Appendix 4

Medicare Advantage Provisions

Medicare Advantage Provisions

The Centers for Medicare and Medicaid Services (CMS) implementing regulations and associated rules applicable to Medicare Advantage (MA) plans require that certain issues are addressed either in contracts with first tier contractors and/or in policies and procedures or manuals.

This Appendix contains additional provisions applicable to covered services rendered to MA Members (as defined below) covered under MA Plans (as defined below) offered and/or administered by Beacon Health Options, Inc. or one of its affiliates, as applicable (Beacon). In the event of any conflict between the provisions of the provider agreement, the handbook, and this Appendix, the provisions of this Appendix control as related to services rendered to MA Members.

Definitions

TERM	DEFINITION
Centers for Medicare and Medicaid Services (CMS)	The agency within the Department of Health and Human Services that administers the Medicare program.
Completion of Audit	Completion of audit by the Department of Health and Human Services, the Government Accountability Office, or their designees of a Medicare Advantage Organization, Medicare Advantage Organization contractor or related entity.
Downstream Entity	Any party that enters into a written arrangement, acceptable to CMS, with persons or entities involved with the MA benefit, below the level of the arrangement between an MA Organization (or applicant) and a first tier entity. These written arrangements continue down to the level of the ultimate provider of both health and administrative services.
Final Contract Period	The final term of the contract between CMS and the MA Organization.
First Tier Entity	Any party that enters into a written arrangement, acceptable to CMS, with an MA Organization or applicant to provide administrative services or health care services for a Medicare eligible individual under the MA program.
Medicare Advantage (MA)	An alternative to the traditional Medicare program in which private plans run by health insurance companies provide health care benefits that eligible beneficiaries would otherwise receive directly from the Medicare program.
Medicare Advantage Organization (MA Organization)	A public or private entity organized and licensed by a state as a risk-bearing entity (with the exception of provider-sponsored organizations receiving waivers) that is certified by CMS as meeting the MA contract requirements.

TERM	DEFINITION
MA Plan	One or more plans in the MA program offered or administered by an MA Organization and covered under the MA Organization's contract with Beacon.
Member or Enrollee	A Medicare Advantage eligible individual who has enrolled in or elected coverage through a MA Organization.
Provider	▪ Any individual who is engaged in the delivery of health care services in a state and is licensed by the state to engage in that activity in the state ▪ Any entity that is engaged in the delivery of health care services in a state and is licensed or certified to deliver those services if such licensing or certification is required by state law or regulation
Related Entity	Any entity that is related to the MA Organization by common ownership and: 1. Performs some of the MA Organization's management functions under contract or delegation 2. Furnishes services to Medicare enrollees under an oral or written agreement 3. Leases real property or sells materials to the MA Organization at a cost of more than $2,500 during a contract period

Required Provisions

Provider agrees to the following:

1. **Record Retention and Audit Rights.** Provider agrees to retain any books, contracts, records and documents related to the MA Organization's contract with CMS for a period of ten (10) years from the final date of the contract period or the completion of any audit, whichever is later. Provider agrees to comply with any document requests by the MA Organization pursuant to an audit or to monitor Provider's compliance with the terms of the Agreement or this Appendix. Provider will provide these documents to Plan without charge. [42 CFR §§ 422.503(b)(4)(vi)(F) and 422.504(d), 422.504(e)(2)]. HHS, the Comptroller General, or their designees have the direct right to audit, evaluate, collect and inspect any pertinent information for any particular contract period, including, but not limited to, any books, contracts, computer or other electronic systems (including medical records and documentation) of the first tier, downstream, and entities related to CMS' contract with MA Organization through 10 years from the final date of the final contract period of the contract entered into between CMS and the MA Organization or from the date of completion of any audit, whichever is later. [42 C.F.R. §§ 422.504(i)(2)(i) and (ii)]
2. **Confidentiality**. Provider will comply with the confidentiality and enrollee record accuracy requirements, including:
    - Abiding by all federal and state laws regarding confidentiality and disclosure of medical records, or other health and enrollment information

