

Appendix 2: Approved Part C EGHP Waivers

DESCRIPTION OF WAIVERS	Chapter 9 Section	Applicability		
		Indiv. Plan	EGWP: 800 Series	EGWP: Direct Contract
BENEFIT DESIGN REQUIREMENT WAIVERS				
<u>Requirement waived/modified:</u> 42 CFR 422.100(d). (Uniform premium & cost sharing). <u>Waiver or Modification:</u> <i>Actuarial Equivalence of Part C Benefits</i> - MAOs may negotiate with employers/unions to raise cost sharing (coinsurance, copayments and/or deductibles) for plan benefits by providing a higher benefit level and/or a modified premium compared to what is offered to non-employer/union group members. Customizations can apply to both Medicare covered and non-Medicare-covered benefits. Applies only to employer/union group sponsorship of individual MA plans.	20.1	X	N/A	N/A
<u>Requirement waived/modified:</u> 42 CFR 422.100(d). (Uniform premium & cost sharing). <u>Waiver or Modification:</u> <i>Actuarial swapping of Part C Benefits Not Covered Under Original Medicare</i> - MAOs may swap different types of Part C supplemental benefits not covered under Original Medicare that are of equal actuarial value for employer/union group plan sponsors. Applies only to Medicare-covered benefits.	20.2	X	N/A	N/A
<u>Requirement waived or modified:</u> 42 CFR 422.106 (Mid-year benefit/customization enhancements). <u>Waiver or modification:</u> <i>MAOs are allowed to offer “800 series” customized plans at any time during the contract year</i> (i.e., MAOs are allowed to offer enhanced benefits throughout the year to individual employers/unions that wrap-around the MA benefit package and are not	20.3	X	X	X

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part of the bid). Also, if an employer has enrolled its retirees in an MA plan open to general Medicare enrollment, it can do a mid-year enhancement of any benefits that are wrap-around benefits (i.e., as previously noted, benefits that are not part of the MA benefit package).				
<p><u>Requirement waived/modified:</u> 42 CFR 422.111(d)(2) (Uniform premium requirement).</p> <p><u>Waiver or Modification:</u> <i>Waiver of Uniform Premium Requirement</i> - Entities offering “800 series” plans serving multiple counties, regions, or the nation are allowed to vary premium and cost sharing between defined market areas within the same employer/union-sponsored group plan.</p> <p>Condition: The premium variations must be based on objective market information demonstrating verifiable differences in medical costs between the market areas. The MAO must have documentation validating the medical cost variation in the market areas comprised by the plan.</p>	20.4.1	N/A	X	X
<p><u>Requirement waived/modified:</u> 42 CFR 422.111(d)(2) (Uniform premium requirement).</p> <p><u>Waiver or Modification:</u> <i>Premium Subsidization by Employer/Union Group Health Plan Sponsors</i> - EGHP sponsors can subsidize different premium amounts for different classes of enrollees provided: (1) such classes are reasonable and based on objective business criteria (e.g., years of service, date of retirement, business location, job category, and nature of compensation); (2) premiums do not vary for individuals within a given class of enrollees; and (3) all direct subsidy payments received from CMS are passed through to the beneficiary in the form of reduced premiums.</p> <p><u>Conditions:</u> MAOs and PDP sponsors offering 800 series plans are required to have a written agreement with their EGHP sponsors stating that the MAO will satisfy the waiver</p>	20.4.2	X	X	X

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requirements regarding premiums. MAOs and PDP sponsors are required to retain these agreements and provide CMS (or its designees) access to them in accordance with 42 CFR 422.503(d) and 422.504(d) and (e), and 42 CFR 423.504(d) and 423.505(d) and (e).				
<u>Requirement waived/modified:</u> 42 CFR 422 (Uniform premium requirement). <u>Waiver or Modification:</u> <i>Charging Different Premiums to Different Employer/Union Group Health Plan Sponsors</i> - MAOs sponsors offering 800 series plans can negotiate with and vary the premium amount charged to different EGHP sponsors, including the ability to “experience rate” EGHP sponsors to determine premiums.	20.4.3	N/A	X	N/A
<u>Requirement waived/modified:</u> 42 CFR 423.293(a) and 422.262 (f) (Requirement to permit MAO and PDP enrollees, at their option, to pay premiums through premium withhold). <u>Waiver or modification:</u> <i>Premium Withhold</i> – There is no premium withhold option available to EGWP enrollees. MAOs and PDP sponsors must bill the beneficiary or EGHP sponsor directly.	20.5	N/A	X	X
ENROLLMENT REQUIREMENT WAIVERS				
<u>Requirement waived/modified:</u> 42 CFR 422.60(a). (Acceptance of enrollees). <u>Waiver or Modification:</u> <i>Enrollment Eligibility</i> - In general, MAOs have to accept all Medicare-eligible beneficiaries who reside in their service area as set forth in 42 CFR 422.60(a). EGWPs are not subject to this requirement. Instead, EGWPs must restrict enrollment solely to those Medicare eligible individuals who are also eligible for the employer/union sponsor’s employment-based health coverage. Medicare eligible spouses and	30.1	X	X	X

