## 70.2 – Non-Network PFFS Plan Rules

***(Rev. 99, Issued: 05-27-11, Effective: 05-27-11, Implementation: 05-27-11)***

### 70.2.1 - General Rules

***(Rev. 99, Issued: 05-27-11, Effective: 05-27-11, Implementation: 05-27-11)***

- The plan must meet the access to services requirement by paying all providers at least the Original Medicare rates or higher for all categories of Part A and Part B services.

- The plan must operate using deemed providers for all categories of Part A and Part B services, if the deeming conditions described in 42 CFR 422.216(f) and section 40.2 of this chapter are met.

- The plan may have some direct-contracting providers. The plan may establish signed contracts or agreements with some providers without meeting the access standards described in section 1852(d)(1) of the Act and section 30.2 of this chapter.

### 70.2.2 - Payment Rules for Deemed Providers

***(Rev. 99, Issued: 05-27-11, Effective: 05-27-11, Implementation: 05-27-11)***

- The plan must pay all deemed providers at least the Original Medicare rates or higher. Specifically, the total payment rates for these providers (plan and member portions) must be at least the amounts they would have received as participating or non-participating physicians, as applicable, under Original Medicare for Medicare-covered services, including balance billing up to the limiting charge for non-participating physicians. Refer to section 80.1 of this chapter.

- The plan must establish the payment rates for deemed providers in its terms and conditions of payment and cannot vary the rates for deemed providers within a particular category of Part A or Part B service.

### 70.2.3 - Payment Rules for Direct-Contracting Providers

***(Rev. 99, Issued: 05-27-11, Effective: 05-27-11, Implementation: 05-27-11)***

- The plan may establish payment rates for direct-contracting providers that are different than the rates established in the terms and conditions of payment for deemed providers.

- Since the plan meets the access to services requirement by paying all providers at least the Original Medicare rates or higher, direct-contracting providers must also be paid at least the Original Medicare rates or higher.

- The payment rates for direct-contracting providers must be established in the signed contract or agreement between the plan and the provider.

- The payment rates can be provider-specific, and public disclosure of the rates is not required.

## 70.2.4 - Cost Sharing Rules for Members

***(Rev. 99, Issued: 05-27-11, Effective: 05-27-11, Implementation: 05-27-11)***

The plan cannot vary a member's actual out-of-pocket costs (regardless of whether copayment or coinsurance applies) with respect to a particular category of Part A or Part B service, regardless of whether the provider is a deemed or direct-contracting provider.

## 70.2.5 - Review of Provider Networks

***(Rev. 99, Issued: 05-27-11, Effective: 05-27-11, Implementation: 05-27-11)***

A plan that has some direct-contracting providers is not required to meet the access standards described in section 1852(d)(1) of the Act and section 30.2 of this chapter.

The plan must disclose information about its direct-contracting providers to CMS upon request.