- Ensuring that medical information is released only in accordance with applicable federal or state law, or pursuant to court orders or subpoenas
- Maintaining the records and information in an accurate and timely manner
- Ensuring timely access by enrollees to the records and information that pertain to them. [42 C.F.R. §§ 422.504(a)(13) and 422.118]

3. **Beneficiary Protections.** Enrollees will not be held liable for payment of any fees that are the legal obligation of the MA Organization. [42 C.F.R. §§ 422.504(i)(3)(i) and 422.504(g)(1)(i)]
4. **Dual Eligible Beneficiary Protections.** For all Enrollees eligible for both Medicare and Medicaid, enrollees will not be held liable for Medicare Part A and B cost-sharing when the State is responsible for paying such amounts. Providers will be informed of Medicare and Medicaid benefits and rules for enrollees eligible for Medicare and Medicaid. Provider may not impose cost-sharing that exceeds the amount of cost-sharing that would be permitted with respect to the individual under title XIX if the individual were not enrolled in such a plan. Providers will:
   - Accept the MA plan payment as payment in full
   - Bill the appropriate State source.

   [42 C.F.R. §§ 422.504(i)(3)(i) and 422.504(g)(1)(i)]
5. **Compliance with MA Organization's Contractual Provisions.** Any services or other activity performed in accordance with a contract or written agreement by Provider are consistent and comply with the MA Organization's contractual obligations. [42 C.F.R. § 422.504(i)(3)(iii)]
6. **Exclusion/Debarment Screening.** The Provider agrees to:
   a. Screen any prospective, potential or actual new employee, volunteer, consultants, or governing body member prior to hire or contract, and monthly thereafter against the List of Excluded Individuals and Entities (LEIE), Excluded Parties List Service (EPLS), and excluded individuals posted by the OMIG on its Website
   b. Disclose immediately to Beacon all exclusions and events that would make them ineligible to perform work related, directly or indirectly, to federal programs
   c. Immediately remove such person from any work related directly or indirectly to any federal healthcare program

   Provider certifies that as of the date of this Appendix, neither it nor any of its employees, volunteers, consultants or governing body members are currently so excluded and that it maintains full participation status in the federal Medicare program.
7. **Prompt Payment Provisions.** Contracts or other written agreements between the MA Organization and providers or between first tier and downstream entities must contain a prompt payment provision, the terms of which are developed and agreed to by the contracting parties. The MA Organization or Beacon is obligated to pay contracted providers under the terms of the contract between Beacon and the Provider. [42 C.F.R. §§ 422.520(b)(1) and (2)]. The prompt payment provision is set forth in the Payment section of the Agreement.
8. **Compliance with Medicare Laws, Regulations, and CMS Instructions.** Provider and any related entity, contractor or subcontractor will comply with all applicable Medicare laws, regulations, and CMS instructions. [42 C.F.R. §§ 422.504(i)(4)(v)]

9. **Accountability Provisions.** If any of Beacon's activities or responsibilities under its contract with the MA Organization are sub-delegated to Provider in the Agreement, such as Provider performing credentialing functions, the following provisions shall apply:

    i. The delegated activities and reporting responsibilities shall be specified in the Agreement

    ii. Beacon and MA Organization each reserves the right to revoke the delegation activities and reporting requirements or to specify other remedies in instances where Beacon or the MA Organization determines that Provider has not performed satisfactorily.

    iii. Beacon and MA Organization each retain the right to monitor the performance of the Provider on an ongoing basis.

    iv. Beacon and MA Organization each retain the right to: review the credentials of medical professionals affiliated with the Provider; review and approve the credentialing process; and audit the credentialing process on an ongoing basis.

    v. If Beacon delegates the selection of providers, contractors, or subcontractor, Beacon and MA Organization each retains the right to approve, suspend, or terminate any such arrangement.