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dependents of participants in the employer/union sponsor's plan may be permitted to enroll in these EGWPs based on the employer/union sponsor's eligibility rules regardless of whether or not the participant is Medicare-eligible.				
<u>Requirement waived/modified:</u> 42 CFR 422.514(a). (Minimum enrollment requirements). <u>Waiver or Modification:</u> Minimum Enrollment Requirement - The minimum enrollment requirements at 42 CFR 422.514(a) do not apply to EGWPs.	30.2	N/A	X	X
<u>Requirement waived/modified:</u> 42 CFR 422.50(a)(2). (Prohibition of Enrollment of ESRD members). <u>Waiver or Modification:</u> Enrollment of End Stage Renal Disease (ESRD) members - Employer/union group members who have ESRD may be allowed to enroll in employer/union-sponsored MA plans, under any one of four scenarios described in the Medicare Managed Care Manual, Chapter 2 (Medicare Advantage Enrollment and Disenrollment). <u>Conditions:</u> The MAOs that apply this waiver must agree to apply it consistently; MAOs must consistently allow enrollment of employer/union group ESRD beneficiaries in all plan benefit packages offered by the MAO under a particular MA contract.	30.3	X	X	X
<u>Requirement waived/modified:</u> 42 CFR 422.50(a)(1). (Eligibility to Elect MA plans). <u>Waiver or Modification:</u> Enrollment of Part B-Only Members - MAOs can develop plans for Part B-only EGWPs for Medicare beneficiaries who are members of employer/union groups. In permitting such plans, CMS is waiving the existing regulations that prohibit individuals only eligible for Part B from enrolling in MA plans.	30.4	N/A	X	X

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<p><u>Requirement waived/modified:</u> 42 CFR 422.62(a)(2)(iii). (Annual Coordinated Election Period).</p> <p><u>Waiver or Modification:</u> Annual Coordinated Election Period -Employer/union group sponsored enrollments in EGWPs or individual MA plans may have different annual open enrollment periods than the coordinated annual election period.</p>	30.5	N/A	X	X
<p><u>Requirement waived/modified:</u> 42 CFR 422.60 (Election Process).</p> <p><u>Waiver or Modification:</u> Group Enrollment / Disenrollment - All EGWPs or individual MA plans may group enroll/disenroll employer/union-sponsored group health plan Medicare beneficiaries (see the Medicare Managed Care Manual, Chapter 2 (Medicare Advantage Enrollment and Disenrollment)).</p>	30.6	X	X	X
<p><u>Requirement waived/modified:</u> Appendix 1 (Summary of Notice Requirements) of the Medicare Managed Care Manual, Chapter 2 (Medicare Advantage Enrollment and Disenrollment).</p> <p><u>Waiver or Modification:</u> Beneficiary Enrollment Notification Requirements - Certain notices in the Medicare Managed Care Manual, Chapter 2 (Medicare Advantage Enrollment and Disenrollment), Appendix 1 (27, 27a, 28, 28a, 29) are not applicable to EGHP sponsored enrollments in individual plans or EGWPs. However, the other notice requirements apply.</p>	30.7	X	X	X
<p><u>Requirement waived/modified:</u> Simultaneous Enrollment in an MA Local or Regional Coordinated Care Plan and a Stand-Alone PDP.</p>	30.8	N/A	X	N/A

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<p><u>Waiver or Modification: <i>Simultaneous Enrollment in an MA Local or Regional Coordinated Care Plan and a Stand-Alone PDP</i></u> – This waiver has been extended to Regional Coordinated Care Plan enrollees. This waiver was previously limited to Local Coordinated Care Plan enrollees. Members of 800-series Regional PPO EGWPs and local coordinated care plan EGWP enrollees may enroll in 800-series stand-alone PDPs, provided that the MAOs and work closely together with the employer/union sponsor to provide coordinated care and disease management services between the MA and the PDP portion of the benefit.</p>				
SERVICE AREA REQUIREMENT WAIVERS				
<p><u>Requirement waived/modified:</u> (Individual MA plans and EGWPs must have the same service area).</p> <p><u>Waiver or Modification: <i>Service Area Waiver for Local MA-Only and Local MA-PD Plans to Offer Coverage Throughout the State</i></u> - If an MAO provides coverage to individuals in any part of a State, it can offer an EGWP in any area within that State or throughout the entire State (provided the EGWP service area is properly requested and defined in HPMS). For Part C benefits, the MAO is responsible for ensuring that CMS provider network adequacy requirements are met and that consistent benefits are provided to an employer/union group plan sponsor's enrollees.</p>	40.1	X	X	N/A

