

## **100.5 - Administrative Contracting Requirements**

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The MA administrative contracting requirements apply both to first tier contracts and to downstream contracts in the manner specified for provider contracts, as described above. At the same time, the responsibility of the MA organization is to assure that its contractor and any downstream contractors have the information necessary to know how to comply with the requirements under the MA program.

These requirements do not apply to administrative contracts that do not directly relate to the MA organization's core functions under its contract with CMS. For example, a contract between the MA organization and a clerical support firm would not need to contain these provisions. Similarly, a contract between the MA organization and a real estate broker to identify rental properties for office space would not be required to address these areas. CMS would, however, view contracts for administration and management, marketing, utilization management, quality assurance, applications processing, enrollment and disenrollment functions, claims processing, adjudicating Medicare organization determinations, appeals and grievances, and credentialing to be administrative contracts subject to MA requirements as articulated in the MA regulation and related guidance.

The following provisions must be addressed in the administrative service contracts:

- The person or entity must agree to comply with all applicable Medicare laws, regulations, and CMS instructions;
- The person or entity must agree to comply with all State and Federal confidentiality requirements, including the requirements established by the MA organization and the MA program;
- The person or entity must agree to grant DHHS, the Comptroller General, or their designees the right to inspect any pertinent information related to the contract during the contract term, for up to 10 years from the final date of the contract period, and in certain instances described in the MA regulation, periods in excess of 10 years, as appropriate;
- The contract must clearly state the responsibilities of the administrative services provider and its reporting arrangements;
- The contract must provide that the MA organization and any first tier and downstream entities has/have the right to revoke the contract if MA organizations do not perform the services satisfactorily, and if requisite reporting and disclosure requirements are not otherwise fully met in a timely manner;
- If the written arrangement provides for credentialing activities by a first-tier or downstream entity, the first-tier or downstream entity must meet all applicable MA credentialing requirements;

- If the written arrangement provides for the selection of providers by a first-tier or downstream entity, written arrangements must state that the MA organization retains the right to approve, suspend, or terminate any such arrangement;
  - Contracts between MA organizations and first tier entities, and first tier entities and downstream entities must contain provisions specifying MA delegation requirements specified at 422.504(i)(3)(iii) and 42 CFR 422.504(i)(4)(i)-(v). A written agreement specifies the delegated activities and reporting responsibilities of the entity and provides for revocation of the delegation or other remedies for inadequate performance. Contracts must indicate what functions have been delegated and must require the entity to comply with the requirements of these standards and of applicable law and regulations. When a function is only partially delegated, contract provisions must clearly delineate which responsibilities have been delegated and which remain with the organization. In the Quality Improvement area, for example, the organization might develop topics for projects in consultation with an affiliated medical group, but delegate the actual conduct of a specific project to the group. The agreement must specify how the delegate is to conduct Quality Improvement activities, at what points in the process decisions by the delegate (for example, on data collection methodologies) are subject to the organization's review, and how the delegate's activities will be integrated into the organization's overall Quality Improvement program (for example, through participation in an organization-wide committee).