

Cost Plan Policy Issue

04-002

Question

Scenario: We have an 1876 Cost HMO in which we have individuals and employer group members enrolled. We'd like to file an application to become an M+C organization, but contracts that we have with existing employer groups require us to continue enrolling their Medicare-eligible members in our Cost HMO.

Question: Does the requirement in 42 CFR 422.501(b)(4) cause a cost plan to violate its employer group contracts, if it proceeds with its M+C application?

Answer

42 CFR 422.501(b)(4) reads:

"[An entity seeking to contract as an M+C organization must:] Not accept new enrollees under a section 1876 reasonable cost contract in any area in which it seeks to offer an M+C plan."

CMS interprets "not accepting new enrollees under a section 1876 reasonable cost contract" to mean that the 1876 reasonable cost contract is "closed" to *new* individual Medicare enrollees and to *new* employer/union groups. Employer or union groups that currently offer coverage to Medicare-eligible members/retirees through the 1876 reasonable cost contract may continue to enroll their newly-eligible Medicare members in the cost contract, even though that contract is technically "closed" to new enrollees. As long as no new individuals can enroll in and no new employer/union groups can sign up for the 1876 reasonable cost contract, the requirement in 422.501(b)(4) is satisfied.

The fact that only grandfathered groups are permitted to enroll newly-eligible Medicare members in the 1876 reasonable cost contract is consistent with both 422.501(b)(4) and with the general principles on continuation of enrollment articulated in statute at §1876(c)(3)(D) and codified in regulation at 42 CFR 417.432.

Should grandfathered employer or union groups wish to enroll their Medicare-eligible members/retirees in an MA plan offered by your organization, they must be permitted to do so. However, once an existing employer or union group chooses MA plan enrollment for its members/retirees, no additional or new members from that employer or union group can be permitted to enroll in the 1876 reasonable cost contract. In effect, the 1876 reasonable cost contract will be "closed" to them.

Note that in this scenario, the same organization is offering both the M+C plan and the cost HMO. In cost issue 04-0114, different organizations are offering the M+C plan and cost HMO and therefore, both plans are “open” to all new enrollees.