

Operational Policy Letter #65 -- REVISED

Department of Health and Human Services

Health Care Financing Administration

Center for Health Plans and Providers

Medicare Managed Care

July 16, 1998

Transitions in the Balanced Budget Act (BBA) for Health Care Prepayment Plans (HCPPs), Cost Contracts, and Residual Cost Members in Risk Contracts -- REVISED

NOTE: This OPL replaces OPL 98.065 dated January 23, 1998. This revision changes HCFA's position on residual cost/HCPP members in risk contracts.

BACKGROUND

The BBA changed the HCPP requirements (section 4002(j)), to eliminate the HCPP option for entities eligible to participate as managed care organizations under section 1876 of the Social Security Act or the new Medicare+Choice program. The BBA also prohibits HCFA from accepting new section 1876 cost contracts, unless the plan is currently an HCPP and wants to convert. All cost contracts sunset on December 31, 2002.

Therefore, the BBA eliminates: (1) the HCPP agreement for entities able to participate as managed care organizations after 12/31/98, [4002(j)], (2) 1876 risk contracts after 12/31/98, [4002(b)(1)], and (3) 1876 cost contracts after 12/31/02, [4002(b)(5)]. Also BBA sections 4002(b)(2) and (c) set forth rules regarding transitioning enrollees which are implemented in this letter.

Clarification and Implementation of New Provisions:

The following rules apply to the specified categories of contracts:

Cost Contractors

- No new cost contracts or service area expansions as of August 1997.
- Current cost contractors, with cost contracts only, may continue under current 1876 cost requirements until December 31, 2002.

- Current cost contractors may enroll new members within the current contract area (no service area expansions).
- Since cost contractors may currently enroll Part B only members, they may continue to enroll these members until December 31, 2002.
- Current cost contractors that also have an HCPP agreement will not receive payment for services under the HCPP agreement after December 31, 1998. Therefore, cost contractors may "transition" HCPP members into their current cost contract, after approval from HCFA and appropriate beneficiary notification.
- Alternately, current cost contractors may choose to provide a Medicare+Choice option effective January 1, 1999. In this case, cost contractors must agree to the non-renewal of their cost contract after December 31, 1998, and offer enrollment into the Medicare+Choice option on January 1, 1999 to all members eligible for Medicare Part A and Part B. This contract change will require beneficiary enrollment applications, notifications, etc., dependent on HCFA requirements and beneficiary information rights. All Medicare members of cost contracts must make a positive election to join the Medicare+Choice product to be sure they understand the new requirements, particularly lock-in.

Also, cost contractors may close their cost contracts and choose a Medicare+Choice option anytime within the next 5 years. HCFA will not approve concurrent cost and Medicare+Choice contracts with open enrollment, for the same organization to administrate in the same geographic area.

HCPPs

- The BBA establishes new definitions for an HCPP:
 1. the organization is Union or Employer sponsored--When the entire health care delivery system under the HCPP agreement is sponsored by a union or employer, it may obtain or continue designation as an HCPP, or
 2. the organization does not provide, or arrange for the provision, of any inpatient hospital services--The term "does not provide or arrange for" is defined as not contracting with hospitals for inpatient services or paying claims for inpatient hospital services. The managed care entity that meets this criteria may obtain or continue designation as an HCPP.
- Current HCPPs must meet the new definition for an HCPP after December 31, 1998, or not be eligible to receive Medicare payment for services as an HCPP. New HCPP agreements must meet the new HCPP definitions as of the effective date of the agreement.
- HCPPs that do not meet the new HCPP definition may convert to cost contracts. Conversions must occur prior to January 1, 1999, since the HCPP agreement must be in effect to convert to a cost contract.
- Also, as of January 1, 1999, HCPPs are not required to meet Medigap requirements.

Residual HCPP and/or Cost Members in Risk Contracts

- Current 1876 risk contractors that have members whose health care services are being reimbursed by HCFA on an 1876 cost basis, and that will continue as Medicare+Choice organizations after December 31, 1998, must offer all members an opportunity to enroll in the Medicare+Choice option, without regard to their Part-B-only and/or out-of-area status. The "cost-reimbursement members" must make a positive election to enroll in the Medicare+Choice product to ensure that they understand risk requirements, particularly lock-in.

Therefore, managed care organizations must, based on documentation of a positive election, either: (1) transition cost members to the Medicare+Choice option on January 1, 1999, or (2) allow them to disenroll from the cost contract on or before December 31, 1998, or (3) maintain current cost members in the cost contract, not to exceed December 31, 2002, when they would convert or disenroll. No new members may be enrolled in such a "closed" cost contract after December 31, 1998.

- Current 1876 risk contractors that have members whose health care services are being reimbursed by HCFA through an 1833 agreement, may not receive payment for Medicare services under the HCPP agreement after December 31, 1998. These risk contractors that will continue as Medicare+Choice organizations after December 31, 1998, must offer all members an opportunity to enroll in the Medicare+Choice option without regard to their Part-B-only and/or out-of-area status. The HCPP members must make a positive election to enroll in the Medicare+Choice product to ensure that they understand risk requirements, particularly lock-in.

Managed care organizations that cannot meet the new HCPP definition after December 31, 1998, and that wish to enter into an M+C contract for the area in question, must convert their HCPP agreement to a "closed" cost contract if they wish to continue to serve any residual members. The enrollment options are: (1) to transition the HCPP members to the Medicare+Choice option on January 1, 1999, based on documentation of a positive election, or (2) allow them to disenroll from the HCPP payment process on or before December 31, 1998 and return to original Medicare, or (3) enroll current HCPP members in the new "closed" cost contract, not to exceed December 31, 2002 when they would convert or disenroll. No new members may be enrolled in this "closed" cost contract after December 31, 1998.