

§ 422.508

42 CFR Ch. IV (10–1–10 Edition)

(3) CMS may accept a nonrenewal notice submitted after the first Monday in June if—

(i) The MA organization notifies its Medicare enrollees in accordance with paragraph (a)(2)(ii) of this section; and

(ii) Acceptance is not inconsistent with the effective and efficient administration of the Medicare program.

(4) If an MA organization does not renew a contract under this paragraph (a), CMS will not enter into a contract with the organization for 2 years unless there are special circumstances that warrant special consideration, as determined by CMS.

(b) *CMS decision not to renew.* (1) CMS may elect not to authorize renewal of a contract for any of the following reasons:

(i) The MA organization has not fully implemented or shown discernable progress in implementing quality improvement projects as defined in § 422.152(d).

(ii) For any of the reasons listed in § 422.510(a), which would also permit CMS to terminate the contract.

(iii) The MA organization has committed any of the acts in § 422.752(a) that would support the imposition of intermediate sanctions or civil money penalties under subpart O of this part.

(iv) The contract must be non-renewed as to an individual MA plan if that plan does not have a sufficient number of enrollees to establish that it is a viable independent plan option.

(2) *Notice of non-renewal.* CMS provides notice of its decision not to authorize renewal of a contract as follows:

(i) To the MA organization by August 1 of the contract year.

(ii) To each of the MA organization's Medicare enrollees by mail at least 90 calendar days before the date on which the nonrenewal is effective, or at the conclusion of the appeals process if applicable.

(3) *Opportunity to develop and implement a corrective action plan.* (i) Before providing a notice of intent of non-renewal of the contract, CMS will provide the MA organization with notice specifying the MA organization's deficiencies and a reasonable opportunity of at least 30 calendar days to develop

and implement a corrective action plan to correct the deficiencies.

(ii) The MA organization is solely responsible for the identification, development, and implementation of its corrective action plan and for demonstrating to CMS that the underlying deficiencies have been corrected within the time period specified by CMS in the notice requesting corrective action.

(4) *Notice of appeal rights.* CMS gives the MA organization written notice of its right to appeal the decision not to renew in accordance with § 422.644.

[63 FR 35099, June 26, 1998, as amended at 65 FR 40328, June 29, 2000; 67 FR 13289, Mar. 22, 2002; 70 FR 4737, Jan. 28, 2005; 72 FR 68723, Dec. 5, 2007; 74 FR 1542, Jan. 12, 2009; 75 FR 19811, Apr. 15, 2010]

§ 422.508 Modification or termination of contract by mutual consent.

(a) A contract may be modified or terminated at any time by written mutual consent.

(1) If the contract is terminated by mutual consent, except as provided in paragraph (b) of this section, the MA organization must provide notice to its Medicare enrollees and the general public as provided in § 422.512(b)(2) and (b)(3).

(2) If the contract is modified by mutual consent, the MA organization must notify its Medicare enrollees of any changes that CMS determines are appropriate for notification within timeframes specified by CMS.

(b) If the contract terminated by mutual consent is replaced the day following such termination by a new MA contract, the MA organization is not required to provide the notice specified in paragraph (a)(1) of this section.

(c) *Agreement to limit new MA applications.* As a condition of the consent to a mutual termination CMS will require, as a provision of the termination agreement language prohibiting the MA organization from applying for new contracts or service area expansions for a period of 2 years, absent circumstances warranting special consideration.

[63 FR 35099, June 26, 1998, as amended at 75 FR 19811, Apr. 15, 2010]