

**§ 438.214**

to attain, maintain, or regain maximum function, the MCO, PIHP, or PAHP must make an expedited authorization decision and provide notice as expeditiously as the enrollee's health condition requires and no later than 3 working days after receipt of the request for service.

(ii) The MCO, PIHP, or PAHP may extend the 3 working days time period by up to 14 calendar days if the enrollee requests an extension, or if the MCO, PIHP, or PAHP justifies (to the State agency upon request) a need for additional information and how the extension is in the enrollee's interest.

(e) *Compensation for utilization management activities.* Each contract must provide that, consistent with § 438.6(h), and § 422.208 of this chapter, compensation to individuals or entities that conduct utilization management activities is not structured so as to provide incentives for the individual or entity to deny, limit, or discontinue medically necessary services to any enrollee.

**STRUCTURE AND OPERATION STANDARDS**

**§ 438.214 Provider selection.**

(a) *General rules.* The State must ensure, through its contracts, that each MCO, PIHP, or PAHP implements written policies and procedures for selection and retention of providers and that those policies and procedures include, at a minimum, the requirements of this section.

(b) *Credentialing and recredentialing requirements.* (1) Each State must establish a uniform credentialing and recredentialing policy that each MCO, PIHP, and PAHP must follow.

(2) Each MCO, PIHP, and PAHP must follow a documented process for credentialing and recredentialing of providers who have signed contracts or participation agreements with the MCO, PIHP, or PAHP.

(c) *Nondiscrimination.* MCO, PIHP, and PAHP provider selection policies and procedures, consistent with § 438.12, must not discriminate against particular providers that serve high-risk populations or specialize in conditions that require costly treatment.

(d) *Excluded providers.* MCOs, PIHPs, and PAHPs may not employ or contract with providers excluded from par-

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ticipation in Federal health care programs under either section 1128 or section 1128A of the Act.

(e) *State requirements.* Each MCO, PIHP, and PAHP must comply with any additional requirements established by the State.

[67 FR 41095, June 14, 2002; 67 FR 54532, Aug. 22, 2002]

**§ 438.218 Enrollee information.**

The requirements that States must meet under § 438.10 constitute part of the State's quality strategy at § 438.204.

**§ 438.224 Confidentiality.**

The State must ensure, through its contracts, that (consistent with subpart F of part 431 of this chapter), for medical records and any other health and enrollment information that identifies a particular enrollee, each MCO, PIHP, and PAHP uses and discloses such individually identifiable health information in accordance with the privacy requirements in 45 CFR parts 160 and 164, subparts A and E, to the extent that these requirements are applicable.

**§ 438.226 Enrollment and disenrollment.**

The State must ensure that each MCO, PIHP, and PAHP contract complies with the enrollment and disenrollment requirements and limitations set forth in § 438.56.

**§ 438.228 Grievance systems.**

(a) The State must ensure, through its contracts, that each MCO and PIHP has in effect a grievance system that meets the requirements of subpart F of this part.

(b) If the State delegates to the MCO or PIHP responsibility for notice of action under subpart E of part 431 of this chapter, the State must conduct random reviews of each delegated MCO or PIHP and its providers and subcontractors to ensure that they are notifying enrollees in a timely manner.

**§ 438.230 Subcontractual relationships and delegation.**

(a) *General rule.* The State must ensure, through its contracts, that each MCO, PIHP, and PAHP—