§ 417.481 Maintenance of records: Risk HMOs and CMPs.

A risk contract must provide that the HMO or CMP agrees to maintain and make available to CMS upon request, books, records, documents, and other evidence of accounting procedures and practices that—

(a) Are sufficient to—

(1) Establish component rates of the ACR for determining additional and supplementary benefits; and

(2) Determine the rates utilized in setting premiums for State insurance agency purposes; and

(b) Include at least any records or financial reports filed with other Federal agencies or State authorities.


§ 417.482 Access to facilities and records.

The contract must provide that the HMO or CMP agrees to the following:

(a) HHS may evaluate, through inspection or other means, the quality, appropriateness, and timeliness of services furnished under the contract to its Medicare enrollees.

(b) HHS may evaluate, through inspection or other means, the facilities of the HMO or CMP when there is reasonable evidence of some need for that inspection.

(c) HHS, the Comptroller General, or their designees may audit or inspect any books and records of the HMO or CMP or its transferee that pertain to any aspect of services performed, reconciliation of benefit liabilities, and determination of amounts payable under the contract.

(d) HHS may evaluate, through inspection or other means, the enrollment and disenrollment records for the current contract period and three prior periods, when there is reasonable evidence of some need for that inspection.

(e) In the case of a reasonable cost HMO or CMP to make available for the purposes specified in paragraphs (a), (b), (c), and (d) of this section, its premises, physical facilities, and equipment, its records relating to its Medicare enrollees, the records specified in § 417.480 and any additional relevant information that CMS may require.

(f) That the right to inspect, evaluate, and audit, will extend through three years from the date of the final settlement for any contract period unless—

(1) CMS determines there is a special need to retain a particular record or group of records for a longer period and notifies the HMO or CMP at least 30 days before the normal disposition date;

(2) There has been a termination, dispute, fraud, or similar fault by the HMO or CMP, in which case the retention may be extended to three years from the date of any resulting final settlement; or

(3) CMS determines that there is a reasonable possibility of fraud, in which case it may reopen a final settlement at any time.

[50 FR 1346, Jan. 10, 1985, as amended at 58 FR 38082, July 15, 1993]

§ 417.484 Requirement applicable to related entities.

(a) Definition. As used in this section, related entity means any entity that is related to the HMO or CMP by common ownership or control and—

(1) Performs some of the HMO’s or CMP’s management functions under contract or delegation;

(2) Furnishes services to Medicare enrollees under an oral or written agreement; or

(3) Leases real property or sells materials to the HMO or CMP at a cost of more than $2,500 during a contract period.

(b) Requirement. The contract must provide that the HMO or CMP agrees to
require all related entities to agree that—
   (1) HHS, the Comptroller General, or their designees have the right to in-
   spect, evaluate, and audit any pertinent books, documents, papers, and
   records of the subcontractor involving transactions related to the sub-
   contract; and
   (2) The right under paragraph (b)(1) of this section to information for any
   particular contract period will exist for a period equivalent to that specified in
   §417.482(f).

[50 FR 1346, Jan. 10, 1985, as amended at 58 FR 38082, July 15, 1993]

§417.486 Disclosure of information
and confidentiality.

The contract must provide that the
HMO or CMP agrees to the following:
(a) To submit to CMS—
   (1) All financial information required
      under subpart O of this part and for
      final settlement; and
   (2) Any other information necessary
      for the administration or evaluation of
      the Medicare program.
(b) To comply with the requirements
   set forth in part 420, subpart C, of this
   chapter pertaining to the disclosure of
   ownership and control information.
(c) To comply with the requirements of the Privacy Act, as implemented by
   45 CFR part 5b and subpart B of part
   401 of this chapter, with respect to any
   system of records developed in per-
   forming carrier or intermediary func-
   tions under §§417.532 and 417.533.
   (d) To meet the confidentiality re-
       quirements of §482.24(b)(3) of this chap-
       ter for medical records and for all
       other enrollee information that is—
       (1) Contained in its records or ob-
          tained from CMS or other sources; and
       (2) Not covered under paragraph (c) of
          this section.


§417.488 Notice of termination and of
available alternatives: Risk con-
tract.

A risk contract must provide that the
HMO or CMP agrees to give notice as follows if the contract is termi-

(a) At least 60 days before the effective date of termination, to give its
   Medicare enrollees a written notice that—
   (1) Specifies the termination date; and
   (2) Describes the alternatives available for obtaining Medicare services
      after termination.
(b) To pay the cost of the written no-
   tices.

[60 FR 45680, Sept. 1, 1995]

§417.490 Renewal of contract.

A contract with an HMO or CMP is
renewed automatically for the next 12-
month period unless CMS or the HMO
or CMP decides not to renew, in ac-

[50 FR 1346, Jan. 10, 1985, as amended at 58 FR 38082, July 15, 1993]

§417.492 Nonrenewal of contract.

(a) Nonrenewal by the HMO or CMP.
   (1) If an HMO or CMP does not intend
      to renew its contract, it must—
      (i) Give written notice to CMS at
          least 90 days before the end of the current
          contract period;
      (ii) Notify each Medicare enrollee by
          mail at least 60 days before the end of the
          contract period; and
      (iii) Notify the general public at least
          30 days before the end of the contract
          period, by publishing a notice in one or
          more newspapers of general circulation in
          each community or county located in the
          HMO’s or CMP’s geographic area.
   (2) CMS may accept a nonrenewal no-
       tice submitted less than 90 days before
       the end of a contract period if—
       (i) The HMO or CMP notifies its
           Medicare enrollees and the public in
           accordance with paragraph (a)(1) of
           this section; and
       (ii) Acceptance would not otherwise
           jeopardize the effective and efficient
           administration of the Medicare pro-
           gram.

(b) Nonrenewal by CMS—(1) Notice of
nonrenewal. If CMS decides not to
renew a contract, it gives written no-

[50 FR 1346, Jan. 10, 1985, as amended at 58 FR 38082, July 15, 1993]