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<p><u>Requirement waived/modified:</u> Service area extension and network adequacy waiver for MA local coordinated care plans.</p> <p><u>Waiver or Modification:</u> <i>Service Area Extension and Network Adequacy Waiver for MA Local Coordinated Care Plan</i> – An MAO offering a coordinated care plan in a given service area (i.e., State) can extend coverage to an employer/union sponsor’s beneficiaries residing outside of that service area when the MAO, either itself or through partnerships (i.e., arrangements) with other MAOs, is able to meet CMS provider network adequacy requirements and provide consistent benefits to those beneficiaries.</p>	40.2	X	X	N/A
MARKETING REQUIREMENT WAIVERS				
<p><u>Requirement waived/modified:</u> 42 CFR 422.2262 and 423.2262, 2264, and 2266. (Approval of marketing materials and enrollment forms).</p> <p><u>Waiver or Modification:</u> <i>Rules for Direct Contract and “800 series” Plans</i> – CMS waived prior review and approval requirements for all marketing materials and election forms contained in 42 CFR 422.2262 for all EGWPs. This includes waiving the restriction against communicating with Medicare-eligible beneficiaries prior to October 1st.</p>	50.1.1		X	X
<p><u>Requirement waived/modified:</u> 42 CFR 422.2262.</p> <p><u>Waiver or Modification:</u> <i>Rules for Employer/Union Group Plan-Sponsored Individual MA Plans</i> – This waiver allows an MAO to customize disclosure materials for a particular employer/union group health plan sponsor that offers coverage to its Medicare beneficiaries using an individual MA Plan.</p>	50.1.2	X		

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<p><u>Requirement waived/modified:</u> 42 CFR 422.2262 (Rules prohibiting entities from offering customized materials).</p> <p><u>Waiver or Modification:</u> <i>Customizing Medicare Disclosure Materials and Election Forms</i> – CMS has waived any rules prohibiting EGHPs from customizing disclosure materials to the extent those customized materials will more clearly and accurately describe the benefits available to employer/union group Medicare beneficiaries. Note that this waiver also allows customization of disclosure materials for employer-sponsored enrollments in individual MA plans.</p> <p><u>Conditions:</u> CMS reserves the right to request and review these materials in the event of beneficiary complaints or for any other reason in order to ensure the information accurately and adequately informs beneficiaries about their rights and obligations under the plan. MAOs may retain one “template” version of dissemination materials if materials are identical for multiple EGHP sponsors except for EGHP identifier information.</p>	50.2	X	X	X
<p><u>Requirement waived/modified:</u> 42 CFR 422.111 (Issuance of materials 15 days before the beginning of the AEP).</p> <p><u>Waiver or Modification:</u> <i>Timing for Issuance of Employer/Union Sponsored Group Plan Medicare Disclosure Materials</i> - Employer sponsored “800 series” plans, Direct Contract plans or individual MA plans that are subject to Medicare marketing and disclosure requirements are also subject to any applicable timing requirements for issuance of these materials. However, CMS has waived or modified applicable requirements in certain circumstances, including where a particular employer/union sponsor has an open enrollment period that differs from the AEP. In this situation, the timing for dissemination materials may be based on the EGHP sponsor’s plan year.</p>	50.3	X	X	X

