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# **CMS Medicare Manual System**

## **Pub. 100-16 Managed Care**

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**Department of Health &  
Human Services (DHHS)  
Centers for Medicare &  
Medicaid Services (CMS)**

**Transmittal 26**

**Date: JULY 25, 2003**

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*Red italicized font identifies new material.*

**NEW/REVISED MATERIAL - EFFECTIVE DATE: July 1, 2003**

**Section 20.4.1 - Alternate Employer Group Enrollment Election** - Added new section describing the new enrollment election mechanism.

**Section 40.1.1 - Optional Employer Group M+C Enrollment Election** - Added new section regarding procedures for enrolling employer groups into M+C Plans.

**Section 50.1.1 - Request Submitted via Internet** - Previously unnumbered subsection from section 50.

**Section 50.1.2 - Request Signature and Date** - Previously unnumbered subsection from section 50.

**Section 50.1.3 - Effective Dates** - Previously unnumbered subsection from section 50.

**Section 50.1.4 - Notice Requirements** - Previously unnumbered subsection from section 50.

**Section 50.1.5 - Optional Employer Group M+C Disenrollment Election** - Added information regarding the employer group disenrollment mechanism.

**Section 50.1.6 - Medigap Guaranteed Issue Notification Requirements** - previously unnumbered subsection from section 50.

**Section 50.2.1.1 - General Rule** - Previously unnumbered subsection from section 50.2.1. Revised order of disenrollment reasons for residence changes and clarified disenrollment of a member for absence of greater than six months.

**Section 50.2.1.2 - Effective Date** - Previously unnumbered subsection from section 50.2.1. New material included to provide clarification allowing a member to request retroactive effective dates in cases when move occurred retroactively.

**Section 50.2.1.3 - Researching and Acting on a Change of Address** - Previously unnumbered subsection from section 50.2.1. Simplified and clarified the section regarding research of changes, including presenting information as three numbered items - receiving notice from member, receiving notice from a source other than a member, and temporary moves.

Clarified that the M+CO must make an attempt to contact the member in the second list item.

**Section 50.2.1.4** - - Clarified the notice requirements for out of area permanent.

Clarified notice requirements for out of area moves for 6 months – previous manual incorrectly provided contradictory instructions by saying effective date first day of month after the sixth month, however, then required plan to send notice & wait 20 days. To ensure that the effective date is the first day of the month after the sixth month, simplify

requirement that – since M+CO must make an attempt to contact member in 50.2.1.3 – written notice of the disenrollment must be sent some time during sixth month or within 7 days of, before notice sent to CMS.

Added example for sending notices to members who have been out of the area for sixth months.

**CLARIFICATION - EFFECTIVE DATE: Not Applicable.**

**Table of Contents** - Updated section name changes and added new section titles.

**Throughout** - The following changes are included as "Miscellaneous word changes to improve clarity."

Corrected references to "Medicare eligibility" to read "entitled to Medicare Part A and enrolled in Part B;" and

Replaced references to "enrollment form" with "enrollment election," or "election" where applicable, to represent all types of M+C enrollment elections, including new employer group election mechanism.

**Section 10 - Definitions -**

Under the definition of: "Completed Election" - Added language to reflect new election mechanism

Under the definition of "Conversion" - Deleted the word "commercial" to reflect 42 CFR 422.66(d).

Under the definition of "Receipt of Election" - Clarified types of elections with examples.

**Section 20 - Eligibility for Enrollment in M+C Plans** - Changed the phrase "enrollment form" to "enrollment election."

**Section 20.1 - Entitlement to Medicare Parts A and B** - Clarified the phrase "§1833 and §1876 of the Social Security Act (the Act)." And made a miscellaneous word change.

**Section 20.2.1 - Background on ESRD Entitlement** - Added bullet point describing Medicare entitlement and kidney transplants.

**Section 20.2.2 - Exceptions to Eligibility Rule for Persons Who Have ESRD**

1st bullet item: Added reference to alternate enrollment mechanism;

2nd bullet item: Grammar correction; and

3rd bullet item: Added reference to alternate enrollment mechanism.

**Section 20.3 - Place of Permanent Residence** - Deleted the word "commercial" in the second bullet item to reflect 42 CFR 422.66(d).

**Section 20.7 - Eligibility and the Hospice Benefit** - Miscellaneous word changes to improve clarity.

**Section 30 - Election Periods and Effective Dates** - Deleted introductory "Special Note" paragraph regarding the delay of implementation of enrollment lock-in provisions.

**Section 30.3 - Open Enrollment Period (OEP)** - Added a period after first sentence.

**Section 30.3.5 - Open Enrollment Period for Institutionalized Individuals (OEPI) in 2005 and Beyond** - Deleted comma after January in first sentence.

**Section 30.4 - Special Election Period (SEP)** - Miscellaneous word changes to improve clarity.

**Section 30.4.1 - SEPs for Changes in Residence** - Miscellaneous word changes to improve clarity.

**Section 30.4.2 - SEPS for Contract Violation** - Miscellaneous word changes to improve clarity.

**Section 30.4.3 - SEPs for Nonrenewals or Terminations** - Miscellaneous word changes to improve clarity.

**Section 30.4.4 - SEPs for Exceptional Conditions** - Miscellaneous word changes to improve clarity.

**Section 30.5 - Effective Date of Coverage** - Miscellaneous word changes to improve clarity.

**Section 40 - Enrollment Procedures** - Miscellaneous word changes to improve clarity.

**Section 40.1 - Format of Enrollment Forms** - Miscellaneous word changes to improve clarity.

**Section 40.2 - Completing the Enrollment** - Miscellaneous word changes, and added paragraphs regarding employer group health plan enrollment elections.

**Section 40.2.1 - Who May Sign An Election Form or Complete an Election Method** - Added "Complete and Election Method" to the section heading to reflect new enrollment mechanism.

**Section 40.2.2 - When the Enrollment Election Is Incomplete** - Miscellaneous word changes, including in the section heading, to reflect new enrollment mechanism.

**Section 40.2.3 - M+C Organization Denial of Enrollment** - Miscellaneous word changes to improve clarity.

**Section 40.2.4 - ESRD and Enrollment** - Miscellaneous word changes to improve clarity.

**Section 40.3 - Transmission of Enrollments to CMS** - Miscellaneous word changes to improve clarity.

**Section 40.4.1 -Prior to the Effective Date of Coverage** - Miscellaneous word changes to improve clarity.

**Section 40.4.2 - After the Effective Date of Coverage** - Miscellaneous word changes to improve clarity.

**Section 40.5 - Enrollment Processing During Closed Periods** - Miscellaneous word changes to improve clarity.

**Section 40.5.1 - Procedures After Reaching Capacity** - Miscellaneous word changes to improve clarity.

**Section 40.5.2 - Procedures After Closing During the OEP** - Miscellaneous word changes to improve clarity.

**Section 40.6 - Enrollments Not Legally Valid** - Miscellaneous word changes to improve clarity.

**Section 50 - Voluntary Disenrollment by Member** - Miscellaneous word changes to improve clarity. Also, this section was previously presented as a long section with unnumbered subsections. These subsections are now presented as numbered sections 50.1.1 through 50.1.4 and 50.1.6. We added section 50.1.5 as well.

**Section 50.2 - Required Involuntary Disenrollment** - Numered the previously bulleted list, added unnumbered subsection heading "Notice Requirements."

**Section 50.2.1 - Members Who Change Residence** - This section was previously presented as a long section with unnumbered subsections. These subsections are now presented as numbered sections 50.2.1.1 through 50.2.1.2, and 50.2.1.3, 50.2.1.4 were added as well.

**Section 50.3 - Optional Involuntary Disenrollments** - Added title to highlight "notice requirements" unnumbered subsection.

**Section 50.3.1 - Failure to Pay Premiums** - In Section A, first example; Section B, first example - corrected dates used.

**Section 50.3.2 - Disruptive Behavior** - Changed time frames for CMS to make a decision on member disenrollment and to notify the M+C organization of its decision.

**Section 50.7 - Disenrollment Procedures for Employer Group Health Plans** - Added a NOTE: paragraph stating that employer establishes criteria for its retirees to participate in the employer group.

Additionally:

Under Option 1: changed "enrollment form" to "election" to allow for alternative employer group mechanism.

Clarified item c, under Option 1: to state that if the individual is no longer eligible to participate in the employer group plan, the beneficiary would be a member of "an" individual plan "within the same M+C organization which provided his/her employer coverage".

Clarified item c, under Option 1: that the M+C organization must notify the beneficiary that benefits, premiums, etc are changing and must do so prior to the effective date of new enrollment option.

Clarified second bullet, under Option 2: changed "form" to "appropriate process to make an election" to accommodate the option of new employer group disenrollment option.

Last bullet, under Option 2: miscellaneous word changes to allow for passive elections when such process is approved by CMS, and to clarify how to make an election if an individual chooses to remain an individual member.

**Section 60.1 - Multiple Transactions** - Added information regarding the employer group enrollment mechanism and other miscellaneous word changes to improve clarity.

**Section 60.4 - Retroactive Enrollments** - Under item 1, added information regarding the employer group enrollment mechanism.

**Section 60.5 - Retroactive Disenrollments** - Clarified retroactive disenrollment policy for those members permanently moving out of an M+C plan service area and referred reader to §50.2.1.2.

**Section 60.6.1 - EGHP Retroactive Enrollments** - Added information regarding the employer group election mechanism.

**Section 60.8 - Storage of Election Forms and Records** - Added "and Records" to the section title to reflect the employer group election mechanism, added instructions for record retention, and referred the reader to the new §40.1.1.

## **Appendices and Exhibits**

**Table of Contents** - Added Table of Contents for appendices and exhibits for ease of navigation.

**Throughout** - The following changes are included as "Miscellaneous word changes for clarity."

Deleted "TDD" throughout - "TDD/TTY" was changed to "TTY"

Replaced references to "enrollment form" with "enrollment election," or "election" where applicable, to represent all types of M+C enrollment elections, including new employer group election mechanism.

**Appendix 2: Data Elements Required to Complete the Enrollment Election (2 pages)** - updated section heading. Added reference in the Endnotes to the new §40.4.1 and added endnotes 3 and 4 addressing employer group elections.

**Exhibit 1: Model Individual Enrollment Form ("Election" may also be used) (4 Pages)** - Miscellaneous word changes for clarity.

**Exhibit 2: Model Employer Group Health Plan Enrollment (the term "Election" may also be used) Form (5 Pages)** - Miscellaneous word changes for clarity.

**Exhibit 3a - Model Selection Form - Switch From Plan to Plan Within M+C Organization** - capitalization corrections in section heading and made miscellaneous word changes for clarity.

**Exhibit 4: Model Notice to Acknowledge Receipt of Completed Enrollment Election** - updated section title, and miscellaneous word changes for clarity.

**Exhibit 4a: Model Notice to Acknowledge Receipt of Completed Enrollment Election Enrollment in another Plan Within the Same M+C Organization** - updated section title, and miscellaneous word changes for clarity.

**Exhibit 5: Model Notice to Request Information** - miscellaneous word changes for clarity.

**Exhibit 6: Model Notice to Confirm Enrollment** - miscellaneous word changes for clarity.

**Exhibit 6a: Model Notice to Confirm Enrollment - Plan to Plan Within M+C Organization** - miscellaneous word changes for clarity

**Exhibit 7: Model Notice for M+C Organization Denial of Enrollment** - Miscellaneous word changes for clarity. Deleted "form" and added "election."



**Exhibit 8: Model Notice for CMS Rejection of Enrollment** - Miscellaneous word changes for clarity. Deleted "form" and added "election."

**Exhibit 9: Model Notice to Send Out Disenrollment Form** - Miscellaneous word changes for clarity. Also, significantly rewrote section on "Important Note About Medigap Rights" of notice.

**Exhibit 10: Model Disenrollment Form** - deleted "Note to Beneficiary" at top of form, deleted subtitle "Disenrollment Responsibilities," and significantly rewrote this section of the form.

**Exhibit 11: Model Notice to Acknowledge Receipt of Voluntary Disenrollment Request from Member** - Miscellaneous word changes for clarity. Also, significantly rewrote section on "Important Note About Medigap Rights" of notice.

**Exhibit 12 – Model Notice to Confirm Voluntary Disenrollment Identified Through Reply Listing** – Miscellaneous word changes for clarity

**Exhibit 13: Model Notice of Disenrollment Due to Death** - Miscellaneous word changes for clarity.

**Exhibit 14: Model Notice of Disenrollment Due to Loss of Medicare Part A and/or Part B** - Miscellaneous word changes for clarity.

**Exhibit 15: Model Notice to Offer Beneficiary Services, Pending Correction of Erroneous Death Status** - Miscellaneous word changes for clarity.

**Exhibit 16: Model Notice to Offer Beneficiary Services, Pending Correction of Erroneous Medicare Part A and/or Part B Termination** - Miscellaneous word changes for clarity.

**Exhibit 17: Model Notice to Offer Reinstatement of Beneficiary Services, Pending Correction of Disenrollment Status Due to Enrolling in Another M+C Organization** - Miscellaneous word changes for clarity, and corrected time frame requirement.

**Exhibit 18: Model Notice to Close Out Request for Reinstatement** - Miscellaneous word changes for clarity.

**Exhibit 19: Model Notice on Failure to Pay Plan Premiums - Advance Notification of Disenrollment or Reduction in Coverage** - Miscellaneous word changes for clarity. In addition, added a paragraph instructing plan member to contact State Health Insurance Plan in the event that is the cause of nonpayment or premiums.

**Exhibit 20: Model Notice on Failure to Pay Plan Premiums** - Notification of Involuntary Disenrollment - Miscellaneous word changes for clarity.

**Exhibit 21: Model Notice on Failure to Pay Plan Premiums - Confirmation of Involuntary Disenrollment** - Miscellaneous word changes for clarity. Added a sentence

informing beneficiary that he or she has a right to request consideration of disenrollments procedure through the grievance procedure in the Member Handbook.

**Exhibit 22: Model Notice on Failure to Pay Plan Premiums --Notice of Reduction in Coverage** - Miscellaneous word changes for clarity.

**Exhibit 23: Model Notices For Closing Enrollment (2 pages)** - Miscellaneous word changes for clarity.

**Exhibit 24 - Model Notice for Medigap Rights Per Special Election Period** - Miscellaneous word changes for clarity. Added the words “to use” and “while in” to the list of special circumstances that may allow a beneficiary to return to Original Medicare.

**Exhibit 25 - Acknowledgement of Request to Cancel Enrollment** - Miscellaneous word changes for clarity.

**Exhibit 26 - Acknowledgement of Request to Cancel Disenrollment** - Miscellaneous word changes for clarity.

# Medicare Managed Care Manual

## Chapter 2 - Medicare + Choice Enrollment and Disenrollment

**Last Updated - Rev. 26, 07-25-03**

**NOTE:** This chapter replaces policy outlined in OPL 100, OPL 104, OPL 105, OPL 109, OPL 111, OPL 113, OPL 122, and OPL 123.

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### *Appendices and Exhibits*

## **10 - Definitions**

**(Rev. 26, 07-25-03)**

The following definitions relate to topics addressed in this Chapter.

**Cancellation of Election** - An action initiated by the beneficiary to cancel an election before the effective date of the election.

**Completed Election** - An election is considered complete when:

1. The form/request is signed by the beneficiary or legal representative (refer to [§40.2.1](#) for a discussion of who is considered to be a legal representative), *or the election mechanism (described by CMS) is completed;*
2. For enrollments, evidence of entitlement to Medicare Part A and enrollment in Medicare Part B is obtained by the Medicare + Choice Organization (M+CO) (see below for definition of "evidence of Medicare Part A and Part B coverage.") *There are situations at the end of the month when the M+C organization receives an election form from the beneficiary without any evidence of entitlement to Medicare Part A and Medicare Part B (e.g., copy of a Medicare card, SSA letter). The M+CO is then required to obtain verification of the beneficiary's entitlement through other means. In these cases, CMS will allow for a grace period of **three business days** after the end of the month to obtain such verification. If it is confirmed during the grace period that the beneficiary was entitled to both Medicare Part A and Part B when the election form was received by the M+CO, the date of entitlement will suffice as the evidence and the election form will be*

*considered complete upon receipt.*

*For example, if an otherwise complete enrollment form was received on September 30, 2002, the M+C organization has until October 3 to verify Medicare Part A entitlement and Part B enrollment to provide the enrollee with an October 1 effective date.*

3. All necessary elements on the form are completed (for enrollments, see [Appendix 2](#) for a list of elements that must be completed) *or when the election mechanism is completed as CMS directs*, and, when applicable;
4. Supporting documentation for a *legal* representative's signature is obtained.

For enrollments, an M+C organization may also choose to wait for the individual's payment of the plan premium, including any premiums due the M+C organization for a prior enrollment before considering an enrollment "complete."

Some States have additional requirements before an enrollment is considered complete. For example, some States require phone verification prior to enrollment. Unless otherwise directed by CMS, M+C organizations should conduct the required activities within the time frames specified by the State. If no time frame is specified, then the M+C organization should complete the required activities as quickly as possible, but within the time frames specified in [§40.2.2](#). The election will not be considered complete until the M+C organization has completed the State-required activities.

**Continuation Area/Continuation of Enrollment Option** - A continuation area is an additional CMS-approved area outside the M+C plan's service area within which the M+C organization furnishes or arranges for furnishing of services to the M+C plan's continuation of enrollment members. M+C organizations have the option of establishing continuation areas.

**Conversions** - For individuals who are enrolled in a health plan offered by the M+C organization the month immediately before the month of their entitlement to Medicare Parts A and B, their enrollment in an M+C plan offered by the same organization is referred to as a "conversion" from commercial status to M+C enrollee status. In order for the individual's enrollment with the organization as an M+C enrollee to take effect upon becoming eligible for Medicare, conversions must take place during the individual's Initial Coverage Election Period (ICEP), and the individual must *complete an election* and meet all other applicable eligibility requirements to elect the M+C plan.

**Denial of Election** - Occurs when an M+C organization determines that an individual is not eligible to make an election (e.g., the individual is not entitled to Medicare Part A or enrolled in Part B, the individual has ESRD, the individual is not making the election during an election period, etc.), and therefore decides not to submit the election transaction to CMS.

