing, or by any action or inaction, request or encourage an individual to disenroll.

(b) *Basis for disenrollment—(1) Optional disenrollment.* An MA organization may disenroll an individual from an MA plan it offers in any of the following circumstances:

- (i) Any monthly basic and supplementary beneficiary premiums are not paid on a timely basis, subject to the grace period for late payment established under paragraph (d)(1) of this section.
- (ii) The individual has engaged in disruptive behavior specified at paragraph (d)(2) of this section.
- (iii) The individual provides fraudulent information on his or her election form or permits abuse of his or her enrollment card as specified in paragraph (d)(3) of this section.

(2) *Required disenrollment.* An MA organization must disenroll an individual from an MA plan it offers in any of the following circumstances:

- (i) The individual no longer resides in the MA plan's service area as specified under paragraph (d)(4) of this section, is no longer eligible under § 422.50(a)(3)(ii), and optional continued enrollment has not been offered or elected under § 422.54.
- (ii) The individual loses entitlement to Part A or Part B benefits as described in paragraph (d)(5) of this section.
- (iii) Death of the individual as described in paragraph (d)(6) of this section.
- (iv) Individuals enrolled in a specialized MA plan for special needs individuals that exclusively serves and enrolls special needs individuals who no longer meet the special needs status of that plan (or deemed continued eligibility, if applicable).
- (v) The individual is not lawfully present in the United States.
- (vi) The individual no longer meets the MA MSA's eligibility criteria specified under § 422.56 due to a mid-year change in eligibility.

(3) *Plan termination or reduction of area where plan is available —(i) General rule.* An MA organization that has its contract for an MA plan terminated, that terminates an MA plan, or that discontinues offering the plan in any portion of the area where the plan had previously been available, must disenroll affected enrollees in accordance with the procedures for disenrollment set forth at paragraph (d)(7) of this section, unless the exception in

paragraph (b)(3)(ii) of this section applies.

(ii) *Exception.* When an MA organization discontinues offering an MA plan in a portion of its service area, the MA organization may elect to offer enrollees residing in all or portions of the affected area the option to continue enrollment in an MA plan offered by the organization, provided that there is no other MA plan offered in the affected area at the time of the organization's election. The organization may require an enrollee who chooses to continue enrollment to agree to receive the full range of basic benefits (excluding emergency and urgently needed care) exclusively through facilities designated by the organization within the plan service area.

(c) *Notice requirement.* If the disenrollment is for any of the reasons specified in paragraphs (b)(1), (b)(2)(i), (b)(2)(vi), or (b)(3) of this section (that is, other than death or loss of entitlement to Part A or Part B) the MA organization must give the individual a written notice of the disenrollment with an explanation of why the MA organization is planning to disenroll the individual. Notices for reasons specified in paragraphs (b)(1) through (b)(2)(i) and (b)(2)(vi) of this section must—

(1) Be provided to the individual before submission of the disenrollment to CMS; and

(2) Include an explanation of the individual's right to submit a grievance under the MA organization's grievance procedures.

(d) *Process for disenrollment.* (1) Except as specified in paragraph (d)(1)(iv) of this section, an MA organization may disenroll an individual from the MA plan for failure to pay basic and supplementary premiums under the following circumstances:

(i) The MA organization can demonstrate to CMS that it made reasonable efforts to collect the unpaid premium amount, including:

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