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<p><u>Requirement waived/modified:</u> 42 CFR 422.111 (Alternative Disclosure Waiver).</p> <p><u>Waiver or Modification:</u> <i>Plans with Employer/Union Sponsors Eligible for Waiver of Medicare Disclosure Requirements</i> - When the EGHP sponsor is subject to alternative dissemination requirements (e.g., those required by ERISA) and the EGHP sponsor complies with such alternative requirements, the specific dissemination requirements under 42 CFR 422.111 are waived.</p> <p><u>Conditions:</u> CMS reserves the right to request and review these materials in the event of beneficiary complaints or for any other reason it determines to ensure the information accurately and adequately informs Medicare beneficiaries about their rights and obligations under the plan. MAO sponsors are required to retain these dissemination materials and provide access to these written materials to CMS (or its designees) in accordance with 42 CFR 422.516(d).</p>	50.4	X	X	X
<p><u>Requirement waived/modified:</u> CMS and Marketing Guidelines ID requirements.</p> <p><u>Waiver or Modification:</u> <i>Identification (ID) Card Requirements</i> - EGWP sponsors may provide enrollees with one combination member ID incorporating medical, Part D, and employer-sponsored non-Medicare supplemental benefits. It is permissible to include the name and/or logo of the EGHP sponsor on the ID card; this is not considered co-branding.</p>	50.5	N/A	X	X
<p><u>Requirement waived/modified:</u> <u>Marketing Guidelines</u> (Agent and Broker Licensure and Training requirements).</p> <p><u>Waiver or Modification:</u> <i>Agent and Broker Licensure and Training Requirements</i> - Representatives of an MAO or those representatives of employer/union group plan sponsors or others acting on their behalf (e.g., their employees, benefit consultants, third party</p>	50.6	X	X	X

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administrators) who conduct educational, enrollment or informational events for retirees of employer/union sponsors are not required to be licensed for these purposes. These activities do not constitute marketing or sales activities.				
<u>Requirement waived/modified:</u> 42 CFR 422.64 (Providing information about MA coverage). <u>Waiver or modification:</u> <i>Providing Information to CMS about the MA Program</i> - Since EGHP sponsored MA plans are not available for general enrollment, the requirement to report certain information annually to CMS for purposes of inclusion in the “Medicare & You” publications and on the CMS website (e.g., “Medicare Plan Finder”) is waived.	50.7	N/A	X	X
<u>Requirement waived/modified:</u> 42 CFR 422.111(f)(12) (Providing specific information on a website). <u>Waiver or modification:</u> <i>Requirement for MA Organization to Provide Specific Information via a Website</i> - MAOs will not be required to provide any information concerning EGWPs on the sponsor’s website, since these kinds of EGHPs are not available for enrollment for the general public.	50.8	N/A	X	X
<u>Requirement waived/modified:</u> 42 CFR 422.111(h)(1) (Call center hour requirements). <u>Waiver or modification:</u> <i>Beneficiary Customer Service Call Center Requirements</i> – Direct Contract and “800 series” EGWPs are allowed to operate beneficiary customer service call center hours for their employer/union group health plan-only enrollees that differ from the requirements for MA plans offered to individual Medicare beneficiaries. <u>Conditions:</u> MAOs must ensure that a sufficient mechanism is available to respond to enrollee inquiries during normal business hours. CMS may review the adequacy of these call center	50.9		X	X

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hours and potentially require expanded customer service call centers in the event of complaints or for other reasons in order to ensure the call center hours are sufficient to meet enrollee needs.				
WAIVERS ONLY APPLICABLE TO DIRECT CONTRACT EGWPs				
<p><u>Requirement waived/modified:</u> 42 CFR 422.400(a) and 42 CFR 422.503 (b)(2) (State Licensure).</p> <p><u>Waiver or modification:</u> State Licensure and Financial Solvency– An employer/union applying to become an MAO solely for purposes of providing coverage to its members will not have to meet the State licensing requirements set forth at 42 CFR 422.400(a) and 42 CFR 422.503(b)(2) as a condition of being an MAO.</p> <p><u>Condition:</u> CMS requires these entities to meet certain financial solvency standards. CMS requires these entities to demonstrate that their fiscal soundness is commensurate with their financial risk, and that through other means, they can ensure that claims for benefits paid for by CMS and beneficiaries are covered.</p>	60.1 and 60.2	N\A	N\A	X
<p><u>Requirement waived/modified:</u> 42 CFR 422.503(b)(4)(iv)-(v) (Bonding and Insurance).</p> <p><u>Waiver or modification:</u> Bonding and Insurance - On a case-by-case basis, CMS may provide flexibility to Direct Contract employer/union contracting as an MAO by waiving bonding and insurance requirements provided the entity demonstrates it satisfies different federal or state legal standards (e.g., ERISA bonding requirements).</p>	60.3	N\A	N\A	X

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<p><u>Requirement waived/modified:</u> 42 CFR 422.516(a) (Reporting requirements).</p> <p><u>Waiver or modification:</u> Reporting Requirements – CMS has modified the reporting requirements for Direct Contract EGWPs to allow information to be reported to enrollees and to the general public to the extent required by other law (including ERISA or securities laws) or by employer contract.</p>	60.5	N\A	N\A	X