**Election** - Enrollment in, or voluntary disenrollment from, an M+C plan or the traditional Medicare fee-for-service program ("Original Medicare") constitutes an election. (Disenrollment from Original Medicare would only occur when an individual enrolls in an M+C plan.) The term "election" is used to describe either an enrollment or voluntary disenrollment. If the term "enrollment" is used alone, however, then the term is used deliberately, i.e., it is being used to describe only an enrollment, and not a disenrollment. The same applies when the term "disenrollment" is used alone, i.e., the term is being used to describe only a disenrollment, and not an enrollment.

**Election Form** - The form used by individuals to request to enroll in, or disenroll from, M+C plans. A model individual enrollment form is provided in [Exhibit 1](#). **An individual who is a member of an M+C plan and who wishes to elect another M+C plan, even if it is in the same M+C organization, must complete a new election form to enroll in the new M+C plan** (or other CMS approved method, if available.) However, that individual may use a short enrollment form (refer to [Exhibit 3](#) for a model short enrollment form) or a "selection" form (refer to [Exhibit 3a](#)) to make the election in place of the comprehensive individual enrollment form. In addition, M+C organizations may want to collaborate with employer group health plans (EGHPs) to use a single enrollment form (or other CMS approved method, if available) for EGHP members; a model EGHP enrollment form for this purpose is provided in [Exhibit 2](#). Beneficiaries or their *legal* representatives must complete *enrollment elections* (e.g. enrollment forms) to enroll in M+C plans.

Beneficiaries are not required to use a specific form to disenroll from an M+C plan, but if they do not use a form they must submit a signed and written request for disenrollment to the M+C organization. A model disenrollment form is provided in [Exhibit 10](#).

**Election Period** - The time during which an eligible individual may elect an M+C plan or Original Medicare. The type of election period determines the effective date of M+C coverage. There are several types of election periods, all of which are defined under [§30](#).

**Evidence of Medicare Part A and Part B Coverage** - For the purposes of completing an enrollment *election*, the M+C organization must accept any of the following as acceptable evidence of entitlement to Medicare Part A and enrollment in Part B:

1. A Medicare card;
2. A Social Security Administration (SSA) award notice;
3. A Railroad Retirement Board (RRB) letter of verification;
4. A statement from SSA or RRB verifying the individual's entitlement to Medicare Part A and enrollment in Part B;
5. Verification of Medicare Part A and Part B through one of CMS' systems, including CMS data available through CMS subcontractors; or



6. For individuals enrolling in their ICEP, an SSA application for Medicare Part A and B showing the effective date for both Medicare Parts A and B.

**NOTE:** *CMS will allow for a grace period of three business days after the end of the month to obtain such verification. If it is confirmed during the grace period that the beneficiary was entitled to Medicare Part A and **enrolled in** Part B when the **election** was received by the M+CO, the date of entitlement will suffice as the evidence and the election form will be considered complete upon receipt.*

**Evidence of Permanent Residence** - A permanent residence is normally the enrollee's primary residence. An M+C organization may request additional information such as voter's registration records, driver's license records, tax records, and utility bills to verify the primary residence. Such records must establish the permanent residence address, and not the mailing address, of the individual.

**Institutionalized Individual** - An individual who moves into, resides in, or moves out of an institution specified in [§30.3.5](#).

**Involuntary Disenrollment** - Refers to when an M+C organization, as opposed to the member, initiates disenrollment from the plan. Procedures regarding involuntary disenrollment are found in [§§50.2](#) and [50.3](#).

**Medicare + Choice Organization (M+C organization)** - Refer to Chapter 1 (General Administration of the Managed Care/Medicare + Choice Program) for a definition of an "M+C organization."

**M+C Organization Error** - An error or delay in election processing made under the full control of the M+C organization personnel and one that the organization could have avoided.

**Medicare + Choice Plan** - Refer to Chapter 1 for a definition of "M+C plan." Elections are made at the M+C **plan level**, not at the **M+C organization level**.

**Out-of-Area Members** - Members of an M+C plan who live outside the service area and who elected the M+C plan while residing outside the service area (as allowed in [§§20.0, 20.3, 50.2.1, and 50.2.4](#)).

**Receipt of Election** - According to [42 CFR 422.60\(d\)](#), an election has been made when a completed election (*such as an enrollment application form, written request for disenrollment, or alternate election mechanism as described by CMS*) has been received by the M+C organization. An election is considered received and must be date stamped by the M+C organization when the M+C organization (or any entity authorized by CMS to process election forms, such as SSA or the RRB) comes into possession of a **completed** election form signed by the enrollee (or as may be the situation in the case of a disenrollment, a written request or other CMS-approved method described in [§50.1](#)). A "completed election" is defined above.

**Reinstatement of Election** - An action that may be taken by CMS after an individual disenrolls from an M+C plan. The reinstatement corrects an individual's records by canceling a disenrollment to reflect no gap in enrollment in an M+C plan. A reinstatement may result in retroactive disenrollment from another Medicare managed care plan.

**Rejection of Election** - Occurs when CMS has rejected an election submitted by the M+C organization. The rejection could be due to the M+C organization incorrectly submitting the transactions, to system error, or to an individual's ineligibility to elect the M+C plan.

**System Error** - A "system error" is an unintended error or delay in election processing that is clearly attributable to a specific Federal government system (e.g., the Rail Road Benefit (RRB) system), and is related to Medicare entitlement information or other information required to process an election.

## **20 - Eligibility for Enrollment in M+C Plans**

**(Rev. 26, 07-26-03)**

In general, an individual is eligible to elect an M+C plan when each of the following requirements are met. More specific detail regarding these requirements is as follows.

1. The individual is entitled to Medicare Part A and enrolled in Part B, provided that he/she will be entitled to receive services under Medicare Part A and Part B as of the effective date of coverage under the plan (see exceptions described under [§20.6](#));
2. The individual has not been medically determined to have ESRD prior to completing the enrollment form (see exceptions described under [§20.2](#));
3. The individual permanently resides in the service area of the M+C plan (see exceptions in [§20.3](#) for persons living outside the service area at the time of election);
4. The individual or his/her *legal* representative completes an enrollment *election* and includes all the information required to process the enrollment or meets alternative conditions for enrollment specified by CMS (refer to [Appendix 2](#) for a list of items required to complete the enrollment form, and [§40.2.1](#) for who may sign election forms);
5. The individual is fully informed of and agrees to abide by the rules of the M+C organization that were provided during the election process; and
6. The individual makes the election during an election period, as described in [§30](#).

An M+C organization must not deny enrollment to otherwise eligible individuals covered under an employee benefit plan. If the individual enrolls in an M+C plan and continues to

be enrolled in his/her employer's or spouse's health benefits plan, then coordination of benefits rules apply.

An M+C eligible individual may not be enrolled in more than one M+C plan at any given time. Procedures for handling multiple transactions, cancellations, and reinstatements are described under [§60](#).

## **20.1 - Entitlement to Medicare Parts A and B**

**(Rev. 26, 07-25-03)**

To be eligible to elect an M+C plan, an individual must be entitled to Medicare Part A and enrolled in Part B, and must be entitled to Medicare Part A and Part B benefits as of the effective date of coverage under the plan. Exceptions for Part B-only "grandfathered" members are outlined in [§20.6](#). Part B only individuals currently enrolled in a *plan created under §1833 or §1876* of the Social Security Act (the Act) are not considered to be "grandfathered" individuals, and must purchase Medicare Part A through the Social Security Administration to become eligible to enroll in an M+C plan.

An M+C organization has the option to continue to offer Part A-equivalent coverage to Medicare Part B-only "grandfathered" members, as described in [§20.6](#). However, an M+C organization may not offer Part A-equivalent coverage to other individuals enrolled only in Medicare Part B (and not entitled to Part A) in order to make them "eligible" for enrollment in an M+C plan. Eligibility requirements are met based on Part A entitlement through Medicare and not through the purchase of Part A-equivalent benefits through the M+C organization. The M+C organization may refer the individual to SSA if the individual wishes to enroll in Medicare Part A in order to be eligible to enroll in the M+C plan.

While desirable, it is not necessary for an individual to prove Medicare Part A entitlement or Part B enrollment **at the time** he/she completes the enrollment form, i.e., the M+C organization may not deny the enrollment if the individual does not have the evidence when filling out the enrollment form or does not include it with the form when he/she mails it to the organization. However, the organization may consider the enrollment form to be incomplete until it can verify such entitlement or enrollment. Section [§40.2.2](#) provides more information on the steps the organization can take to verify Medicare coverage. In addition, the definition of "Evidence of Part A and Part B Coverage" in [§10](#) lists some of the types of information that can be used to verify coverage.

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### **20.2.1 - Background on ESRD Entitlement**

**(Rev. 26, 07-25-03)**

When an individual files for Medicare based upon ESRD, entitlement can begin:

- The first day of the third month after the month dialysis begins (i.e., the first day of the fourth month of dialysis);
- The first day of the month dialysis began if the individual trains for self-dialysis;
- *The month an individual is admitted to a hospital for a kidney transplant, or for health care services needed before a transplant if the transplant takes place in the same month or within the two following months;*
- Up to 12 months prior to the month of filing (if dialysis began more than 12 months before); or
- Prospectively.

The Medicare entitlement date is usually the month an individual receives a transplant or three months after the month the individual begins dialysis (i.e., the first day of the fourth month of dialysis). For example, if an individual begins dialysis in January, Medicare entitlement is effective April 1. Therefore, for these individuals, the initial coverage election period (ICEP) would be the time between when dialysis begins and the Medicare entitlement date - the 3-month waiting period for Medicare entitlement.

There are individuals who are approved to perform **self-dialysis**. If an individual is approved for self-dialysis, SSA will waive the 3-month waiting period to begin Medicare entitlement. In cases of self-dialysis, Medicare entitlement is effective the month dialysis begins, rather than the customary 3 months from the month the individual begins dialysis.

### **EXAMPLE**

A Medicare record is established in January for an April 1 entitlement effective date. Since the individual has 3-month waiting period waived, SSA submits a changed record for a January 1 Medicare entitlement effective date.

Medicare pays nothing until *the* individual files for benefits and Medicare coverage becomes effective.

Individuals sometimes elect a prospective effective date to coordinate with the end of their 30-month coordination period. In the case of an **individual in a group health plan**, the group plan is required to be the primary payer for the first 30 months of Medicare eligibility or entitlement (also known as the 30-month coordination of benefits period), as long as the individual chooses to be enrolled in the group health plan. There is nothing to require an individual to file for Medicare immediately upon starting dialysis. The group health plan is primary during the coordination of benefits period, without regard to the number of individuals employed and irrespective of current employment status.

Since an ICEP relates to when an individual becomes entitled to Medicare Part A and B, when possible, the group or M+C organization should coordinate with the individual so that he/she will not be adversely impacted if he/she has the option to elect an M+C plan.

## 20.2.2 - Exceptions to Eligibility Rule for Persons Who Have ESRD

(Rev. 26, 07-25-03))

- Conversions upon ICEP: Individuals who developed ESRD while a member of a health plan offered by an M+C organization and who are converting to Medicare Parts A and B, can elect an M+C plan in the same organization (within the same State, with exceptions) as their health plan during their ICEP. ("Conversion" is defined in [§10](#) and the time frames for the ICEP are covered in [§30.2](#).) The individuals must meet all other M+C eligibility requirements and must fill out an election form *or complete an alternate enrollment election* to join the M+C plan.
  
- Conversions other than ICEP:
  1. If a Medicare entitlement determination is made retroactively, an individual has not been provided the opportunity to elect an M+C plan during his/her ICEP. Therefore, these individuals will be allowed to prospectively elect an M+C plan offered by the M+C organization, as long they were *enrolled* in a health plan offered by the same M+C organization the month before their entitlement to Parts A and B, developed ESRD while a member of that health plan, and are still enrolled in that health plan. This would also be allowed in cases when there is an administrative delay and the entitlement determination is not made timely. For example, an individual who performs self-dialysis will have his/her entitlement date adjusted to begin at the time of dialysis, rather than the customary 3-month period **after** dialysis begins.

These individuals will be given a special election period. See [§30.4.4](#) for additional instructions.

2. Individuals who are members of a group health plan and are in their 30-month coordination period will have the opportunity to elect an M+C plan at any time during this 30-month period if certain conditions are met. The individual must have been a member of a health plan offered by the M+C organization the month before his/her entitlement to Parts A and B, and must continue to be enrolled in that health plan. The individual must also choose to elect an M+C plan offered by that M+C organization, and must meet all other M+C eligibility requirements.

These individuals will be given a special election period. See [§30.4.4](#) for additional instructions.

- An individual who elects an M+C plan and who is medically determined to first have ESRD **after** the date on which the enrollment form is signed (or receipt date stamp if no date is on the form, per [§40.2](#)), *or the election is made by alternate means provided by CMS*, but **before** the effective date of coverage under the plan is still eligible to elect the plan.
- An individual who develops ESRD while enrolled in an M+C plan may continue to be enrolled in the M+C plan.
- Once enrolled in an M+C plan, a person who has ESRD may elect other M+C plans in the same M+C organization (and during allowable election periods, as described under [§30](#)). However, the member would not be eligible to elect an M+C plan in a different M+C organization or a plan in the same M+C organization in a different State (with exceptions).
- An individual with ESRD whose enrollment in an M+C plan was terminated on or after December 31, 1998, as a result of a contract termination, non-renewal, or service area reduction can make one election into a new M+C plan. The individual must meet all other M+C eligibility requirements, and must enroll during an M+C election period described in section 30, which includes the SEP associated with that specific termination, non-renewal or service area reduction. Once an individual has exhausted his one election, *he/she* will not be permitted to join another M+C plan, unless his new plan is terminated.

### **20.3 - Place of Permanent Residence**

**(Rev. 26, 07-25-03)**

An individual is eligible to elect an M+C plan if he/she permanently resides in the service area of the M+C plan. A temporary move into the M+C plan's service area does not enable the individual to elect the M+C plan; the M+C organization must deny such an election.

#### **EXCEPTIONS**

- A member who permanently moves from the service area of the M+C plan to an approved continuation area of the M+C organization, and who chooses the continuation of enrollment option offered by the M+C organization, may continue to be enrolled in the M+C plan (refer to [§60.7](#) for more detail on the requirements for the continuation of enrollment option).
- Conversions: Individuals who are enrolled in a health plan of the M+C organization and are converting to Medicare Parts A and B can elect an M+C plan offered by the same M+C organization during their ICEP even if they reside in the

M+C organization's continuation area. ("Conversion" is defined in [§10](#) and the time frames for the ICEP are covered in [§30.2](#).)

- A member who was enrolled in an M+C plan covering the area in which the member permanently resides at the time the plan was terminated in that area, may remain enrolled in the M+C plan while living outside the plan's new reduced service area if:
  - There is no other M+C plan serving the area;
  - The M+C organization offers this option; and
  - The member agrees to receive services through providers in the M+C plan's service area.
- The M+C organization has the **option** to also allow individuals who are converting to Medicare Parts A and B to elect the M+C plan during their ICEP even if they reside outside the service **and** continuation area. This option may be offered provided that CMS determines that all applicable M+C access requirements in [42 CFR 422.112](#) are met for that individual through the M+C plan's established provider network providing services in the M+C plan service area, and the organization furnishes the same benefits to the individual as to members who reside in the service area. The organization must apply the policy consistently for all individuals. These members will be known as "out-of-area" members. This option applies both to individual members and employer group members of the M+C organization.

Individuals who do not meet the above requirements may not elect the M+C plan. The M+C organization must deny enrollment to these individuals.

A permanent residence is normally the primary residence of an individual. Proof of permanent residence is normally established by the address of an individual's residence, but an M+C organization may request additional information such as voter's registration records, driver's license records, tax records, and utility bills. Such records must establish the permanent residence address, and not the mailing address, of the individual. If an individual puts a Post Office Box as his/her place of residence on the enrollment form, the M+C organization must contact the individual to determine *the* place of permanent residence, unless the person is homeless (see below). If there is a dispute over where the individual permanently resides, the M+C organization should determine whether, according to the law of the M+C organization's State, the person would be considered a resident of that State.

In the case of homeless individuals, a Post Office Box, an address of a shelter or clinic, or the address where the individual receives mail (e.g., social security checks) may be considered the place of permanent residence.

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### **20.4.1 - Alternate Employer Group Election Mechanism**

**(Rev. 26, 07-25-03)**

*Beginning April 1, 2003, M+C organizations that offer M+C plans to employer groups may choose to accept voluntary elections directly from an employer group (or its TPA) without obtaining an M+C election form from each individual. The elections reported to the M+C organization will reflect the choice of retiree coverage individual enrollees made using their employer's process for selecting a health plan. This election mechanism is optional for M+C organizations, and may not be required. Therefore, M+C organizations may specify the employer groups, if any, from which they will accept this election format and may choose to accept enrollment and/or voluntary disenrollment elections.*

*The record of an individual's choice of health plan submitted by the employer effectively replaces the M+C election form(s). All eligibility, processing and notice requirements, as outlined in this chapter of the Medicare Managed Care Manual (MMCM) and other references, that pertain to election forms are applicable to this election mechanism. This process does not require the M+C organization to obtain a signature. Detailed information and instruction is provided in [§40.1.1](#) for enrollments and [§50.1.5](#) for disenrollments.*

*Notices of disenrollment, cancellation or termination of coverage not initiated by an enrollee election (i.e. involuntary disenrollment) are not included in this mechanism. Guidance for these situations is available in [§50.1.5](#).*

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### **20.7 - Eligibility and the Hospice Benefit**

**(Rev. 26, 07-25-03)**

An M+C organization must not deny enrollment to any individual who has elected the hospice benefit. Until the M+C organization acknowledges that it has received the completed enrollment *election* and gives a coverage effective date to the individual (refer to [Exhibit 4](#), *Exhibit 4a*, and [§40](#)), the M+C organization must not ask any questions related to the existence of a terminal illness or election of the hospice benefit. Such questions will be considered impermissible health screening.

The M+C organization may not disenroll any member solely on the basis of the member electing the hospice benefit either before or after becoming a member of the M+C plan. Instead, the M+C organization must provide, or continue to provide, services unrelated to the terminal condition, including any additional benefits provided for in the M+C plan. If the member chooses to revoke the hospice election, the M+C organization again becomes responsible for providing all covered services and benefits included in the M+C plan.



