

(c) *Maintenance care and post-stabilization care services* (hereafter together referred to as “post-stabilization care services”).

(1) *Definition. Post-stabilization care services* means covered services, related to an emergency medical condition, that are provided after an enrollee is stabilized in order to maintain the stabilized condition, or, under the circumstances described in paragraph (c)(2)(iii) of this section, to improve or resolve the enrollee’s condition.

(2) *M+C organization financial responsibility.* The M+C organization—

(i) Is financially responsible (consistent with § 422.214) for post-stabilization care services obtained within or outside the M+C organization that are pre-approved by a plan provider or other M+C organization representative;

(ii) Is financially responsible for post-stabilization care services obtained within or outside the M+C organization that are not pre-approved by a plan provider or other M+C organization representative, but administered to maintain the enrollee’s stabilized condition within 1 hour of a request to the M+C organization for pre-approval of further post-stabilization care services;

(iii) Is financially responsible for post-stabilization care services obtained within or outside the M+C organization that are not pre-approved by a plan provider or other M+C organization representative, but administered to maintain, improve, or resolve the enrollee’s stabilized condition if—

(A) The M+C organization does not respond to a request for pre-approval within 1 hour;

(B) The M+C organization cannot be contacted; or

(C) The M+C organization representative and the treating physician cannot reach an agreement concerning the enrollee’s care and a plan physician is not available for consultation. In this situation, the M+C organization must give the treating physician the opportunity to consult with a plan physician and the treating physician may continue with care of the patient until a plan physician is reached or one of the criteria in § 422.113(c)(3) is met; and

(iv) Must limit charges to enrollees for post-stabilization care services to

an amount no greater than what the organization would charge the enrollee if he or she had obtained the services through the M+C organization.

(3) *End of M+C organization’s financial responsibility.* The M+C organization’s financial responsibility for post-stabilization care services it has not pre-approved ends when—

(i) A plan physician with privileges at the treating hospital assumes responsibility for the enrollee’s care;

(ii) A plan physician assumes responsibility for the enrollee’s care through transfer;

(iii) An M+C organization representative and the treating physician reach an agreement concerning the enrollee’s care; or

(iv) The enrollee is discharged.

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§ 422.114 Access to services under an M+C private fee-for-service plan.

(a) *Sufficient access.* (1) An M+C organization that offers an M+C private fee-for-service plan must demonstrate to CMS that it has sufficient number and range of providers willing to furnish services under the plan.

(2) CMS finds that an M+C organization meets the requirement in paragraph (a)(1) of this section if, with respect to a particular category of health care providers, the M+C organization has—

(i) Payment rates that are not less than the rates that apply under original Medicare for the provider in question;

(ii) Contracts or agreements with a sufficient number and range of providers to furnish the services covered under the M+C private fee-for-service plan; or

(iii) A combination of paragraphs (a)(2)(i) and (a)(2)(ii) of this section.

(b) *Freedom of choice.* M+C fee-for-service plans must permit enrollees to obtain services from any entity that is authorized to provide services under Medicare Part A and Part B and agrees to provide services under the terms of the plan.

§ 422.118 Confidentiality and accuracy of enrollee records.

For any medical records or other health and enrollment information it