    [42 C.F.R. §§ 422.504(i)(4) and (5)]

10. **Training and Reporting. Provider agrees to take any required training.** Provider will take fraud, waste, and abuse (FWA) training unless Provider is deemed to have met this requirement as a result of enrollment in Medicare. Required FWA training is developed and provided by CMS and is available through the CMS Medicare Learning Network at http://www.cms.gov/MLNProducts. In addition, effective January 1, 2016, Provider is required to take CMS general compliance program training through the Medicare Learning Network. [79 Fed. Reg. at 29853-5, 29958-59). Both trainings must occur within ninety (90) days of initial hiring and annually thereafter. [42 C.F.R. §§ 422.503(b)(4)(vi)(C)]. Provider must maintain documentation sufficient to demonstrate that Provider fulfilled the required training. [Medicare Managed Care Manual, Chapter 21, §§ 50.3.2, 42 CFR §§ 422.503(b)(4)(vi)(A) & (C), 422.504(b)(4)(vi)(A) & (F)]. Provider agrees to report compliance or FWA concerns to CMS, the MA Organization or Beacon.

11. **Payment.** Regardless of any provision to the contrary, to the extent an MA Member receives Covered Services from Provider on an out-of-network basis and/or there is no specific Rate Schedule (**Appendix A**) for that MA Member's MA Plan attached to this Agreement, maximum payment for any Covered Services rendered to such MA Member is limited to the lesser of one hundred percent (100%) of Medicare allowable or the amount provided for under applicable MA laws, rules and/or regulations applicable to such MA Member's MA Plan and is subject to the terms of the MA Member's MA Plan.

12. **Termination.**

    1. In addition to the provisions set forth in the Agreement, this Appendix may be suspended or terminated by Beacon as to any one or more MA Organization's MA Plans immediately upon written notice if:

        a. An MA Organization's Medicare contract is suspended or terminated for any reason

        b. Provider is disqualified, terminated, suspended, debarred, or otherwise excluded from or ineligible for participation under the MA program or any other state or federal government-sponsored program

        c. The Agreement is terminated or not renewed

2. Following expiration or termination (whether due to insolvency or cessation of operations of Beacon or a given MA Organization, or otherwise) of the Agreement, Provider will continue to provide Covered Services to MA Members:

    a. For those MA Members confined in an inpatient facility on the date of expiration or termination until their discharge

    b. For all MA Members through the period for which payments have been made by CMS to the applicable MA Organization under its Medicare contract

    c. For those MA Members in active treatment of chronic or acute behavioral health or substance use disorder conditions as of the date of expiration or termination of the Agreement through their current course of active treatment not to exceed 90 days unless otherwise require by subsection (b) above. The terms and conditions of the Agreement apply to such post-expiration or post-termination Covered Services. Payment for Covered Services rendered to MA Members post expiration or post-termination of this Agreement will be the fee- for-service rates set out in the applicable Rate Schedule, less any MA Member Copayments.

13. **Conflict of Interest.** Provider agrees to comply with MA Organization's Conflict of Interest Policy or its own Conflict of Interest Policy that complies with CMS requirements. Provider will require its governing body, officers, and senior leadership (as applicable) to sign a conflict of interest at the time of hire and annually thereafter certifying that they are free from any conflict of interest related to Medicare. [42 C.F.R. §§ 422.503(b)(4)(vi)(A)(3), 423.504(b)(4)(vi)(A)(3)].

14. **Flow Down Provision.** Provider shall incorporate the terms of this Appendix into any and all subcontracts entered into delegating any of Provider's obligations under the Agreement or Addendum.

15. **Reporting Support.** Provider shall maintain and provide to Beacon any data, information, books, contracts, records and other documentation relating to medical costs, drug costs, quality improvement activities, claims adjudication services, and any other activity identified by Beacon or the MA Organization with which Beacon contracts that relate to the MA Organizations' medical loss ratio reporting for a contract year under Federal laws and regulations. Provider shall comply with this section for the time period required by §§ 422.2480(c) and 423.2480(c).

16. **Other Support**. Provider shall provide any other assistance reasonably requested by the MA Organization or Beacon in support of the MA Organization's contract with CMS or as required by law.