Refer to Chapter 7, "Payments to Medicare + Choice Organizations" for an explanation of special payment provisions for hospice members.

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## **30 - Election Periods and Effective Dates**

**(Rev. 26, 07-25-03)**

In order for an M+C organization to accept an election, the individual must make the election during an election period (see [§10](#) for the definition of "election"). There are four types of election periods during which individuals may make elections. They are:

- The Annual Election Period (AEP);
- The Initial Coverage Election Period (ICEP);
- All Special Election Periods (SEP); and
- The Open Enrollment Period (OEP).

During the AEP, SEP, and OEP, individuals may enroll in and disenroll from M+C plans, or may move between M+C plans, or between an M+C plan and Original Medicare. Individuals may elect to enroll in M+C plans during an ICEP.

Unless a CMS-approved capacity limit applies, all M+C organizations must accept elections into their M+C plans (with the exception of M+C MSA plans) during the AEP, an ICEP, and an SEP. (Refer to [§30.7](#) for election periods for Medicare MSA plans.) When an M+C plan is closed due to a capacity limit, the M+C plan must remain closed to all prospective enrollees (with the exception of reserved vacancies) until the limit is lifted.

For the OEP, M+C organizations are required to process elections into any of their M+C plans that they choose to open to enrollment during an OEP. If an M+C plan is closed for enrollment, then it is closed to all individuals in the entire *plan* service area who are making OEP elections. When an M+C organization has a plan that re-opens after being closed during an OEP or as a result of a capacity limit, there is no requirement for the M+C organization to notify the general public. However, the M+C organization should notify CMS when this occurs.

**NOTE:** If an M+C plan is closed based on a capacity limit, this closure would apply to all types of enrollment. The CMS may approve a partial service area closure for capacity reasons. If a plan is closed in a portion of its service area for capacity reasons, that plan may be open during the OEP in the remaining portion of the service area.

**Notice to Close Enrollment** - If an M+C organization has an M+C plan that is open during an OEP, and decides to change this process, it must notify CMS and the general public 30 calendar days in advance of the new limitations on the open enrollment process.

If an M+C organization has an M+C plan that is approved by CMS for a capacity limit, it should estimate when a capacity limit will be reached and notify CMS and the general public 30 calendar days in advance of the closing of the open enrollment process. If CMS approves the capacity limit for immediate closing of enrollment, the M+C organization must notify the general public within 15 calendar days of CMS approval that it has closed for enrollment.

[Exhibit 23](#) contains three model notices that M+C organizations can use to notify the public when they are closing for enrollment.

**NOTE:** Public notices must receive CMS approval under the usual marketing review process.

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### **30.3 - Open Enrollment Period (OEP)**

**(Rev. 26, 07-25-03)**

Individuals have an opportunity to make an election or change an election during an OEP, in addition to their opportunities during the AEP, SEP, or ICEP. M+C organizations are not required to open their plans for enrollment during an OEP. However, M+C organizations must accept requests for disenrollment from M+C plans during the OEP since Original Medicare is always open during an OEP. In addition, if an M+C organization has more than one M+C plan, the M+C organization is not required to open each plan for enrollment during the same time frames.

If an M+C organization opens a plan during part of an OEP, it is not required to open the plan for the entire *month* – *it may choose to open the plan for only part of the month.*

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Beginning January 2005, the OEPI is continuous for institutionalized individuals. For purposes of enrollment, an institutionalized individual is defined as an individual who moves into, resides in, or moves out of a:

- Skilled nursing facility (SNF) as defined in [§1819 of the Act \(Medicare\)](#);
- Nursing facility (NF) as defined in [§1919 of the Act \(Medicaid\)](#);
- Intermediate care facility for the mentally retarded (ICF/MR) as defined in [§1905\(d\) of the Act](#);

- Psychiatric hospital or unit as defined in [§1886\(d\)\(1\)\(B\) of the Act](#);
- Rehabilitation hospital or unit as defined in [§1886\(d\)\(1\)\(B\) of the Act](#);
- Long-term care hospital as defined in [§1886\(d\)\(1\)\(B\) of the Act](#); or
- Hospital which has an agreement under [§1883 of the Act](#) (a swing-bed hospital).

Therefore, an M+C eligible institutionalized individual can make an unlimited number of elections during the OEPI beginning 2005. An M+C organization is not required to accept elections into its plan during the OEPI, but if it is open for these elections, it must accept all OEPI elections into the plan.

**NOTE:** Since the OEPI is continuous, Original Medicare is open continuously for institutionalized individuals beginning 2005. Therefore, M+C organizations must accept requests for disenrollment from their M+C plans during the OEPI since Original Medicare is open continuously for institutionalized individuals.

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### **30.4 - Special Election Period - (SEP)**

**(Rev. 26, 07-25-03)**

SEPs include those situations where:

1. The individual has made a change in residence outside of the service area or continuation area or has experienced another change in circumstances as determined by CMS (other than termination for non-payment of premiums or disruptive behavior) that causes the individual to no longer be eligible to elect the M+C plan;
2. CMS or the organization has terminated the M+C organization's contract for the M+C plan in the area in which the individual resides, or the organization has notified the individual of the impending termination of the plan or the impending discontinuation of the plan in the area in which the individual resides;
3. The individual demonstrates that the M+C organization offering the M+C plan substantially violated a material provision of its contract under M+C in relation to the individual, or the M+C organization (or its agent) materially misrepresented the plan when marketing the plan; or
4. The individual meets such other exceptional conditions as CMS may provide.

During an SEP, an individual may discontinue the election of an M+C plan offered by an M+C organization and change to a different M+C plan or Original Medicare. If the individual disenrolls from (or is disenrolled from) the M+C plan and changes to Original Medicare, the individual may subsequently elect a new M+C plan within the SEP time period. Once the individual has elected the new M+C plan, the SEP ends for that individual even if the time frame for the SEP is still in effect. In other words, **the SEP for the individual ends when the individual elects a new M+C plan or when the SEP time frame ends, whichever comes first, unless specified otherwise within an SEP.**

Please note that the time frame of an SEP denotes the time frame during which an individual may make an election. **It does not necessarily correspond to the effective date of coverage.** For example, if an SEP exists for an individual from May - July, then an M+C organization must receive a completed election from that individual some time between May 1 and July 31 in order to consider the election an SEP election. However, the type of SEP will dictate what the effective date of coverage may be, and that effective date of coverage may be some time after July 31. The following discussion of SEPs and their corresponding effective dates will demonstrate this concept more fully.

Individuals who disenroll from an M+C plan to Original Medicare during an SEP are provided Medigap guaranteed issue rights. These rights are not afforded to those individuals who enroll into an M+C plan during an SEP - only those who disenroll to Original Medicare. M+C organizations are required to notify members of these guaranteed issue rights when members disenroll to Original Medicare during a SEP. See [§§50.1](#) and [50.2](#) for the additional information regarding these notification requirements

The time frame and effective dates for SEPs are discussed in the following sections.

### **30.4.1 - SEPs for Changes in Residence**

**(Rev. 26, 07-25-03))**

A SEP exists for individuals who are no longer eligible to be enrolled in the M+C plan due to a change in residence outside of the plan's service or continuation area.

#### **Permanent Move Out of the Service or Continuation Area**

If the individual is no longer eligible to be a member of the plan based on a permanent move out of the service or continuation area, the SEP begins the month prior to the month of the individual's permanent move and continues during the month of the move and up to two months after the move.

#### **Outside the Service or Continuation Area for Over Six Months**

If the individual is no longer eligible to be a member of the plan based on having left the service or continuation area for over six months, this SEP begins at the beginning of the sixth month of being out of the area and continues through to the end of the eighth month.

## **In Either Case**

This SEP is associated with the actual **date of the permanent move** (or, in the case of an individual who has left the service or continuation area for over six months, the date the sixth month ends). Therefore, if the beneficiary notifies the M+C organization more than two months after the permanent move or the eighth month has passed, the individual is no longer eligible for an SEP. This will not impact those who have already been disenrolled to fee-for-service by any previous action.

The effective date of enrollment is associated with the **date the M+C organization receives the completed election**. The individual may choose an effective date of up to three months after the month in which the M+C organization receives the *enrollment election*. However, the effective date may not be earlier than the date the individual moves to the new service area (or the end of the sixth month, as appropriate) and the M+C organization receives the completed enrollment *election*.

## **EXAMPLE**

A beneficiary is a member of an M+C plan in Florida and intends to move to Arizona on June 18. A SEP exists for this beneficiary from May 1 - August 31.

- A. If an M+C organization in Arizona receives a completed enrollment form from the beneficiary in May, the beneficiary can choose an effective date of *July 1, August 1, or September 1*.
- B. If the M+C organization receives the completed enrollment form from the beneficiary in June (the month of the move), the beneficiary can choose an effective date of July 1, August 1, or September 1.
- C. If the M+C organization receives the completed enrollment form in July, the beneficiary could choose an effective date of August 1, September 1, or October 1.

At the time the individual makes the election into an M+C plan, the individual must provide the specific address where the individual will permanently reside upon moving into the service area, so that the M+C organization can determine that the individual meets the residency requirements for enrollment in the plan.

## **Disenrollment from Previous M+C Plan**

Please keep in mind that a member of an M+C plan who moves permanently out of the service area must be disenrolled from the plan, unless continuation of enrollment applies. A member of an M+C plan who is out of the area for over six months must be disenrolled from the plan.

We have established an SEP that allows an individual adequate time to choose a new M+C plan, given the fact that the individual will no longer be enrolled in the original

M+C plan after the month of the move or after the sixth month (whichever is appropriate). Unless an individual enrolls in a new M+C plan with an effective date of the month after the move or the beginning of the seventh month (e.g., the individual moves on June 18 and enrolls in a new plan effective July 1), he/she will be enrolled in Original Medicare until he/she elects the new M+C plan.

### **30.4.2 - SEPs for Contract Violation**

**(Rev. 26, 07-25-03)**

In the event an individual is able to demonstrate to CMS that the M+C organization offering the M+C plan of which he/she is a member substantially violated a material provision of its contract under M+C in relation to the individual, or the M+C organization (or its agent) materially misrepresented the plan when marketing the plan, the individual may disenroll from the M+C plan and elect Original Medicare or another M+C plan. The SEP will begin once CMS determines that a violation has occurred. Its length will depend on whether the individual immediately elects a new M+C plan upon disenrollment from the original M+C plan or whether the individual initially elects Original Medicare before choosing a new M+C plan.

We note that in some case-specific situations, CMS may process a retroactive disenrollment for these type of disenrollments. If the disenrollment is not retroactive:

- A SEP exists such that an individual may elect another M+C plan or Original Medicare during the last month of enrollment in the M+C organization, for an effective date of the month after the month the new M+C organization receives the completed enrollment *election*.

#### **EXAMPLE**

On January 16, CMS determines, based on a member's allegations, that the M+C organization substantially violated a material provision of its contract. As a result, the member will be disenrolled from the M+C plan on January 31. A SEP exists for this beneficiary beginning January 16 and lasting until the end of January. The beneficiary promptly applies for a new M+C plan, and the new M+C organization receives the completed enrollment form on January 28 for a February 1 effective date.

- If the individual in the above example elected Original Medicare during the last month of enrollment in the M+C organization (either by choosing Original Medicare or by not choosing an M+C plan and therefore defaulting to Original Medicare), the individual will be given an additional 90 calendar days from the effective date of the disenrollment from the M+C organization to elect another M+C plan. During this 90-day period, and until the individual elects a new M+C plan, the individual will be enrolled in Original Medicare. The individual may choose an effective date into a new M+C plan beginning any of the three months

after the month in which the M+C organization receives the completed enrollment form. However, the effective date may not be earlier than the date the M+C organization receives the completed enrollment form.

### **EXAMPLE**

On January 16, CMS determines, based on a member's allegations that the M+C organization substantially violated a material provision of its contract. The member decides to return to Original Medicare. As a result, the member is disenrolled from the M+C plan on January 31 and enrolled in Original Medicare with a February 1 effective date. A 90-day SEP continues to exist for the beneficiary from February 1 through April 30. In this example, a new M+C organization then receives a completed enrollment form from the individual on April 15. The beneficiary can choose an effective date of May 1, June 1, or July 1.

If the disenrollment is retroactive, the Regional Office (RO) that grants the retroactive disenrollment will provide the beneficiary with the time frame for his/her SEP to elect another M+C plan. However, the individual will not be allowed to choose an effective date into a new M+C plan of more than three months after the month the new M+C organization receives the completed enrollment *election*, and the effective date may not be earlier than the date the new M+C organization receives the completed enrollment *election*.

### **30.4.3 - SEPs for Nonrenewals or Terminations**

**(Rev. 26, 07-25-03)**

In general, SEPs are established to allow members affected by nonrenewals or terminations ample time to make a choice of their new election. Effective dates during these SEPs are described below. The CMS has the discretion to modify this SEP as necessary for any nonrenewals or terminations when the circumstances are unique and warrant a need for a modified SEP.

In particular:

- **Contract Nonrenewals** - A SEP exists for members of M+C plans that will be affected by contract nonrenewals that are effective January 1 of the contract year ([42 CFR §422.506](#)). For this type of nonrenewal, M+C organizations are required to give notice to affected members at least 90 calendar days prior to the date of nonrenewal ([42 CFR §422.506\(a\)\(2\)\(ii\)](#)). To help coordinate with the notification time frames, the SEP begins October 1 and ends on December 31 of that year.

During this SEP, a beneficiary may choose an effective date of November 1, December 1, or January 1; however, the effective date may not be earlier than the date the new M+C organization receives the completed election form.

- **M+C organization Termination of Contract and Terminations/Contract Modifications by Mutual Consent** - A SEP exists for members of plans who will be affected by a termination of contract by the M+C organization or a modification or termination of the contract by mutual consent (42 CFR [§§422.512](#) and [422.508\(a\)\(1\)](#)). For this type of termination, M+C organizations are required to give notice to affected members at least 60 calendar days prior to the proposed date of termination ([§422.512\(b\)\(2\)](#)). To help coordinate with the notification time frames, the SEP begins two months before the proposed termination effective date, and ends one month after the month in which the termination occurs.

Please note that if an individual does not elect an M+C plan before the termination effective date, he/she will be defaulted to Original Medicare on the effective date of the termination. However, the SEP will still be in effect for one month after the effective date of the termination should the individual wish to subsequently elect an M+C plan (for a current, not retroactive, effective date).

Beneficiaries affected by these types of terminations may request an effective date of the month after notice is given, or up to two months after the effective date of the termination. However, the effective date may not be earlier than the date the new M+C organization receives the completed election form.

#### **EXAMPLE**

If an M+C organization contract terminates for cause on April 30, an SEP lasts from March 1 through May 31. In this scenario, a beneficiary could choose an effective date of April 1, May 1, or June 1; however, the effective date may not be earlier than the date the new M+C organization receives the completed election form.

- **The CMS Termination of M+C organization Contract** - A SEP exists for members of plans that will be affected by M+C organization contract terminations by CMS ([42 CFR §422.510](#)). For this type of termination, M+C organizations are required to give notice to affected members at least 30 calendar days prior to the effective date of the termination ([§422.510\(b\)\(1\)\(ii\)](#)). To help coordinate with the notification time frames, the SEP begins 1 month before the termination effective date and ends 2 months after the effective date of the termination.

Please note that if an individual does not elect an M+C plan before the termination effective date, he/she will be defaulted to Original Medicare on the effective date of the termination. However, the SEP will still be in effect for two months after the effective date of the termination should the individual wish to subsequently elect an M+C plan (for a current, not retroactive, effective date).

Beneficiaries affected by these types of terminations may select an effective date of up to three months after the month of termination. However, the effective date



may not be earlier than the date the new M+C organization receives the completed election form.

### **EXAMPLE**

If CMS terminates an M+C organization contract effective June 30, an SEP lasts from June 1 through August 31. In this scenario, a beneficiary could choose an effective date of July 1, August 1, or September 1; however, the effective date may not be earlier than the date the new M+C organization receives the completed election.

- **Immediate Terminations By CMS** - CMS will establish the SEP during the termination process for immediate terminations by CMS ([§422.510\(b\)\(2\)](#)), where CMS provides notice of termination to an M+C plan's members and the termination may be mid-month.

## **30.4.4 - SEPs for Exceptional Conditions**

**(Rev. 26, 07-25-03)**

The CMS has the legal authority to establish SEPs when an individual meets exceptional conditions specified by CMS. Currently CMS has established the following SEPs for exceptional conditions:

**1. SEP EGHP** - An SEP exists for individuals electing M+C plans through their employer groups; disenrolling from their employer group-sponsored M+C plan to Original Medicare; or disenrolling from their employer group-sponsored M+C plan and electing a new M+C plan. The SEP EGHP may be used during the OEP if a plan is closed for enrollment during the OEP. Additionally, the SEP EGHP may be used when the EGHP would otherwise allow the individual to make changes in their elections due to "life changes," e.g., changes in marital status, for the newly employed, etc.

For elections into M+C plans, the SEP may only be used if the EGHP provides notice to the individual at the time of enrollment stating that he/she understands the network and authorization requirements of the plan - also referred to as "lock-in" language. This language is included on the model enrollment forms in Exhibits 1, 2, and 3.

The individual may choose an effective date of up to three months after the month in which the EGHP receives the completed enrollment *election* or disenrollment request. However, the effective date may not be earlier than the date the EGHP receives the completed enrollment *election* or disenrollment request.

**NOTE:** If necessary, the M+C organization may process the election with a retroactive effective date, as outlined in [§60.6](#). Keep in mind that all M+C eligible individuals, including those in EGHPs, may elect M+C plans during the AEP and ICEP, during any other SEP, and during the OEP if the plan is open for enrollment. The SEP EGHP does not eliminate the right of these individuals to make elections during these time frames.

**2. SEP for Individuals Who Disenroll in Connection with a CMS Sanction** - On a case by case basis, CMS will establish an SEP if CMS sanctions an M+C organization, and an enrollee disenrolls in connection with the matter that gave rise to that sanction. The start/length of the SEP, as well as the effective date, are dependent upon the situation.

**3. SEP for Individuals Enrolled in Cost Plans that are Nonrenewing their Contracts** - For calendar years through 2004 (or, if later, for so long as authority for cost contracts is extended), an SEP will be available to enrollees of HMOs or CMPs that are not renewing their [§1876](#) of the Act cost contracts for the area in which the enrollee lives.

