

## **60.4 - Management and Operations**

*(Rev. 111, 05-03-13, Effective: 05-03-13, Implementation: 05-03-13)*

In general, an entity seeking to contract with CMS as an MAO must have administrative and management arrangements that demonstrate the following pursuant to 42 CFR 422.503 (b)(4)(i)-(iii):

- Policy-making bodies exercising oversight and control to ensure that management actions are in the best interest of the organization and its enrollees;
- A quality improvement program and external quality review;
- Administration and management; and
- An executive manager whose appointment and removal are under the control of the policy-making body.

An employer/union directly contracting with CMS as an MAO may be subject to other potentially different standards governing its management and operations, such as fiduciary requirements under the “ERISA” State law standards, and certain oversight standards created under the Sarbanes-Oxley Act. To reflect these issues and avoid imposing additional (and potentially conflicting) government oversight that may hinder employers/unions from considering MA direct contracts with CMS, the requirements at 42 CFR 422.503(b)(4)(i)(iii), as noted above, are waived if the employer/union (or to the extent applicable, the business associate with which it contracts for benefit services) is subject to ERISA fiduciary requirements or similar State or Federal law standards. However, such entities (or their business associates) are not relieved from the record retention standards applicable to other MAOs set forth at 42 CFR 422.504(d).