This SEP is available only to Medicare beneficiaries who are enrolled with an HMO or CMP under a [§1876](#) of the Act cost contract that will no longer be offered in the area in which the beneficiary lives. Beneficiaries electing to enroll in an M+C plan via this SEP must meet M+C eligibility requirements.

This SEP begins 90 calendar days prior to the end of the contract year (i.e., October 1) and ends on December 31 of the same year.

During this SEP, a beneficiary may choose an effective date of November 1, December 1, or January 1; however, the effective date may not be earlier than the date the new M+C organization receives the completed election.

**4. SEP for Individuals in the Program of All-inclusive Care for the Elderly (PACE)** - Individuals may disenroll from an M+C plan at any time in order to enroll in PACE. In addition, individuals who disenroll from PACE have an SEP for up to 2 months after the effective date of PACE disenrollment to elect an M+C plan. The effective date would be dependent upon the situation.

**5. SEP for Dual-eligible Individuals or Individuals Who Lose Their Dual-eligibility** - There is an SEP for individuals who are entitled to Medicare Part A and Part B and receive any type of assistance from the Title XIX (Medicaid) program. This SEP lasts from the time the individual becomes dually-eligible and exists as long as they receive Medicaid benefits, provided the Medicaid program allows for a change. The effective date would be dependent upon the situation.

In addition, M+C-eligible individuals who are no longer eligible for Title XIX benefits have a 3-month period after the date it is determined they are no longer eligible to make an election.

**6. SEP for Individuals Who Dropped a Medigap Policy When They Enrolled For the First Time in an M+C Plan, and Who Are Still in a "Trial Period"** - For Medicare beneficiaries who dropped a Medigap policy when they enrolled for the first time in an M+C plan, [§1882\(s\)\(3\)\(B\)\(v\)](#) of the Act provides a guaranteed right to purchase another Medigap policy if they disenroll from the M+C plan while they are still in a "trial period." In most cases, a trial period lasts for 12 months after a person enrolls in an M+C plan for the first time. Such individuals would not be eligible for the special election period provided for in the last sentence of [§1851\(e\)](#) of the Act, because they did

not enroll in an M+C plan immediately upon becoming Medicare eligible, but instead had been in the Original Medicare Plan for some period of time. The right to "guaranteed issue" of a Medigap policy under [§1882\(s\)\(3\)\(B\)\(v\)](#) of the Act would be meaningless if individuals covered by this provision could not disenroll from the M+C plan while they were still in a trial period.

Accordingly, there is an SEP for individuals who are eligible for "guaranteed issue" of a Medigap policy under [§1882\(s\)\(3\)\(B\)\(v\)](#) of the Act upon disenrollment from the M+C plan in which they are enrolled. This SEP allows a qualified individual to make a one-time election to disenroll from their first M+C plan to join the Original Medicare Plan at any time of the year. The effective date would be dependent upon the situation.

**7. SEP for M+C Plans that Open in (or Expand into) a Rural Non-M+C Area** - This SEP permits individuals to enroll in a plan that enters a rural non-M+C area at any time during that M+C plan's first 12 months of operation. In this case, "rural" is defined in accordance with [§1886\(d\)\(2\)\(D\)\(ii\)](#) of the Act and further defined in the regulation at [42 CFR 412.62\(f\)](#). In general, any area outside a Metropolitan Statistical Area (as defined by the Office of Management and Budget) is considered rural. Refer to a list of MSAs at <http://www.hcfa.gov/medicare/mgd-rept.htm>. This SEP allows for a one-time election into the new M+C plan. The effective date is the first day of the month after the M+C plan receives the completed election form. The SEP would end if and when another M+C plan entered the area before the end of the 12-month period.

For example, if CMS approves a new M+C plan on May 1, 2002, for a start date of June 1, 2002, the SEP would last from June 1, 2002, through May 31, 2003. However, if another M+C plan entered that same service area before May 31, 2003 - for example, January 1, 2003 - the SEP would end.

**8. SEP for Individuals with ESRD Whose Entitlement Determination Made Retroactively** - If a Medicare entitlement determination is made retroactively, an individual has not been provided the opportunity to elect an M+C plan during his/her ICEP. Therefore, these individuals will be allowed to prospectively elect an M+C plan offered by the M+C organization, provided:

- a. They were in a health plan offered by the same M+C organization the month before their entitlement to Parts A and B;
- b. Developed ESRD while a member of that health plan; and
- c. Are still enrolled in that health plan.

This would also be allowed in cases when there is an administrative delay and the entitlement determination is not made timely. For example, an individual who performs self-dialysis will have his/her entitlement date adjusted to begin at the time of dialysis, rather than the customary 3-month period AFTER dialysis begins.

The SEP begins the month the individual receives the notice of the Medicare entitlement determination and continues for 2 additional months after the month the notice is received. The election may only be made prospectively and the effective date is the first day of the month after the M+C plan receives the completed election.

**9. SEP for Individuals with ESRD who are Members of a Group Health Plan and in their 30-month Coordination Period** - This SEP provides certain individuals with ESRD who are in group health plans the opportunity to elect select M+C plans at any time during the 30-month period **provided:**

- a. The individual is a member of a health plan offered by the M+C organization at the time of Medicare entitlement;
- b. Continues to be enrolled in the health plan offered by the M+C organization; and
- c. Chooses to elect an M+C plan offered by that M+C organization, assuming the individual meets all other M+C eligibility requirements.

In order to be eligible for this SEP, there must be no break in coverage between the *group* health plan offered by an M+C organization, and coverage in the M+C plan offered by the same organization. This SEP continues throughout the duration of the 30-month coordination period and allows the individual one election from the commercial health plan to the M+C product offered by the same organization. The effective date is dependent upon the situation.

**10. SEP for Individuals Whose Medicare Entitlement Determination Made Retroactively** - If a Medicare entitlement determination is made retroactively, an individual has not been provided the opportunity to elect an M+C plan during his/her ICEP. Therefore, these individuals will be allowed to prospectively elect an M+C plan offered by the M+C organization. This would also be allowed in cases when there is an administrative delay and the entitlement determination is not made timely.

The SEP begins the month the individual receives the notice of the Medicare entitlement determination and continues for two additional months after the month the notice is received. The election may only be made prospectively and the effective date is the first day of the month after the M+C plan receives the completed election.

**11. SEP for current M+C organization members who wish to enroll in a zero-premium plan offered by the same M+C organization in 2002** - In 2002, individuals enrolled in an M+C plan with a monthly premium will have an SEP to elect a zero premium plan in the same M+C organization, if such a plan is offered. The election is effective the first day of the month after the M+C plan receives a *completed* election (an abbreviated election form can be used).

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## 30.5 - Effective Date of Coverage

(Rev. 26, 07-25-03)

With the exception of some SEPs and when election periods overlap, generally beneficiaries may not request their effective date. Furthermore, except for EGHP elections, the effective date can never be prior to the receipt of a complete election form by the M+C organization. *An enrollment cannot be effective prior to the date the beneficiary or their legal representative signed the enrollment form or completed the enrollment election.* Section [40.2](#) includes procedures for handling situations when a beneficiary chooses an enrollment effective date that is not allowable based on the requirements outlined in this section.

To determine the proper effective date, the M+C organization must determine which election period applies to each individual before the enrollment may be transmitted to CMS. The election period may be determined by reviewing information such as the individual's date of birth, Medicare card, a letter from SSA, or by the date the completed enrollment *election* is received by the M+C organization.

Once the election period is identified by the M+C organization, the M+C organization must determine the effective date. Refer to [§60.7](#) to determine the effective date for a continuation of enrollment. In addition, EGHP enrollments may be retroactive. (Refer to [§60.6](#) for more information on EGHP retroactive effective dates.)

Effective dates are as follows:

<b>Election Period</b>	<b>Effective Date of Coverage</b>	<b>Do M+C organizations have to accept elections in this election period?</b>
Initial Coverage Election Period	First day of the month of entitlement to Medicare Part A and Part B	Yes – unless capacity limit applies
Open Enrollment Period	First day of the month after the month the M+C organization receives a completed enrollment <i>election</i> .	No the M+C organization can choose to be "opened" or "closed" to accept enrollments during this period.
Annual Election Period	January 1 of the following year	Yes – unless capacity limit applies
Special Election Period	Varies, as outlined in <a href="#">§30.4</a>	Yes – unless capacity limit applies

It is possible for an individual to make an enrollment election when more than one election period applies, and therefore it is possible that more than one effective date could be used. Therefore, if an individual makes an enrollment election when more than one election period applies, an M+C organization must allow the individual to choose the election period (and therefore the effective date) in which he/she is enrolling (see exception in the next paragraph regarding the ICEP).

If the individual's ICEP and another election period overlap, the individual may not choose an effective date any earlier than the month of entitlement to Medicare Part A and *enrollment in* Part B.

#### **EXAMPLE**

- If an individual's ICEP is November, December and January (i.e., he will be entitled to Medicare Part A and Part B in February) and an M+C organization receives a completed enrollment form from that individual during the AEP, then the individual may NOT choose a January 1 effective date for the AEP and must be given a February 1 effective date for the ICEP because January 1st is earlier than the month of entitlement to Medicare Part A and *enrollment in* Part B.

If an individual makes an enrollment election when more than one election period applies but does not indicate or select an effective date, then the M+C organization should assign an effective date that benefits the individual and should attempt to contact the individual to determine the individual's preference. If unsuccessful, the M+C organization should use the following ranking of election periods (1 = Highest, 4 = Lowest). The election period with the highest rank generally determines the effective date.

Ranking of Election Periods: (1 = Highest, 4 = Lowest)

1. ICEP
2. SEP
3. AEP
4. OEP

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## **40 - Enrollment Procedures**

**(Rev. 26, 07-25-03)**

An M+C organization must accept elections it receives, regardless of whether they are received in a face-to-face interview, by mail, by facsimile, *or through other mechanisms defined by CMS*. M+C organizations must never delay processing of enrollment *elections* unless the beneficiary's election is being placed on a waiting list, as allowed under [§40.5](#).

An individual must complete and sign an enrollment form, or *complete* another CMS accepted form or CMS approved method, to enroll in an M+C plan, **even if that individual in electing an M+C plan in the same M+C organization in which he/she is enrolled**. If an individual wishes to elect another M+C plan in the same M+C organization, he/she must complete a new enrollment *election* to enroll in the new M+C plan. *A* short enrollment form (refer to [Exhibit 3](#) for a model short enrollment form) OR *a* model selection form ([Exhibit 3a](#)) *may be used* to make the election in place of the comprehensive individual enrollment form. With the exception of forms that are faxed to the M+C organization, individuals should submit original, not photocopied, forms.

An M+C organization must send the beneficiary written notice of M+C organization denial of enrollment, CMS confirmation of enrollment, or CMS rejection of enrollment, as described in [§§40.2.3](#) and [40.4.2](#).

All notice requirements are summarized in [Appendix 1](#).

## **40.1 - Format of Enrollment Forms**

**(Rev. 26, 07-25-03)**

The M+C organization must use an enrollment form that complies with CMS' guidelines in format and content. A model individual enrollment form is included as [Exhibit 1](#); a model EGHP enrollment form is included as [Exhibit 2](#). *For changes from one plan to another plan within the same M+C organization*, a model short form is included as [Exhibit 3](#); and a model *selection* form is included as [Exhibit 3a](#).

The M+C organization's individual and/or EGHP enrollment form must include statements that the member:

- Agrees to abide by the M+C organization's membership rules as outlined in material provided to the member, including the lock-in provisions;
- Authorizes the disclosure and exchange of necessary information with CMS;
- Understands that enrollment in the M+C plan automatically disenrolls him/her from any other M+C, HCPP, or cost plan in which he/she is enrolled;
- Understands that if enrollment forms are submitted for more than one plan with the same effective date, all attempted enrollments may be canceled;
- Knows that the effective date is the date he/she must begin receiving care through the M+C plan; and
- Knows he/she has the right to appeal service and payment denials made by the organization.

The short enrollment form, if used by the M+C organization, must include statements that the member:

- Agrees to abide by the M+C organization's membership rules as outlined in material provided to the member, including the lock-in provisions;
- Authorizes the disclosure and exchange of necessary information with CMS; and
- Knows that the effective date is the date he/she must begin receiving care through the M+C plan.

The model *selection* form for elections from one M+C plan to another within an organization, if used by the organization, must include:

- A description of the M+C plan option's benefits, costs, and premiums;
- Statements that the member understands the lock-in rules that apply under the plan; and
- The signature from the beneficiary or beneficiary's *legal* representative (proof of *legal* representative should be on file).

No enrollment form *or other enrollment election mechanism* may include a question regarding whether the individual receives hospice coverage or any other health screening information, with the exception of questions regarding ESRD status and nursing home status.

Refer to [§60.8](#) for requirements regarding retention of enrollment forms.

#### ***40.1.1 – Optional Employer Group M+C Enrollment Election***

***(Rev. 26, 07-25-03)***

*As described in §20.4.1 of this chapter, beginning April 1, 2003, M+C organizations that offer M+C plans to employer groups may choose to accept voluntary enrollment elections directly from an employer group (or its TPA) without obtaining an M+C election form from each individual. The elections reported to the M+C organization will reflect the choice of retiree coverage individual enrollees made using their employer's process for selecting a health plan. This election mechanism is optional for M+C organizations, and may not be required. Therefore, M+C organizations may specify the employer groups, if any, from which they will accept this election format and may choose to accept these enrollment elections.*



- *The M+C organization must inform its Regional Office Plan Manager of its intent to use this mechanism and identify the employer group(s) for which it will be accepting enrollments, made in this manner.*
- *The enrollment information (i.e., the electronic file) submitted to the M+C organization by an employer (or TPA) must accurately reflect the employer's record of the election of coverage made by each individual according to the processes the employer has in place, and may be accepted without a hard-copy M+C election form.*
- *Sales package minimum information requirements are not changed by using this option. These include, but are not limited to, providing the applicable rules of the M+C organization. Each individual's enrollment election must clearly denote his/her agreement to abide by the M+C organization rules, certify his/her receipt of required disclosure information and include authorization by the beneficiary for the disclosure and exchange of necessary information between the U.S. Department of Health and Human Services (and its designees) and the M+C organization. The requirements for all other information provided to enrollees, both pre- and post-enrollment, are unchanged by this option and must be satisfied.*
- *The enrollment election transaction must include all the data necessary for the M+C organization to determine each individual's eligibility to make an election as described in §20 of this chapter of the MMCM. Agreements with employer groups should identify required data elements. A detailed list of these elements is provided as Appendix 2.*
- *This alternate election mechanism is used in place of paper M+C election forms, and does not require a signature. For purposes of compatibility with existing instructions in this chapter, the "signature" date of elections made in this manner will be the date the retiree completes his/her employer's coverage choice process, as recorded by the employer. The M+C organization "receipt" date will be the date the employer's record of an individual's choice is received by the M+C organization. M+C organizations must record these dates.*
- *Effective date calculation of voluntary elections and the collection and submission of elections to CMS will follow existing procedures.*
- *To accept electronic records of employer group elections, the M+C organization must, at minimum, comply with the CMS security policies regarding the acceptable method of encryption utilized to provide for data security, confidentiality and integrity, and authentication and identification procedures to ensure both the sender and recipient of the data are known to each other and are authorized to receive and decrypt the information. (See the CMS web site at: <http://www.cms.hhs.gov/it/security> for additional information.)*

- *The employer's record of the election must exist in a format that can be easily, accurately and quickly reproduced for later reference by each individual member, the M+C organization and/or CMS as necessary, and be maintained (by the employer or the M+C organization, as they agree) for at least 6 years following the effective date of the individual's disenrollment from an M+C plan. The M+C organization must maintain its record of information received from the employer following the guidelines for M+C election forms (see §60.8).*

## **40.2 - Completing the Enrollment**

**(Rev. 26, 07-25-03)**

If *an* enrollment form is filled out during a face-to-face interview, the M+C organization should use the individual's Medicare card to verify the spelling of the name, and to confirm the correct recording of sex, Health Insurance Claim Number, and dates of entitlement to Medicare Part A and *enrollment in Part B*. If the form is mailed or faxed to the M+C organization, *or the election is made through another CMS approved method*, the M+C organization should verify this information with the individual via telephone or other means, or request that the individual include a copy of his/her Medicare card when mailing in the enrollment form.

[Appendix 2](#) lists all the elements that must be filled out in order to consider the enrollment form "complete." This list is based on the data elements contained in Exhibits 1, 2, and 3. If the M+C organization receives an enrollment form that contains all these elements, the M+C organization must consider the enrollment form complete even if all other data elements on the enrollment form are not filled out. If an M+C organization has received CMS approval for an enrollment form that contains data elements in addition to those included in Exhibit 1, 2, 3, and 3a, then the election form is considered complete even if those additional elements are incomplete.

If an M+C organization receives an enrollment form that does not have all necessary elements required in order to consider the application complete, it must not deny the enrollment. Instead, the enrollment is considered incomplete and the M+C organization must follow the procedures outlined in [§40.2.2](#) in order to complete the enrollment. Where possible, the M+C organization should check available systems for information to complete an enrollment before requiring the beneficiary to provide the missing information. For example, if a beneficiary failed to fill out the "sex" field on the enrollment, the M+C organization could obtain this information via available systems rather than request the information from the beneficiary.

*For employer group health plan enrollees, the M+C Organization may choose to accept enrollment elections as described in [§40.1.1](#). All required elements as listed in [Appendix 2](#) must be included in the election record for the election to be considered complete (except signature). Follow the procedures outlined in [§40.2.2](#) to address incomplete election records.*

The following should also be considered when completing an enrollment:

- A. **Permanent Residence Information** - The M+C organization should obtain the individual's permanent residence address to determine that he/she resides within the M+C plan's service area. If an individual puts a Post Office Box as his/her place of residence on the enrollment *election*, the M+C organization may consider the enrollment *election* incomplete and must contact the individual to determine place of permanent residence. If the applicant claims permanent residency in two or more states or if there is a dispute over where the individual permanently resides, the M+C organization should consult the State law in which the M+C organization operates and determine whether the enrollee is considered a resident of the State.

Refer to [§10](#) for a definition of "evidence of permanent residence," and [§20.3](#) for more information on determining residence for homeless individuals.

- B. **Entitlement Information** - While desirable, it is not necessary for an individual to prove Medicare Part A entitlement or Part B enrollment **at the time** he/she signs the enrollment form or *completes the enrollment election*. For example, the M+C organization may not deny the enrollment if the individual does not have the evidence when filling out the enrollment form or does not include it with the form when he/she mails it to the organization. Section 10 contains a list of items that can be considered entitlement evidence under the definition of "evidence of Medicare Part A and Part B coverage."

*If, at the end of the month, the M+C organization receives an election form from the beneficiary without any evidence of entitlement to Medicare Part A and enrollment in Medicare Part B (e.g., copy of Medicare card, SSA letter, etc), CMS will allow for a grace period of 3 business days after the end of the month to obtain such verification. If it is confirmed during the grace period that the beneficiary was entitled to Medicare Part A and enrolled in Part B when the election was received by the M+CO, the date of entitlement will suffice as the evidence and the election will be considered complete upon receipt.*

*For example, if an otherwise complete enrollment election was received on September 30, 2002, the M+C organization has until October 3 to verify Medicare Part A entitlement and Part B enrollment to provide the enrollee with an October 1 effective date.*

If the individual does not provide evidence of Medicare coverage with the enrollment *election* and the organization is not able to obtain or verify entitlement through available systems *by the end of the 3-business day "grace period,"* refer to [§40.2.2](#) for additional procedures.

- C. **Effective Date of Coverage** - The M+C organization must *determine the effective date of coverage as described in §30.5 for all enrollment elections*. If the individual fills out *an* enrollment form in a face-to-face interview, then the M+C organization representative may advise the individual of the proposed effective

date, but must also stress to the individual that it is only a proposed effective date and that the individual will hear directly from the M+C organization to confirm the actual effective date. The M+C organization must notify the member of the effective date of coverage prior to the effective date (refer to [§40.4](#) for more information and a description of exceptions to this rule), and must write the actual effective date on the enrollment form *where applicable*.

With the exception of some SEPs and when election periods overlap, beneficiaries may not choose their effective date (effective dates are described in [§30.5](#)). Instead, the M+C organization is responsible for assigning the appropriate effective date based on the election period. During face-to-face enrollments, the M+C organization staff are responsible for ensuring that a beneficiary does not choose an effective date that is not allowed under the requirements outlined in [§30.5](#).

If a beneficiary *completes an enrollment election* with an unallowable effective date, or if the M+C organization allowed the beneficiary to choose an unallowable effective date, the M+C organization must notify the beneficiary in a timely manner and explain that the enrollment must be processed with a different effective date. The organization should resolve the issue with the beneficiary as to the correct effective date, and the notification must be documented. If the beneficiary refuses to have the enrollment processed with the correct effective date, the beneficiary can cancel the election according to the procedures outlined in [§60.2.1](#).

- D. **Health Related Information** - M+C organizations may not ask health screening questions during completion of the enrollment *election*. *M+C organizations are only permitted to send health assessment forms after enrollment. However, M+C organizations may ask very limited health status questions related to a beneficiary's eligibility to join an M+C plan such as* whether the individual has ESRD, is enrolled in Medicaid, or is currently admitted to a certified Medicare/Medicaid institution. Queries for this information are included on the model individual enrollment form in [Exhibit 1](#), and the model EGHP form in Exhibit 2. These queries are not considered to be health screening questions. With the exception of information obtained on ESRD status, the responses to these questions must not have an affect on eligibility to enroll in an M+C plan.
- E. **Statement of Understanding** - As outlined in [§20.5](#), a beneficiary must understand and agree to abide by the rules of the M+C plan in order to be eligible to enroll. It is at the M+C organization's discretion to decide whether it will:
- Have fields next to the statements and require the beneficiary's initials next to each statement (as shown on the last page of Exhibits 1 and 2); or

- List the statement of understanding and consider the beneficiary signature on the form (*or completion of the election process*) to signify that the individual has read and understands the statements.

The M+C organization must apply the policy consistently. If the M+C organization requires the initials and the beneficiary fails to initial his/her understanding of each item listed *on the enrollment form*, the M+C organization may contact the beneficiary to clarify the M+C organization rules in order to complete the enrollment form. The M+C organization must document the contact and annotate the outcome of the contact. If the M+C organization is unable to contact the beneficiary to ensure their understanding, the enrollment form would be considered incomplete.

- F. **Enrollee Signature and Date** - The individual must sign the enrollment form. If the individual is unable to sign the form, a legal representative must sign the enrollment form (refer to [§40.2.1](#) for more detail). If a legal representative signs the form for the individual, then a copy of the proof of court-appointed legal guardian, durable power of attorney, or proof of other authorization required by State law that empowers the individual to effect an election on behalf of the applicant must be attached to the form.

The individual and/or legal representative should also write the date he/she signed the enrollment form; however, if he/she inadvertently fails to include the date on the enrollment form, then the stamped date of receipt that the M+C organization places on the enrollment form may serve as the signature date of the form.

- G. **Other Signatures** - If the M+C organization representative, or any other person, helps the individual fill out the enrollment form, then the M+C organization representative or person must also sign the enrollment form and indicate his/her relationship to the individual. However, the M+C organization representative does not have to co-sign the form when:

- He/she pre-fills the individual's name and mailing address when the individual has requested that an enrollment form be mailed to him/her,
- He/she fills in the "office use only" block, and/or
- He/she corrects information on the enrollment form after verifying information (see "final verification of information" below).

The M+C organization representative does have to co-sign the form if he/she pre-fills any other information, including the individual's phone number.

- H. **Old Signature Dates** - If the M+C organization receives an enrollment form that was signed more than 30 calendar days prior to the M+C organization's receipt of

the form, the M+C organization is encouraged to contact the individual to re-affirm intent to enroll prior to processing the enrollment and to advise the beneficiary of the upcoming effective date.

- I. **Determining the Receipt Date** - The M+C organization must date stamp all enrollment forms as soon as they are initially received at the M+C organization's business offices. If the enrollment form is completed at the time it is date stamped, then the date stamp is equivalent to the "receipt date" (refer to [§10](#) for definitions of "receipt of election" and "completed election"). If the enrollment form is not complete at the time it is date stamped, then the additional documentation required for the enrollment form to be complete must be date stamped as soon as it is received. The date stamp on the last piece of additional documentation received will then serve as the "receipt date." Once the enrollment form is "complete" (based on the definition in [§10](#)), then the enrollment form is considered to be "received" by the M+C organization for the purposes of determining the effective date.

*For the Employer Group M+C Election mechanism the receipt date will be the date the employer's record of an individual's health plan choice is received by the M+C organization (see §40.1.1).*

- J. **Final Verification of Information** - Some M+C organizations verify information before enrollment information has been transmitted to CMS. In these cases the M+C organization may find that it must make corrections to an individual's enrollment form. The M+C organization should make those corrections, and the individual making those corrections must place his/her initials and the date next to the corrections. A separate "correction" sheet, signed and dated by the individual making the correction, may be used by the M+C organization (in place of the initialing procedure described in the prior sentence), and should become a part of the enrollment file. These types of corrections will not result in the M+C organization having to co-sign the enrollment form.

- K. **Premiums Owed to the M+CO** - An M+C organization may choose to wait for the individual's payment of the plan premium, including any premiums due the M+C organization for a prior enrollment before considering an enrollment "complete."

- L. **Completed Enrollment Forms** - Once the enrollment form is complete, the M+C organization must transmit the enrollment to CMS within the time frames prescribed in [§40.3](#), and must send the individual the information described in [§40.4](#) within the prescribed time frames. There are instances when a complete enrollment can turn out to be legally invalid. These instances are outlined in [§40.6](#).

## 40.2.1 - Who May Sign An Election Form *or Complete an Election Method*

(Rev. 26, 07-25-03)

A Medicare beneficiary is generally the only individual who may execute a valid election for enrollment in or disenrollment from an M+C plan. However, another individual could be the legal representative or appropriate party to execute an election form if a court has designated that individual as the proper party to take such an action on behalf of the Medicare beneficiary. The CMS will recognize State laws that authorize persons to effect an election for Medicare beneficiaries. Persons authorized under State law may be court-appointed legal guardians or persons having durable power of attorney for health care decisions, provided they have authority to act for the beneficiary in this capacity.

If a Medicare beneficiary is unable to sign an enrollment form or disenrollment request due to reasons such as physical limitations or illiteracy, State law would again govern whether another individual may execute the form on behalf of the beneficiary. Usually, a court-appointed guardian is authorized to act on the beneficiary's behalf. If there is uncertainty regarding whether another person may sign for a beneficiary, M+C organizations should check State laws regarding the authority of persons to sign for and make health care treatment decisions for other persons.

Where M+C organizations are aware that an individual has a representative payee designated by SSA to handle the individual's finances, M+C organizations should contact the representative payee to determine his/her legal relationship to the individual, and to ascertain whether he/she is the appropriate person, under State law, to execute the enrollment or disenrollment. Representative payee status alone is not sufficient to enroll or disenroll a Medicare beneficiary.

When someone other than the Medicare beneficiary completes an enrollment form or disenrollment request, M+C organizations must maintain documentation showing how the determination was made that another individual was authorized to act on behalf of the beneficiary.

## 40.2.2 - When the Enrollment *Election* Is Incomplete

(Rev. 26, 07-25-03)

When the enrollment *election* is incomplete, the M+C organization must document all efforts to obtain additional documentation to complete the enrollment *election* and have an audit trail to document why the enrollment *election* needed additional documentation before it could be considered complete. If additional documentation needed to make the *election* "complete" is not received within 45 days of the request, the organization may deny the enrollment using the procedures outlined in [§40.2.3](#).

**Entitlement Information** - If the individual has not provided evidence of entitlement to Medicare Part A and enrollment in Part B with the enrollment election, the organization

may choose to consider an enrollment form complete by obtaining *such* evidence through available systems within seven business days of receipt of the enrollment *election*.

If the systems indicate that the individual is entitled to Medicare Part A and enrolled in Part B, and the M+C organization has all the other information it needs to complete the enrollment *election*, then no further documentation from the individual would be needed and the enrollment *election* is considered complete.

If the systems do not provide evidence of entitlement, then the M+C organization must promptly contact the individual to obtain such evidence.

***NOTE:** CMS will allow for a grace period of 3 business days after the end of the month to obtain such verification. If it is confirmed during the grace period that the beneficiary was entitled to both Medicare Part A and Part B when the *election* was received by the M+CO, the date of entitlement will suffice as the evidence and the election will be considered complete upon receipt.*

**Requesting Information from the Beneficiary** - To obtain information to complete the enrollment *election*, the M+C organization must contact the individual to request the information (see [Exhibit 5](#) for a model letter). If the contact is made orally, the M+C organization must document the contact and retain the documentation in its records. The M+C organization must explain to the individual that the individual has 30 calendar days in which to submit the additional information or the enrollment will be denied. Since an incomplete election is an invalid enrollment (as explained in [§40.6](#)), if the additional documentation is not received within 45 calendar days of request (i.e., after allowing for the 30 days plus an additional 15 days for information to be received and logged in by the M+C organization), the M+C organization must send a denial of enrollment letter (see [Exhibit 7](#) for a model denial of enrollment letter).

If all documentation is received within allowable time frames and the enrollment *election* is complete, the M+C organization must transmit the enrollment to CMS within the time frames prescribed in [§40.3](#), and must send the individual the information described in [§40.4](#).

### **40.2.3 - M+C Organization Denial of Enrollment**

**(Rev. 26, 07-25-03)**

An M+C organization must deny an enrollment based on (1) Its own determination of the ineligibility of the individual to elect the M+C plan and/or, (2) An individual not providing information to complete the enrollment *election* within the time frames described in [§40.2.2](#).

M+C organization denials occur before the organization has even transmitted the enrollment to CMS. For example, it may be obvious that the individual is not eligible to elect the plan due to place of residence, the M+C plan is closed for enrollment, etc. This



up-front denial determination should be made in a timely manner, but no later than seven business days of receipt of the completed enrollment *election*.

**Notice Requirement** - The organization must send written notice of the denial to the individual that includes an explanation of the reason for denial (refer to [Exhibit 7](#) for a model notice). This notice should be sent within seven business days of the organization's denial determination.

#### **EXAMPLE**

- An M+C organization receives an enrollment *election* from an individual on January 7 and determines on that same day that the individual is ineligible due to place of residence. The organization should send written notice of denial within seven business days from January 7.
- An M+C organization receives an enrollment form on January 7 from an individual, identifies the enrollment form as incomplete, and notifies the individual of the need for additional information, on January 10. The beneficiary does not submit the information by February 24 (as required under [§40.2.2](#)), which means the organization must deny the enrollment. The organization should send written notice of denial within seven business days from February 24.

### **40.2.4 - ESRD and Enrollment**

(Rev. 26, 07-25-03)

#### **ESRD and Kidney Transplants**

If an M+C organization is aware that an individual electing a plan has received a kidney transplant (e.g., the individual informs the M+C organization that this has occurred), then the M+C organization should request that the individual submit medical documentation (i.e., a letter from the physician that documents that the individual has received a kidney transplant and no longer requires a regular course of dialysis to maintain life), using the procedures outlined in [§40.2.2](#). Upon receipt of this documentation, the M+C organization should enroll the beneficiary using the override procedures described in Chapter 19 (Managed Care and M+C Systems Requirements).

If an individual indicates on the enrollment *election* that he/she does not have ESRD, but the M+C organization receives a reply listing containing a "code 45" or "code 15" rejection (an explanation of reply listing codes is contained in Chapter 19), the M+C organization should investigate further to determine whether the individual is eligible to enroll. To determine eligibility, the M+C organization should contact the individual to request medical documentation using the procedures outlined in [§40.2.2](#). Contact can be made orally, in which case the M+C organization must document the contact and retain the documentation in its records.

If the M+C organization learns that the individual has received a kidney transplant which has restored kidney function and that the individual no longer requires a regular course of dialysis to maintain life, then the individual must be permitted to enroll in the M+C plan if other applicable eligibility requirements are met. When this occurs, the M+C organization must contact its RO to override the system rejection. The following documentation must be submitted to the RO:

1. Evidence of contact with the individual after the system rejection, including the individual's explanation for rejection (i.e., successful transplant), and medical documentation, i.e., a letter from the physician that documents that the individual has received a transplant that has restored kidney function.
2. A copy of the Reply Listing or, if using the services of a CMS subcontractor, a report indicating the M+C organization's attempts to enroll the individual and the resulting rejection.

Once received and approved, the RO will override the enrollment rejection for the individual.

### **ESRD and M+C Plan Terminations**

Certain individuals with ESRD who have been impacted by M+C terminations will be permitted to make one election into a new M+C plan (refer to [§20.2](#) for a discussion of who is eligible to make an election). Beneficiaries will be instructed to save their notification letters to present, if requested, to M+C organizations as proof of their eligibility to join a plan. The CMS' system will edit incoming enrollment transactions for ESRD beneficiaries to determine:

1. If they were a member of a terminating or terminated M+C plan; and
2. If they have already used their one election.

Enrollments for these individuals should be submitted as normal transactions with all other transactions. The enrollment will be allowed if the individual is eligible, and will be rejected if not.

### **40.3 - Transmission of Enrollments to CMS**

**(Rev. 26, 07-25-03)**

For all enrollment requests that the organization is not denying per the requirements in [§40.2.3](#), the M+C organization must submit the information necessary for CMS to add the beneficiary to its records as an enrollee of the M+C organization within 30 calendar days of receipt of the **completed** enrollment *election*. In the case of elections that are accepted after the M+C organization is enrolled to capacity, but as a vacancy occurs, the

M+C organization must submit the information within 30 calendar days after a vacancy has become available.

All enrollment *elections* must be processed in chronological order by date of receipt of completed enrollment *elections* (refer to [§40.5](#) for procedures when the M+C plan is closed for enrollment).

M+C organizations are encouraged to submit transactions by the earliest possible M+C organization processing cutoff date (refer to Chapter 19 - Managed Care and M+C Systems Requirements). However, if the organization misses the cutoff date, it must still submit the transactions within the required 30-day time frame.

**NOTE:** The 30-day requirement to submit the transaction does not delay the effective date of the individual's coverage under the plan, i.e., the effective date must be established according to the procedures outlined in [§§30.5](#) and [30.7](#).

More detail on how M+C organizations must submit transmissions to CMS are contained in Chapter 19 and the Enrollment and Payment User's Guide.

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#### **40.4.1 - Prior to the Effective Date of Coverage**

**(Rev. 26, 07-25-03)**

Prior to the effective date of coverage the M+C organization must provide the member with all the necessary information about being a Medicare member of the M+C organization, the M+C organization rules, and the member's rights and responsibilities. (An exception to this requirement is described in [§40.4.2](#).) The M+C organization must also provide the following to the individual:

- A copy of the completed enrollment form, if the individual does not already have a copy of the form, *where applicable*;
- A letter acknowledging receipt of the completed enrollment *election* (refer to [Exhibit 4](#) and [Exhibit 4a](#) for a model letter) and showing the effective date of coverage; and
- Evidence of health insurance coverage so that he/she may begin using plan services as of the effective date

**NOTE:** This is not the same as the Evidence of Coverage document described in Chapter 3 - Marketing.

This evidence may be in the form of member cards, the enrollment form, and/or a letter to the member (refer to [Exhibit 4](#) and [Exhibit 4a](#), which is a model letter with optional language that would allow the member to use the letter as evidence

of health insurance coverage until he/she receives a member card).

**NOTE:** If the M+C organization does not provide the member card prior to the effective date, it must provide it as soon as possible after the effective date.

Regardless of whether an election is made in a face-to-face interview, by fax, by mail, *or by other mechanisms defined by CMS*, the M+C organization must explain:

- The charges for which the prospective member will be liable, e.g., any premiums, coinsurance, fees or other amounts; and any amount that is attributable to the Medicare deductible and coinsurance.
- The prospective member's authorization for the disclosure and exchange of necessary information between the M+C organization and CMS.
- The lock-in requirement. The M+C organization must also obtain an acknowledgment by the individual that he/she understands that care will be received through designated providers except for emergency services and urgently needed care.
- The potential for member liability if it is found that the member is not entitled to Medicare Part A and Part B at the time coverage begins and the member has used M+C plan services after the effective date.
- The effective date of coverage and how to obtain services prior to the receipt of an ID card (if the M+C organization has not yet provided the ID cards).

#### **40.4.2 - After the Effective Date of Coverage**

**(Rev. 26, 07-25-03)**

The CMS recognizes that for some election periods, the M+C organization will be unable to mail the materials and notification of the effective date to the individual prior to the effective date, as required in [§40.4.1](#). These cases will only occur in the last few days of an *election period*, when a completed enrollment *election* is received by the M+C organization, and the effective date is the first of the upcoming month. In these cases, the M+C organization should mail the member all materials described above no later than 7 business days after receipt of the completed enrollment *election*. In these cases, the M+C organization is also strongly encouraged to call the member within 1 business day after the effective date to provide the effective date and explain the M+C organization rules.

**Acceptance/Rejection of Enrollment** - Once the M+C organization receives a reply listing report from CMS indicating whether the individual's enrollment has been accepted or rejected, the M+C organization should notify the individual in writing of CMS' acceptance or rejection of his/her enrollment within seven business days of the

availability of the reply listing (see [Exhibits 6](#), [Exhibit 6a](#), and [Exhibit 8](#) for model letters).

The one exception is if the organization receives the initial CMS reply listing that rejects the individual's enrollment due to no Medicare Part A and/or no Medicare Part B *and the M+C organization has evidence to the contrary*. In this case, the M+C organization should request a retroactive enrollment from the RO within 45 days from the availability of the initial reply listing. If the RO is unable to process the retroactive enrollment due to its determination that the individual does not have Medicare Part A and/or Part B, the M+C organization must reject the enrollment and should notify the individual of the rejection in writing within seven business days after the RO determination. Retroactive enrollments are covered in more detail in [§60.4](#).

If an M+C organization rejects an enrollment and later receives additional information from the individual showing entitlement to Medicare Part A and enrollment in Part B, the M+C organization must obtain a new enrollment *election* from the individual in order to enroll the individual, and must process the enrollment with a current (i.e., not retroactive) effective date. Refer to [§60.4](#) for more information regarding retroactive enrollments and the 45-day requirement.

## **40.5 - Enrollment Processing During Closed Periods**

**(Rev. 26, 07-25-03)**

As described in [§40.3](#), an M+C organization must process elections in order by date of receipt of completed enrollment *election* when it is open for enrollment. However, an M+C organization may close an M+C plan during the OEP (as described in [§30.3](#)) or when it reaches a CMS-approved capacity limit. This section addresses procedures for handling enrollments that arrive at the M+C organization when an M+C plan is closed for enrollment, and for processing those enrollments when the M+C plan re-opens or a vacancy occurs.

If an M+C organization believes its M+C plan does not have the capacity to accept additional members, or as the M+C plan enrollment grows and the M+C organization estimates it may reach capacity during its next open enrollment period, the M+C organization may request a CMS-approved limit on enrollment.

A capacity limit allows an M+C organization to close or limit enrollment during the AEP, ICEP, and SEP. Only with a reserved vacancy may an M+C organization set aside vacancies for enrollment of conversions. Refer to Chapter 1 (General Administration of the Managed Care/Medicare + Choice Program) for more detail on how and when to request a capacity limit.

### **40.5.1 - Procedures After Reaching Capacity**

**(Rev. 26, 07-25-03)**

If the number of individuals who elect to enroll in an M+C plan exceeds a CMS-approved capacity limit, then the M+C organization may limit enrollment of these individuals, but only if it provides priority in acceptance.

If an M+C organization receives completed enrollment *elections* between the time it reaches its limit and the time CMS approves the limit, it may follow one of two options **after it receives approval from CMS to limit enrollment:** (1) Deny the enrollment due to the onset of the capacity limit, or (2) Place the enrollment on a waiting list to be processed as vacancies occur in the priority of acceptance. This priority requires that the M+C organization process enrollments from individuals who elected the M+C plan prior to CMS' determination that the capacity has been exceeded, in order based on date of receipt of the completed enrollment *election*, and in a manner that does not discriminate on the basis of any factor related to health as described in [42 CFR §422.110](#).

The M+C organization must take the same action for all enrollment *elections* received. See below for procedures for following options 1 or 2.

After the enrollments discussed in the above paragraph are acted upon, the M+C organization has similar options for handling any additional enrollment requests received while the plan is closed for enrollment. The M+C organization may follow one of two options: (1) Deny the enrollment due to the capacity limit, or (2) Place the enrollment on a waiting list to be processed when the plan re-opens for enrollment. However, to ensure no discrimination is applied to applications processed, all M+C organizations that use option 1 (i.e., deny enrollment) for enrollments discussed in the above paragraph, must continue to deny all enrollments received while the plan is closed for enrollment, and may not use option 2. The M+C organization must take the same action for all enrollment forms received. In the case of enrollments received after the plan closes for enrollment, the date the M+C plan re-opens becomes the "receipt date" of enrollment forms received when the plan was closed.

#### **EXAMPLE**

If the plan was closed in April and re-opens on May 1, then the receipt date of enrollment *elections* received in April is May 1. See below for procedures for following options 1 or 2.

**If the M+C Organization Uses Option 1** - It must notify the individual in writing that it is denying the enrollment, and should do so within seven business days after it receives the enrollment *election* or after the M+C organization receives approval from CMS to limit enrollment ([Exhibit 7](#)). Please note that CMS encourages M+C organizations to use this option if they expect that there will be no enrollment opportunities for longer than one month. This reduces the likelihood of multiple transactions and/or mistaken disenrollments that would occur if a potential applicant enrolls in another M+C plan while waiting for the original M+C plan to re-open.

**If the M+C Organization Uses Option 2** - It must notify the individual in writing that he/she has been placed on a waiting list, and should do so within seven business days

after the M+C organization receives the enrollment *election* or after the M+C organization receives approval from CMS to limit enrollment. The notice must also provide an estimated length of time that the individual will be on a waiting list and instruct the individual that he may cancel his enrollment before a vacancy occurs.

As enrollment spaces become available, if the plan was closed for more than 30 calendar days since the receipt of the enrollment form, the M+C organization must contact (orally or in writing) the individual to re-affirm the individual's intent to enroll before processing the enrollment. (The M+C organization may make this contact even if the plan was closed for less than 30 days.) Within seven business days after contacting the individual, the M+C organization must send written notice of intent to not process the enrollment to all individuals who state they are no longer interested in being enrolled in the M+C plan.

For individuals who indicate their continued interest in enrollment, the M+C organization must document the individual's expressed interest to continue enrollment. This may be done via phone contact report, notation on the enrollment form, etc.

There may be situations in which the M+C organization has closed enrollment in a service area, yet receives an approval for a capacity limit for a portion of that same service area. Given that M+C plans are either open or closed for an ENTIRE service area, any vacancies which may open up may only be filled by individuals in their ICEP or SEP by applying the rules of accepting enrollments when M+C plans are closed (see [§40.5.2](#) below). Further, it must take those individuals based upon enrollments received in chronological order.

## **40.5.2 - Procedures After Closing During the OEP**

**(Rev. 26, 07-25-03)**

As stated in [§30](#), an M+C organization must accept all elections for its M+C plans made during the AEP, ICEP, or SEP. However, an M+C organization may not process **OEP** enrollments for a plan when the plan is closed for enrollment during the OEP.

If an M+C plan is closed during the OEP and receives new OEP enrollment forms or documentation to complete OEP enrollment forms already received by the M+C organization, then the M+C organization may do one of the following. The M+C organization must take the same action for all enrollment forms received while the plan is closed:

1. Deny the enrollment;
2. Continue to accept the completed enrollment forms to be placed on a waiting list.

**If the M+C Organization uses option #1 above** - It must notify the individual in writing that it is denying the enrollment, and should do so within seven business days after it receives the enrollment *election* ([Exhibit 7](#)). Please note that CMS encourages M+C organizations to use this option if they expect that there will be no enrollment

opportunities for longer than one month. This reduces the likelihood of multiple transactions and/or mistaken disenrollments that would occur if a potential applicant enrolls in another M+C plan while waiting for the original M+C plan to re-open.

**If the M+C Organization uses option #2 above** - it must notify the individual in writing that he/she has been placed on a waiting list. The notice must inform the individual that the enrollment request will not be processed until the plan re-opens for enrollment, must include the date the plan will re-open, and must inform the individual that he/she may cancel the request for enrollment before the plan re-opens. All individuals who wish to wait for an opening must be placed on the waiting list.

After the M+C plan re-opens, if the plan was closed for more than 30 calendar days since the M+C organization received the enrollment *election*, it must contact (orally or in writing) the individual to re-affirm the individual's intent to enroll before processing the enrollment. (The M+C organization may make this contact even if the plan was closed for less than 30 days.) The M+C organization must send written notice of intent to not process the enrollment to all individuals who state they are no longer interested in being enrolled in the M+C plan, and should do so within seven business days after contacting the individual.

For individuals who indicate their continued interest in enrollment, the M+C organization must document the individual's expressed interest to continue enrollment. This may be done via phone contact report, notation on the enrollment form, etc. The date the M+C plan re-opened becomes the "receipt date" of enrollment forms received when the plan was closed.

#### **EXAMPLE**

If the plan was closed in April and re-opens on May 1, then the receipt date of enrollment forms received in April is May 1.

### **40.6 - Enrollments Not Legally Valid**

**(Rev. 26, 07-25-03)**

When an enrollment is not legally valid, a retroactive disenrollment action may be necessary (refer to [§60.5](#) for more information on retroactive disenrollments). In addition, a reinstatement to the plan in which the individual was originally enrolled may be necessary if the invalid enrollment resulted in an individual's disenrollment from his/her original plan of choice.

An enrollment that is not complete, as defined in [§10](#), is not legally valid. In addition, an enrollment is not legally valid if it is later determined that the individual did not meet eligibility requirements at the time of enrollment. For example, an enrollment is not legally valid if an M+C organization determines at a later date that the individual provided an incorrect permanent address at the time of enrollment and the actual address is outside the M+C plan's service area.



There are also instances in which an enrollment that appears to be complete can turn out to be legally invalid. In particular, CMS does not regard an enrollment as actually complete if the member or his/her *legal* representative did not intend to enroll in the M+C organization. If there is evidence that the member did not intend to enroll in the M+C organization, the M+C organization should submit a retroactive disenrollment request to the CMS RO. Evidence of lack of intent to enroll by the member may include:

- Continuing supplemental (Medigap) insurance coverage after receipt of the confirmation of enrollment letter from the M+C organization (refer to [Exhibit 6](#) for a model confirmation letter);
- An enrollment *election* signed by the member when a legal representative should be signing for the member;
- Request by the individual for cancellation of enrollment before the effective date (refer to [§60.2](#) for procedures for processing cancellations);
- Enrolling in a supplemental insurance program immediately after enrolling in the M+C organization; or
- Receiving non-emergency or non-urgent services out-of-plan immediately after the effective date of coverage under the plan.

Payment of the premium does not necessarily indicate an informed decision to enroll. For example, the member may believe that he/she was purchasing a supplemental health insurance policy, as opposed to enrolling in an M+C organization. In addition, use of an M+C plan doctor does not necessarily indicate an understanding of the lock-in requirement if the doctor also treats non-plan members.

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## **50.1 - Voluntary Disenrollment by Member**

**(Rev. 26, 07-25-03)**

A member may only disenroll from an M+C plan during one of the election periods outlined in [§§30](#) and [30.7](#). The member may disenroll by:

1. Giving or faxing a signed written notice to the M+C organization, *or through their employer, where applicable*;
2. Submitting a request via Internet to the M+C organization (if the M+C organization offers such an option);

3. Giving a signed written notice to any SSA or RRB office (refer to [§50.8](#) for procedures for Medicare MSA plans); or
4. By calling 1-800-MEDICAR(E).

If a member verbally requests disenrollment from the M+C plan, as mentioned in #1 and #2 above, the M+C organization must instruct the member to make the request in writing. The M+C organization may send a disenrollment form to the member upon request (see Exhibits [9](#) and [10](#)).

The disenrollment request must be date stamped when it is initially received at the M+C organization's business offices.

### **50.1.1 - Requests Submitted via Internet**

**(Rev. 26, 07-25-03)**

The M+C organization has the option to allow members to submit disenrollment requests via the Internet; however, certain conditions must be met. The M+C organization must, at a minimum, comply with the CMS security policies - found at <http://cms.hhs.gov/it/security/>. However, the M+CO may also include additional security provisions. The CMS policies indicate that with regard to receiving such disenrollments via the Internet, an acceptable method of encryption must be utilized to provide for confidentiality and integrity of this data, and that authentication or identification procedures are employed to assure that both the sender and recipient of the data are known to each other and are authorized to receive and decrypt such information.

In addition, CMS policies also require M+C organizations to provide the CMS Office of Information Services with a pro forma notice of intent to use the Internet for these purposes. The notice is essentially an attestation that the M+C organization is complying with the required encryption, authentication, and identification requirements. The CMS reserves the right to audit the M+C organization to ascertain whether it is in compliance with the security policy. The effective date of the request is received by the specified site designated by the M+C organization.

### **50.1.2 - Request Signature and Date**

**(Rev. 26, 07-25-03)**

When providing a written request, the individual must sign the disenrollment request. If the individual is unable to sign, a legal representative must sign the request (refer to [§40.2.1](#) for more detail on who may sign election forms). If a legal representative signs the request for the individual, then a copy of the proof of court-appointed legal guardian, durable power of attorney, or proof of other authorization required by State law must be attached to the request.

The individual and/or legal representative should write the date he/she signed the disenrollment request; however, if he/she inadvertently fails to include the date, then the stamped date of receipt that the M+C organization places on the request form may serve as the signature date.

### **50.1.3 - Effective Dates**

**(Rev. 26, 07-25-03)**

The election period will determine the effective date of the disenrollment; refer to [§§30.6](#) and [30.7](#) for information regarding disenrollment effective dates.

With the exception of some SEPs and when election periods overlap, beneficiaries may not choose their effective date. Instead, the M+C organization is responsible for assigning the appropriate effective date based on the election period. During face-to-face disenrollments, or when a beneficiary calls about a disenrollment, the M+C organization staff are responsible for ensuring that a beneficiary does not choose an effective date that is not allowed under the requirements outlined in [§§30.6](#) and [30.7](#).

If a beneficiary mails in a disenrollment request with an unallowable effective date, or if the M+C organization allowed the beneficiary to choose an unallowable effective date, the M+C organization must call or write the beneficiary to explain that the disenrollment must be processed with a different effective date. The organization should resolve the issue with the beneficiary as to the correct effective date, and the call must be documented. If the beneficiary refuses to have the disenrollment processed with the correct effective date, the beneficiary can cancel the election according to the procedures outlined in [§60.2.2](#).

### **50.1.4 - Notice Requirements**

**(Rev. 26, 07-25-03)**

After the member submits a request, the M+C organization must provide the member a copy of the request for disenrollment and a disenrollment letter, and should do so within seven business days of receipt of the request to disenroll. The disenrollment letter must include an explanation of the lock-in restrictions for the period during which the member remains enrolled in the organization, and the effective date of the disenrollment (see [Exhibit 11](#)). The M+C organization may also advise the disenrolling member to hold Original Medicare claims for up to one month so that Medicare computer records can be updated to show that the person is no longer enrolled in the plan. For these types of disenrollments, i.e., disenrollments in which the member has disenrolled directly through the M+C organization, M+C organizations are encouraged, but not required, to follow up with a confirmation of disenrollment letter after receiving CMS confirmation of the disenrollment from the reply listing.

Since Medicare beneficiaries have the option of disenrolling through SSA, RRB, 1-800-MEDICAR(E), or by enrolling in another Medicare managed care plan, the M+C

organization will not always receive written request for disenrollment from the member and will instead learn of the disenrollment through the CMS Reply Listing Report. If the M+C organization learns of the voluntary disenrollment from the CMS reply listing (as opposed to through written request from the member), the M+C organization must send written confirmation of the disenrollment to the member, and should do so within seven business days of the availability of the reply listing (see [Exhibit 12](#)).

### **50.1.5 – Optional Employer Group M+C Disenrollment Election**

**(Rev. 26, 07-25-03)**

*As described in §20.4.1 of this chapter, beginning April 1, 2003, M+C organizations that offer M+C plans to employer groups may choose to accept voluntary disenrollment elections directly from an employer group (or its TPA) without obtaining an M+C disenrollment form from each individual. This disenrollment election mechanism is optional for M+C organizations, and may not be required. Therefore, M+C organizations may specify the employer groups, if any, from which they will accept this election format and may choose to accept these disenrollment elections.*

- The M+C organization must inform its Regional Office Plan Manager of its intent to use this mechanism and identify the employer group(s) for which it will be accepting disenrollments, made in this manner.*
- The disenrollment information (i.e., the electronic file) submitted to the M+C organization by an employer (or TPA) must accurately reflect the employer's record of the disenrollment made by each individual according to the processes the employer has in place, and may be accepted without a hard-copy M+C election form.*
- This alternate election mechanism is used in place of paper M+C election forms, and does not require a signature. For purposes of compatibility with existing instructions in this chapter, the M+C organization receipt date will be the date the employer's record of an individual's disenrollment choice is received by the M+C organization. M+C organizations must record these dates.*
- Effective date calculation of voluntary disenrollments and the collection and submission of disenrollments to CMS will follow existing procedures.*
- To accept electronic records of employer group elections, the M+C organization must, at minimum, comply with the CMS security policies regarding the acceptable method of encryption utilized to provide for data security, confidentiality and integrity, and authentication and identification procedures to ensure both the sender and recipient of the data are known to each other and are authorized to receive and decrypt the information. (See the CMS Web site at: <http://www.cms.hhs.gov/it/security> for additional information.)*

- *The employer's record of the election must exist in a format that can be easily, accurately and quickly reproduced for later reference by each individual member, the M+C organization and/or CMS as necessary, and be maintained (by the employer or the M+C organization, as they agree) for at least 6 years following the effective date of the individual's disenrollment from an M+C plan. The M+C organization must maintain its record of information received from the employer following the guidelines for M+C election forms (see §60.8).*

### **50.1.6 - Medigap Guaranteed Issue Notification Requirements for Disenrollments to Original Medicare during a SEP**

**(Rev. 26, 07-25-03)**

M+C organizations are required to notify members of their Medigap guaranteed issue rights when members disenroll to Original Medicare during a SEP. Model language discussing these Medigap rights has been provided in [Exhibit 11](#) and [Exhibit 12](#).

There may be cases when a Medigap issuer requires the beneficiary to provide additional documentation that they disenrolled as a result of an SEP and are eligible for such guaranteed issue rights. A beneficiary may contact you for assistance in providing such documentation. The M+C organization may provide such a notice to the beneficiary upon request (see [Exhibit 24](#)).

### **50.2 - Required Involuntary Disenrollment**

**(Rev. 26, 07-25-03)**

The M+C organization **must** disenroll a member from an M+C plan in the following cases. Refer to [§50.6](#) for some exceptions to required disenrollment for grandfathered members.

1. A change in residence makes the individual ineligible to be a member of the plan ([§50.2.1](#))
2. The member loses entitlement to either Medicare Part A or Part B ([§50.2.2](#));
3. The member dies ([§50.2.3](#)); or
4. The M+C organization contract is terminated, or the M+C organization discontinues offering the plan in any portion of the area where the plan had previously been available. There is an exception to this rule, which is described in [§50.2.4](#).

**Notice Requirements** - In situations where the M+C organization disenrolls the member involuntarily on any basis except death or loss of entitlement, notices of the upcoming disenrollment meeting the following requirements must be sent. All disenrollment notices must:

1. Advise the member that the M+C organization is planning to disenroll the member and why such action is occurring;
2. Be mailed to the member before submission of the disenrollment transaction to CMS; and
3. Include an explanation of the member's right to a hearing under the M+C organization's grievance procedures. (This explanation is not required if the disenrollment is a result of the M+C plan termination or service area or continuation area reduction, since a hearing would not be appropriate for that type of disenrollment. There are different notice requirements for terminations and area reductions, which are provided in separate instructions to M+C organizations.)

### **Medigap Guaranteed Issue Notification Requirements for Disenrollments to Original Medicare during a SEP**

M+C organizations are required to notify members of their Medigap guaranteed issue rights when members disenroll to Original Medicare during a SEP. Model language discussing these Medigap rights has been provided in [Exhibit 11](#) and [Exhibit 12](#).

There may be cases when a Medigap issuer requires the beneficiary to provide additional documentation that they disenrolled as a result of an SEP and are eligible for such guaranteed issue rights. A beneficiary may contact you for assistance in providing such documentation. The M+C organization may provide such a notice to the beneficiary upon request (see [Exhibit 24](#)).

### **50.2.1 - Members Who Change Residence**

(Rev. 26, 07-25-03)

#### **50.2.1.1 - General Rule**

(Rev. 26, 07-25-03)

The M+C organization must disenroll a member if:

1. He/she permanently moves out of the service area and his/her new residence is not in a continuation area;
2. *The member's temporary absence from the service area (or continuation area, for continuation of enrollment members) exceeds six consecutive months;*
3. *The member is an out-of-area member (as defined in §10), and permanently moves to an area that is not in the service area or continuation area;*

4. He/she permanently moves out of the continuation area and his/her new residence is not in the service area or another continuation area;
5. The member permanently moves out of the service area (or continuation area, for continuation of enrollment members) and into a continuation area, but chooses not to continue enrollment in the M+C plan (refer to [§60.7](#) for procedures for choosing the continuation of enrollment option);
6. The member is an out-of-area member (as defined in [§10](#)), who leaves his/her residence for more than six months.

### **50.2.1.2 - Effective Date**

*(Rev. 26, 07-25-03)*

Generally disenrollments for **reasons 1, 4, 5, and 6** above are effective the first day of the calendar month after the date the member begins residing outside of the M+C plan's service area (or continuation area, as appropriate) **AND** after the M+C organization has been notified by the member or his/her *legal* representative. *However, if the member establishes that a permanent move occurred retroactively and requests retroactive disenrollment (not earlier than the 1st of the month after the move), the M+C organization can submit this request to the RO for consideration of retroactive action.*

Disenrollment for **reasons 2 and 3** above is effective the first day of the calendar month after six months have passed.

*Unless the member elects another Medicare managed care plan during an applicable election period, any disenrollment processed under these provisions will result in a change of election to Original Medicare.*

*A SEP, as defined in [§30.4.1](#), applies to members who are disenrolled due to a change in residence. A member may choose another M+C plan, or Original Medicare, during this SEP. The rules for this SEP will determine the effective date in the new M+C plan or Original Medicare.*

**NOTE:** *On October 25, 2002, CMS published a notice of proposed rulemaking that proposed regulations which would address the issue of "extended enrollment" or visitor/traveler programs. Directions on this matter will be available in a subsequent update to this chapter. M+C organizations that offer a visitor/traveler benefit allowing out of area enrollment for up to 12 months at this time should contact their plan manager for further guidance.*

### **50.2.1.3 - Researching and Acting on a Change of Address**

*(Rev. 26, 07-25-03)*

M+C organizations may receive a notice of a change of address from the member, the member's *legal* representative, a CMS reply listing, or another source. *The M+CO must make an attempt to contact the member to verify address information in order to determine whether disenrollment is appropriate and document their efforts.* M+C organizations may require members to provide written verification of changes in address, but they may also choose to allow verbal verification, as long as the M+C organization applies the policy consistently among all members.

*The M+C organization must retain documentation from the member or member's legal representative of the notice of the change in address, including the determination of whether the move out of the service area is temporary or permanent.*

1. If the M+C organization receives notice of a **permanent change** in address **from the member or the member's legal representative**, and that address is outside the M+C plan's service area (or continuation area, for continuation of enrollment members), then the M+C organization must disenroll the member and provide proper notification. The only exception is if the member has permanently moved into the continuation area and chosen the continuation of enrollment option (procedures for electing a continuation of enrollment option are outlined in [§60.7](#)).
2. If the M+C organization receives notice of a new address **from a source other than the member or the member's legal representative**, and that address is outside the M+C plan's service area (or continuation area, for continuation of enrollment members), then the M+C organization may not assume the move is permanent until it has received confirmation from the member or member's *legal* representative.

*M+C organizations may consider the six months to have begun on the date given by the beneficiary as the date that he/she will be leaving the service area. If the beneficiary did not inform the M+C organization of when he/she left the service area, then the M+C organization can consider the six months to have begun on the date the change in address is identified (e.g. through the reply listing report).*

*If the member does not respond to the request for verification within the time frame given by the M+C organization, the M+C organization cannot assume the move is permanent and may not disenroll the member until six months have passed. The M+C organization may continue its attempts to verify address information with the member.*

*The M+C organization must initiate disenrollment when it verifies a move is permanent or when the member has been out of the service area (or continuation area, for continuation of enrollment members) for six months from the date the M+C organization learned of the change in address.*

3. *Temporary moves* - If the M+C organization determines the change in address is temporary, then the M+C organization may not initiate disenrollment until six



months have passed from the date the M+C organization learned of the change in address (or from the date the member states that his address changed, if that date is earlier).

#### **50.2.1.4 - Notice Requirements**

**(Rev. 26, 07-25-03)**

- 1. M+C organization notified of out-of-area permanent move - When the organization receives notice of a permanent change in address from the member or the member's legal representative, it must provide written notification of disenrollment to the member. This notice must be sent within seven business days of the M+C organization's learning of the permanent move before the disenrollment transaction is submitted to CMS.*

*In the notice, the M+C organization is encouraged to inform the member who moves out of the service area that he/she may have certain Medigap enrollment opportunities available to them. These opportunities end 63 days after coverage with the M+C organization ends. The M+C organization can direct the beneficiary to contact the State Health Insurance Assistance Program (SHIP) for additional information on Medigap insurance.*

- 2. Out of area for six months - When the member has been out of the service area for six months after the date the M+C organization learned of the change in address from a source other than the member or the member's legal representative (or the date the member stated that his address changed, if that date is earlier), the M+C organization must provide written notification of the upcoming disenrollment to the member.*

*The notice of disenrollment must be sent some time during the sixth month, or no later than seven business days after the sixth month as long as the notice is sent before the disenrollment transaction is submitted to CMS. The notice should advise the member to notify the M+C organization as soon as possible if the information is incorrect.*

*This written notice must also be sent to out-of-area members (as defined in §10) who leave their residence for a location outside the service area, and that absence exceeds six months.*

*The CMS strongly encourages that M+C organizations send final confirmation of disenrollment to the member to ensure the individual does not continue to use M+C organization services.*

#### **EXAMPLE**

*M+CO receives a reply listing on January 20 that indicates that the member is "out of area". The 6-month period ends on July 20. The M+CO sends a notice to the member in February. The M+CO continues to receive reply listings,*

*however, has not received any response from the member indicating this information is incorrect. Therefore, the M+CO will proceed with the disenrollment, effective August 1. The M+CO sends a notice to the member July 21 notifying him that he will be disenrolled.*

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### **50.3 - Optional Involuntary Disenrollments**

**(Rev. 26, 07-25-03)**

An M+C organization may disenroll a member from an M+C plan it offers if:

- Premiums are not paid on a timely basis ([§50.3.1](#));
- The member engages in disruptive behavior ([§50.3.2](#)); or
- The member provides fraudulent information on an election form, or if the member permits abuse of an enrollment card in the M+C plan ([§50.3.3](#)).

***Notice Requirements** - In situations where the M+C organization disenrolls the member involuntarily for any of the reasons addressed above, the M+C organization must send notice of the upcoming disenrollment that meets the following requirements:*

- Advises the member that the M+C organization is planning to disenroll the member and why such action is occurring;
- Provides the effective date of termination; and
- Includes an explanation of the member's right to a hearing under the M+C organization's grievance procedures.

Unless otherwise indicated, all notices must be mailed to the member before submission of the disenrollment transaction to CMS.

#### **50.3.1 - Failure to Pay Premiums**

**(Rev. 26, 07-25-03)**

M+C organizations may not disenroll a member who fails to pay M+C plan cost sharing, other than premiums. However, an M+C organization has three options when a member fails to pay the M+C plan's basic and supplementary premiums.

For each of its M+C plans, the M+C organization must take action consistently among all members, i.e., an M+C organization may have different policies among its plans, but it may not have different policies within a plan.

The M+C organization **may**:

1. Do nothing, i.e., allow the member to remain enrolled in the same premium plan;
2. Disenroll the member after proper notice; or
3. If the member fails to pay the premium for optional supplemental benefits (that is, a package of benefits that the member is not required to accept), but pays the premium for basic and mandatory supplemental benefits, reduce the member's coverage (also known as "downgrade") by discontinuing the optional supplemental benefits and retaining the member in the **same** plan after proper notice. Given these requirements for a downgrade, this option clearly is only available for M+C plans that have optional supplemental benefits offered at a higher premium than the basic benefit package. Such an action would be considered an addendum to the member's original election in the M+C plan, and would not be considered a new election. Refer to Chapter 4 (Benefits and Beneficiary Protections) for a definition of "basic benefit," "mandatory supplement," and "optional supplemental benefits."

If the M+C organization chooses to disenroll the member or reduce coverage, the action may only be accomplished by the M+C organization when payment has not been received within 90 calendar days after the date a notice of non-payment was sent to the member. The M+C organization must send a notice of non-payment of premiums **within** 20 calendar days after the delinquent premiums were due, and must notify the member if he/she will be disenrolled or if coverage will be reduced.

While the M+C organization may accept partial payments, it has the right to ask for full payment within the 90-day grace period. If the member does not pay the required amount within the 90-day grace period, the effective date of disenrollment or reduction in coverage is the first day of the month after the 90-day period ends. Unless the member elects another M+C plan during an applicable election period, any disenrollment processed under these provisions will always result in a change of election to Original Medicare. **The M+C organization has the right to take action to collect the unpaid premiums from the beneficiary at any point during or after this process.**

If a member is disenrolled for failure to pay premiums and attempts to re-enroll in the organization, the M+C organization may require the individual to pay any outstanding premiums owed to the M+C organization before considering the enrollment to be "complete."

### **Calculating the 90-Day Grace Period**

M+C organizations have the following options in calculating the 90-day grace period. The organization must apply the same option for all members of a plan.

**A - M+C organizations may consider the 90-day grace period to end 90 days from the date the first notice of non-payment is sent.**

If the overdue premium and all other premiums that become due during the 90-day period (in accordance with the terms of the member's agreement with the M+C organization) are not paid in full by the end of 90 days following the date of the first notice, the M+C organization can terminate or reduce the member's coverage. Under this scenario, M+C organizations are encouraged to send subsequent notices as reminders or to show that additional premiums are due, but the 90-day grace period still begins to run from the date the first notice was sent. Subsequent notices, therefore, should determine the expiration date of the grace period by reference to the date of the first notice.

**EXAMPLE**

A member fails to pay his January premium due January 1. The M+C organization sends a notice to the member on January 15 stating that his coverage will be terminated or reduced (as the case may be) if the outstanding premium is not paid within 90 days of the date of notice, along with all premiums that become due during that 90-day period. The member fails to pay his February and March premiums, and receives a second and third notice from the M+C organization. The member pays the January premium by the April 14, the 90th day. However, the premium payments for February, March, and April are still outstanding. The M+C organization could then terminate or reduce the member's coverage, after giving proper notice, effective May 1.

In short, the M+C organization may require that the member pay the overdue premiums in full within the 90-day grace period, as well as all other payments becoming due within that 90-day period, in order to avoid disenrollment or a reduction in coverage. If the M+C organization requires the member to make full payment within the 90-day grace period and pay all premiums falling due within that period, however, the M+C organization must state so in its initial delinquency notice to the member.

**B - M+C organizations may use a "rollover" approach in determining how to calculate the 90-day period.**

Under this scenario, the 90-day grace period would begin on the date the first notice of non-payment is sent, but if the member makes a premium payment within the 90-day period, the 90-day grace period stops, and the M+C organization would then send another notice informing the member of any overdue payments. The member would then have a new 90-day grace period, beginning on the date that the second notice was sent. (The subsequent notice also would have to be sent within 20 days of the date the subsequent premiums became delinquent and the notice otherwise would have to comply with the requirements for such notices, discussed below.) This process would continue until the member's balance for overdue premiums was paid in full or until a 90-day grace period expired with no premium payments being made, at which time the M+C organization could terminate or reduce the member's coverage.

## EXAMPLE A

A member fails to pay his January premium due January 1. The M+C organization sends a notice to the member on January 15 stating that his coverage will be terminated or reduced if the outstanding premium is not paid within 90 days of the date of notice. The member fails to pay his February premium, and receives a second notice from the M+C organization on February 15. The member pays the January premium, but does not pay the February premium. The 90-day grace period is recalculated to begin on February 15th, the date the second notice was sent. The M+C organization sends a notice to the member reflecting the new 90-day grace period. The member pays off his balance in full before the second 90-day time frame expires on May 15. The member's coverage in the M+C plan remains intact.

## EXAMPLE B

Same scenario as above, except the member does not make any more premium payments during the second 90-day grace period expiring on May 15. The M+C organization could terminate or reduce the member's coverage, after giving proper notice, effective June 1.

**Notice Requirements** - If the M+C organization chooses to disenroll the member or to reduce coverage when a member has not paid premiums, the M+C organization must send an appropriate written notice to the member **within 20 calendar days** after the date the delinquent premiums were due (see [Exhibit 19](#)). The M+C organization may send interim notices after the initial notice.

In addition to the notice requirements outlined in [§50.3](#), this notice must:

- Alert the member that the premiums are delinquent;
- Provide the member with an explanation of disenrollment procedures; Advise the member that failure to pay the premiums within the 90-day grace period will result in termination or reduction of M+C coverage, whichever is appropriate according to the M+C organization policy;
- Advise the member that failure to pay the premiums within the 90-day grace *period* will result in termination or reduction of M+C coverage, whichever is appropriate according to the M+C organization policy;
- Explain whether the M+C organization requires full payment within the 90-day grace period (including the payment of all premiums falling due during the intervening 90 days, when and as they become due, according to the terms of the membership agreement) in order to avoid termination of membership or reduction in benefits; and,
- Explain the implications of a reduction in coverage (e.g., description of lower level of benefits), if the M+C organization policy is to reduce coverage.

If a member does not pay within 90 calendar days of the date of the initial notice, and the M+C organization policy is to disenroll the member, the M+C organization must notify the member in writing that the M+C organization is planning on disenrolling him/her and provide the effective date of the member's disenrollment (refer to [Exhibit 20](#) for a model letter). In addition, CMS strongly encourages that M+C organizations send final confirmation of disenrollment to the member after receiving the reply listing report to ensure the individual does not continue to access M+C organization services (refer to [Exhibit 21](#) for a model letter).

If a member does not pay within 90 calendar days of the date of the initial notice, and the M+C organization policy is to reduce coverage, the M+C organization must notify the member in writing prior to the effective date that the M+C organization is reducing the coverage and provide the effective date of the change in benefits (refer to [Exhibit 22](#) for a model letter).

### **Optional Exception for Dual-Eligible Individuals**

M+C organizations have the **option** to retain dually eligible members who fail to pay premiums even if the M+C organization has a policy to disenroll members or reduce their coverage for non-payment of premiums. (Dually eligible individuals are defined as individuals who are entitled to Medicare Part A and Part B, and receive any type of assistance from the Title XIX (Medicaid) program.)

The M+C organization has the discretion to offer this option to dually eligible individuals within each of its M+C plans. The only stipulation is that if the M+C organization offers this option in one of its plans, it must apply the policy to all dual eligible individuals in that M+C plan.

The policy to retain individuals is based upon non-payment of premium for the standard benefit package of the M+C plan. If the M+C organization chooses this option, any dually individual who fails to pay premiums for any optional supplemental benefit offered would be downgraded to the standard benefit package within that M+C plan.

Members of an M+C plan must be informed at least 30 days before a policy changes within the plan. M+C organizations will have the discretion as to how it will notify its members of the change, e.g. in an upcoming newsletter or other member mailing, such as the Annual Notice of Change. The CMS recommends a general statement in such notifications to avoid confusing other members for whom the policy does not apply.

**Example:** "If you receive medical assistance and are having difficulty paying your plan premiums or cost sharing, please contact us."

The plan must document this policy internally and have it available for CMS review.

## **50.3.2 - Disruptive Behavior**

(Rev. 26, 07-25-03)

The M+C organization **may** disenroll a member if the member's behavior is disruptive, unruly, abusive, or uncooperative to the extent that his/her continued enrollment in the plan seriously impairs the M+C organization's ability to furnish services to either the particular member or other members enrolled in the plan. However, the M+C organization may only disenroll a member for disruptive behavior upon approval from CMS. The M+C organization may not disenroll a member because the member exercises the option to make treatment decisions with which the M+C organization disagrees, including the option of no treatment and/or no diagnostic testing. The M+C organization may not disenroll a member who chooses not to comply with any treatment regimen developed by the M+C organization or any health care professionals associated with the M+C organization.

Before beginning the disenrollment for cause process, the M+C organization must make a serious effort to resolve the problems presented by the member. This includes making an effort to provide reasonable accommodations for individuals with disabilities, in accordance with the Americans with Disabilities Act. It must inform the member, in writing, that his/her continued behavior may result in termination of membership in the plan. Such efforts must include the use (or attempted use) of the organization's grievance procedures. In this process, the member has a right to submit any information or explanation that he/she may wish to the M+C organization.

If the problem cannot be resolved, the M+C organization must give the member written notice of the M+C organization's intent to request, from CMS, permission to disenroll for cause.

The M+C organization must establish that the member's behavior is not related to the use, or lack of use, of medical services or to diminished mental capacity. The organization must document the member's behavior, the efforts it has taken to resolve any problems, and any extenuating circumstances cited under [42 CFR 422.74\(d\)\(2\)\(iii\) and \(iv\)](#). In addition to a summary of the case and a reason for the disenrollment request, the M+C organization must submit to the CMS *Regional Office* a description of the member's age, diagnosis, mental status, functional status, and social support systems, as well as statements from primary providers describing their experiences with the member. After a review of this documentation, the CMS *Regional Office* will decide whether the organization may disenroll the member on this basis. Such review will include any documentation or information provided either by the organization or the member (information provided by the member must be forwarded by the organization to the CMS RO), and CMS will make the decision within 20 *business* days after receipt of this information. The M+C organization will be notified within *five* business days after CMS' decision. The disenrollment is effective the first day of the calendar month after the month in which the organization gives the member a written notice of the disenrollment. Any disenrollment processed under these provisions will always result in a change of election to Original Medicare.

## Notice Requirements

The M+C organization must inform the member, in writing, that his/her continued behavior may result in termination of membership in the plan. If the problem cannot be resolved, the M+C organization must give the member written notice of the M+C organization's intent to request disenrollment for cause. This notice must include an explanation of the organization's grievance procedures. In this process, the member has a right to submit any information or explanation that he/she may wish to the organization. Refer to Chapter 13 (Grievances, Organizations Determinations, and Appeals) for the appropriate procedures for grievances.

If CMS permits an M+C organization to disenroll a member for disruptive behavior, the M+C organization must provide the member with a written notice that contains, in addition to the notice requirements outlined in [§50.3](#), a statement that this action was approved by CMS and meets the requirements for disenrollment due to disruptive behavior described above. While there is no required timeframe in which the M+C organization must provide notice to the member, the M+C organization may provide the member the required notice as soon as CMS notifies the M+C organization of the approved disenrollment. The M+C organization can only submit the transaction to CMS after it has provided the notice of disenrollment to the individual. The disenrollment is effective the first day of the calendar month after the month in which the organization gives the member a written notice of the disenrollment.

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## 50.7 - Disenrollment Procedures for Employer Group Health Plans

(Rev. 26, 07-25-03)

When an employer group terminates its contract with an M+C organization, *or determines that an enrollee in its program is no longer eligible to participate in the employer group plan*, the M+C organization has the option to follow one of two procedures to disenroll beneficiaries. The M+C organization should outline its policy in its policy and procedures guide.

**NOTE:** *The employer establishes criteria for its retirees to participate in the employer group sponsored M+C plan. These criteria are exclusive of the eligibility criteria for M+C enrollment. Eligibility criteria to participate and receive employer sponsored benefits may include spouse/family status, payment to the employer of the individual's part of the premium, or other criteria determined by the employer.*

**Option 1:** Follow the basic requirements outlined in this chapter for individual disenrollments:

- a. Using the SEP provided to individuals who are making elections through their employer group, beneficiaries may elect another M+C plan offered by the employer during the employer's open season. As with any disenrollment, the old



M+C organization is obligated to send a notice of disenrollment to the beneficiary.

- b. Using the SEP authority, the beneficiary may choose to disenroll to Original Medicare or join another M+C plan as an individual member instead of electing the new M+C plan offered by *his/her* employer. If the beneficiary is disenrolling to Original Medicare, *he/she* would submit a disenrollment request to the original M+C organization. If the beneficiary is enrolling in a different M+C plan as an individual member, *he/she* would submit an *election* to *his/her* newly chosen M+C organization. As with any disenrollment, the old M+C organization is obligated to send a confirmation of disenrollment to the beneficiary.
- c. If the beneficiary does not elect a new employer-contracting M+C organization, does not disenroll to Original Medicare, or does not join a new M+C plan as an individual member, the beneficiary would remain a member of the original M+C organization even after the employer group nonrenewal has gone into effect, *or after the date the individual is no longer eligible to participate in the employer group plan*. The beneficiary would become a member of *an* individual plan *within the same M+CO that provided* his/her employer group coverage. The M+C organization *must* notify the beneficiary that his/her benefits, premiums, and/or copayments are changing *prior to the effective date of the new enrollment election*.

**Option 2:** If an employer group is terminating its contract with an M+C organization, *or determines that an enrollee in its program is no longer eligible to participate in the employer group plan*, CMS will permit mass disenrollments to be submitted by the M+C organization providing:

The employer agrees to the following:

- Send a letter/notification to *its* members alerting them of the termination event and other insurance options that may be available to them through their employer.
- If the employer offers other M+C options, the beneficiary must go through the *appropriate* process to *make an election in* a M+C plan with his/her employer group.
- *Provide timely notice (i.e., not retroactive) of enrollee ineligibility or contract termination to the M+C organization to facilitate the notice requirements as described below.*

The M+C organization must:

- Inform the individual at least 30 days prior to the contract termination *date, or the date an enrollee will become ineligible for participation in the employer group*

*plan*, that he/she has the option to remain as an individual member of the M+C organization.

- If the beneficiary chooses to remain as an individual member, the beneficiary would be given instructions on what action (*or inaction*) he/she would need to take to *remain enrolled with the M+C organization as an individual member*. The M+C organization should notify the beneficiary of any benefit, premium, or copayment changes. The plan MUST accept the individual, even if closed or at capacity. For example, individuals with ESRD or only Part B may choose to retain their coverage with the M+C organization since these individuals are generally not allowed to join new M+C organizations.

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## 60.1 - Multiple Transactions

(Rev. 26, 07-25-03)

Multiple transactions occur when more than one election for the same individual with the same effective date in the same reporting period is received by CMS. An individual may not be enrolled in more than one M+C, cost, or HCPP plan at any given time.

*Generally, the last election the beneficiary makes during the month will be the M+C plan the individual intends to enroll in. The beneficiary's enrollment will be based upon the date that the enrollment application was signed (for employer group M+C elections as described in §40.1.1, the date the election process was completed will be used). If the beneficiary does not date the enrollment election, the date the enrollment election was received by the M+C organization will be used as the default date.*

*However, if an individual elects more than one plan for the same effective date and with the same signature (or completion) date, an assumption cannot be made as to which plan the individual truly intended to be enrolled in. Therefore, if multiple transactions are received with the same signature (or completion) date, they will all be rejected. The reply listings will show rejections for these types of multiple transactions.*

*In these cases, the beneficiary's enrollment will remain with Original Medicare or with the Medicare health plan in which the beneficiary was enrolled before he/she applied to the M+C organizations that received the multiple transaction rejections.*

If a Medicare eligible individual has used M+C plan services and the enrollment is rejected for multiple transactions, then the M+C organization may bill Medicare for the services if the individual is in Original Medicare. The M+C organization may be able to bill for Medicare Part B services from the Medicare carrier, and its certified M+C plan providers may be able to bill the Medicare fiscal intermediary for Medicare Part A services. *M+C organizations* should refer to the Medicare Carriers Manual and Medicare Fiscal Intermediaries Manual for more information. The individual should be billed for any applicable co-insurance or non-Medicare covered services.

Upon availability of the reply listing from CMS showing a rejection for a multiple transaction, the M+C organization may contact the individual to determine in which M+C plan the individual wishes to enroll. Once the individual has chosen one M+C plan, he/she must either fill out and sign another enrollment form or send written notice of his/her intent to enroll in the plan (to serve as supporting documentation to the original enrollment *election* signed *(or completed)* by the individual), The M+C organization may transmit the information to CMS with a current effective date, using the appropriate effective date as prescribed in [§30.5](#). *The individual must be eligible to make an election in an available election period, as described in [§30](#).*

*Generally, given the use of signature date to determine the intended election, retroactive enrollments will not be processed for multiple transactions that reject because the elections were signed on the same day.*

#### **EXAMPLE**

- *Two M+C organizations (M+COs) receive completed enrollment forms from one individual on May 20 for a June 1st effective date. The form received by M+CO #1 was signed on May 10th and the form received by M+CO #2 was signed on May 12. Both M+COs submit enrollment transactions, including the applicable signature date. The enrollment in M+CO #2 will be the transaction that is accepted and will be effective on June 1.*
- *Two M+C organizations receive completed enrollment forms from one individual on August 15 for a September 1 effective date. Both elections are transmitted by the August cutoff date and are subsequently rejected, and the individual fills out a new enrollment form for the M+C plan of choice. If that completed enrollment form is received by the M+C organization no later than August 31, then the effective date of coverage is September 1.*

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## **60.4 - Retroactive Enrollments**

**(Rev. 26, 07-25-03)**

The CMS ROs will only process requests for retroactive enrollments when the M+C organization has notified the member that he/she must use M+C plan services during the period covered by the retroactive enrollment request. Retroactive enrollments will be approved by the CMS RO when an individual has fulfilled all election and eligibility requirements for an M+C plan, but the M+C organization or CMS is unable to process the election for the statutorily required effective date (as outlined in [§30.5](#)).

Unlike a reinstatement, which is a correction of records to "erase" an action, a retroactive enrollment is viewed as an action to enroll a beneficiary into a plan for a new time period. Therefore, retroactive enrollments may NOT be made back to a date when an M+C plan was closed for enrollment.

**NOTE:** Keep in mind that unless a capacity limit applies, all M+C plans are open for ICEP, AEP, and SEP elections; therefore, all M+C plans are open for retroactive enrollments for these type of elections.

The following documentation must be submitted to the RO for all retroactive enrollment requests. The retroactive enrollment request should be made within 45 calendar days of the availability of the first reply listing.

1. Copy of signed completed enrollment form.

**NOTE:** The form must have been signed by the applicant prior to the requested effective date of coverage, in order to effectuate the requested effective date of coverage.

*Or*

*Copy of the enrollment election record (the election record must show that the election was made prior to the requested effective date of coverage).*

2. Copy of M+C organization's letter to the member acknowledging receipt of the completed enrollment *election* and notifying the member to begin using the M+C plan's services as of the effective date (refer to [Exhibit 4](#) or [Exhibit 4a](#) for the model letter). The letter must be dated prior to the requested retroactive effective date of coverage (or, when appropriate as outlined in [§40.4.2](#), within seven business days after the effective date of coverage), in order to effectuate the requested effective date of coverage.
3. One or more of the examples of "evidence of Medicare Part A and Part B coverage" cited in [§10](#).
4. For cases of *an* erroneous indicator of no Medicare entitlement - Copies of two reply listings, including a copy of the system run date, indicating the M+C organization's attempts to correctly enroll the individual and the resulting rejections. One reply listing will be considered acceptable if the M+C organization would be unable to obtain a second reply listing and still submit the retroactive enrollment request within 45 calendar days of the availability of the first reply listing; however, two reply listings are preferred. The M+C organization may submit the McCoy exception report in place of the reply listing. The effective date on the first reply listing must correspond with the requested effective date, in order to effectuate the retroactive effective date of coverage.
5. For cases of *an* erroneous indicator of ESRD, either because the individual has never had ESRD or because ESRD status has been terminated:

- A. Evidence of contact with the individual after the first systems rejection, including the individual's explanation for rejection. If the individual reports that he/she no longer has ESRD or that he/she has had a kidney transplant or no longer receives dialysis services, then provide medical documentation, for example a letter from the physician or dialysis facility that documents date of transplant or last month of dialysis. If the individual reports that he/she never had ESRD, provide a statement signed by the individual (or his/her physician) to that effect.
- B. A copy of the reply listings or print screens indicating the M+C organization's attempts to correctly enroll the individual and the resulting rejection. The effective date on the reply listing must correspond with the requested effective date, in order to effectuate the retroactive effective date.

In the event that CMS determines that the M+C organization did not notify the member that he/she must use M+C plan services during the period covered by the retroactive enrollment request, a retroactive enrollment request will be denied. In this case, if the Medicare eligible individual has used M+C plan services during the period covering the retroactive enrollment request, the M+C organization may bill Medicare for the services. The M+C organization may bill for Medicare Part B services from the Medicare carrier.

**NOTE:** The M+C organization must have an indirect billing number from CMS.

Or, the M+C organization may have its certified M+C plan providers bill for Medicare Part B services. The certified M+C plan providers may bill the Medicare fiscal intermediary for Medicare Part A services. M+C organizations may not bill for Medicare Part A services. The beneficiary would remain responsible for any co-insurance and deductible.

If an M+C organization is making a retroactive request that is a result of M+C organization error or system problems (as defined in [§10](#)) in which the enrollment is not recorded on a timely basis by the M+C organization or in CMS records, the M+C organization must submit the request to:

- The CMS central office, for a CMS or SSA computer system problem involving multiple members, or
- The CMS RO, for individual cases or situations when the organization is experiencing internal problems.

If the CMS RO is not able to resolve system errors, the recommendation is submitted to CMS central office for correction.

## 60.5 - Retroactive Disenrollments

(Rev. 26, 07-25-03)

The CMS may grant a retroactive disenrollment if an enrollment was never legally valid ([§40.6](#)) or if a valid request for disenrollment was properly made, but not processed or acted upon (as outlined in the following paragraph), which includes not only system error, but plan error (see [§10](#) for a definition of "system error" and "plan error"). The CMS may also grant a retroactive disenrollment if the reason for the disenrollment is related to a *permanent move out of the plan service area (as outlined in [§50.2.1.2](#)), or a contract violation (as outlined in [42 CFR 422.62\(b\)\(3\)](#))*. Retroactive disenrollments can be submitted to CMS by the beneficiary or an M+C organization. Requests from an M+C organization must include supporting evidence justifying a late disenrollment. M+C organizations must submit retroactive disenrollment requests to CMS RO as soon as possible. If CMS approves a request for retroactive disenrollment, the M+C organization must return any premium paid by the member for any month for which CMS processed a retroactive disenrollment. In addition, CMS will retrieve any capitation payment for the retroactive period.

A retroactive request must be submitted by the M+C organization to CMS by the member in cases in which the M+C organization has not properly processed or acted upon the member's request for disenrollment as required in [§50.4.1](#) of these instructions. A disenrollment request would be considered not properly acted upon or processed if the effective date is a date other than as required in [§30.6](#).

If an M+C organization is making a retroactive request that is a result of M+C organization error or system problems (as defined in [§10](#)) in which the disenrollment is not recorded on a timely basis by the M+C organization or in CMS records, the M+C organization must submit the request to:

- The CMS central office, for a CMS or SSA computer system problem involving multiple members, or
- The CMS RO, for individual cases or situations when the organization is experiencing internal problems.

If the CMS RO is not able to resolve system errors, the recommendation is submitted to CMS central office for correction.

The M+C organization should submit a retroactive disenrollment request to the CMS RO for errors made by SSA in submitting plan disenrollments. The CMS makes an adjustment of the dates. If the M+C organization is uncertain which CMS office should process the request, the M+C organization should contact the CMS RO.

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## 60.6.1 - EGHP Retroactive Enrollments

(Rev. 26, 07-25-03)

The CMS will allow the M+C organization to submit the EGHP enrollment to CMS with retroactive enrollment dates. However, the effective date cannot be prior to the signature date on the election form, *or prior to the date the enrollment election was completed by the beneficiary*. The effective date may be adjusted to reflect a retroactive adjustment in payment of up to, but not exceeding, 90 days **payment** adjustment, to conform with the adjustments in payment described under [42 CFR 422.250\(b\)](#).

### EXAMPLE

In March 2002, the CMS system processing date was March 13, 2002. Elections processed by CMS for the March 13, 2002 due date were for the prospective April 1, 2002, payment. For EGHPs, an effective date of March 1, February 1, or January 1 would reflect 30-, 60-, and 90-days of retroactive payment adjustment, respectively. Therefore, if a completed EGHP election were to be received on *March 5, 2002*, the retroactive effective date could be January 1, February 1, or March 1.

**NOTE:** Keep in mind that unless a capacity limit applies, all M+C plans are open for ICEP, AEP, and SEP elections. Therefore, all M+C plans are open for retroactive enrollments for these type of elections

No retroactive enrollments may be made unless the individual certifies that the M+C organization (or EGHP) provided him/her with the explanation of enrollee rights (including the lock-in requirement) at the time of enrollment. The M+C organization should submit such enrollments using a number 60 enrollment code. Refer to Chapter 19, "Managed Care and M+C Systems Requirements", and the Enrollment and Payment User's Guide for more detail on the use of code 60.

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## 60.8 - Storage of Election Forms *and Records*

(Rev. 26, 07-25-03)

As stated at [42 CFR 422.60\(c\)\(2\)](#), M+C organizations are required to file and retain election forms. [42 CFR 422.502\(e\)\(1\)\(iii\)](#) further states that M+C organizations must have available for evaluation enrollment and disenrollment records for the current contract period and six prior periods. Therefore, all M+C organizations must retain enrollment forms and disenrollment requests for the current contract period and six prior periods.

It is appropriate to allow for storage on microfilm, as long as microfilm versions of enrollment forms and disenrollment requests showing the signature and the date are available to reviewers. Similarly, other technologies that would allow the reviewer to

access signed forms *and other enrollment elections* may also be allowed, such as optically scanned forms stored on disk.

*Records of EGHP M+C enrollment elections (as described in [§40.1.1](#)) must also be retained as above.*

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**To download the file associated with this instruction, click [here](#).**