

## **30 - Election Periods and Effective Dates**

42 CFR 422.62 & 422.68

In order for an MA organization to accept an enrollment request, a valid request must be made during an election period (see §10 for the definition of “election”). It is the responsibility of the organization to determine the election period of each enrollment request. There are four types of election periods during which individuals may make enrollment requests. They are:

The Annual Election Period (AEP);

The Initial Coverage Election Period (ICEP);

All Special Election Periods (SEP); and

The Open Enrollment Period (OEP)

Unless a CMS-approved capacity limit applies, all MA organizations must accept requests to enroll in their MA plans (with the exception of Medicare MSA plans) during the AEP, an ICEP, and any SEP that allows enrollment into the specific plan. (Refer to §30.7 for election periods for Medicare MSA plans.) When an MA plan is closed due to a capacity limit, the MA plan must remain closed to all prospective enrollees (with the exception of reserved vacancies) until the limit is lifted. Refer to §30.8 and §30.8.1 for more information on OEP plan closures, capacity limits and reserved vacancies.

### **30.1 - Annual Election Period (AEP)**

During the AEP, MA eligible individuals may enroll in or disenroll from an MA plan. The last enrollment request made, determined by the application date, will be the enrollment request that takes effect (refer to §60.1 for information on multiple transactions). The AEP occurs November 15 through December 31 of every year. The AEP is also referred to as the “Fall Open Enrollment” season in Medicare beneficiary publications and other tools.

**Note:** An employer/union sponsored MA plan may have an “open season” as determined by the employer. This may or may not correspond with the MA annual election period. Therefore, orgs are not required to accept enrollment requests into employer/union plans during the AEP (unless the AEP and open season occur simultaneously); however, organizations must accept valid requests for disenrollment.

### **30.2 - Initial Coverage Election Period (ICEP)**

The ICEP is the period during which an individual newly eligible for MA may make an initial enrollment request to enroll in an MA plan. This period begins three months immediately before the individual’s first entitlement to both Medicare Part A and Part B and ends on the later of: 27

1. The last day of the month preceding entitlement to both Part A and Part B, or;
2. The last day of the individual's Part B initial enrollment period.

The initial enrollment period for Part B is the seven (7) month period that begins 3 months before the month an individual meets the eligibility requirements for Part B, and ends 3 months after the month of eligibility. See 42 CFR 407.14 for additional information. Once an ICEP enrollment request is made and enrollment takes effect, the ICEP election has been used. **EXAMPLES**

Mrs. Donovan's 65<sup>th</sup> birthday is June 20, 2009. She is eligible for Medicare Part A and Part B beginning June 1, 2009 and has decided to enroll in Part B beginning on June 1. Her ICEP begins on March 1, 2009 and ends on September 30, 2009.

Mrs. Smith's 65<sup>th</sup> birthday is April 20, 2008. She is eligible for Medicare Part A and Part B beginning April 1, 2008. Because she is still working and has health insurance provided by her employer, she has decided not to enroll in Part B during her initial enrollment period for Part B. Upon retiring, she will have the opportunity to enroll in Part B (through a Part B SEP). She has enrolled in Part B effective May 1, 2009. Her ICEP would be February 1 through April 30, 2009.

Please note that the ICEP for an MA enrollment election will frequently relate to either the individual's 65<sup>th</sup> birthday or the 25<sup>th</sup> month of disability, but it must always relate to the individual's entitlement to both Medicare Part A and Part B. When an individual enrolls in an MA-PD plan, s/he has used both the ICEP and the IEP for Part D (see §30.2.1).

### **30.2.1 - Initial Enrollment Period for Part D (IEP for Part D)**

The Initial Enrollment Period for Part D (IEP for Part D) is the period during which an individual is first eligible to enroll in a Part D plan. In general, an individual is eligible to enroll in a Part D plan when he or she is entitled to Part A OR is enrolled in Part B, AND permanently resides in the service area of a Part D plan. Ultimately, CMS provides a part D eligibility effective date and maintains it in CMS systems. At the beginning of the Medicare prescription drug coverage program, all current Part D eligible individuals had an IEP for Part D that began on November 15, 2005, and ended on May 15, 2006. During the IEP for Part D, individuals may make one Part D enrollment choice, including enrollment in an MA-PD plan. Generally, individuals will have an IEP for Part D that is the same period as the Initial Enrollment Period for Medicare Part B. The initial enrollment period for Part B is the seven (7) month period that begins 3 months before the month an individual meets the eligibility requirements for Part B, and ends 3 months after the month of eligibility. See 42 CFR 407.14 for additional information. 28

Individuals not eligible to enroll in a Part D plan at any time during their initial enrollment period for Medicare Part B have an IEP for Part D that is the 3 months before becoming eligible for Part D, the month of eligibility, and the three months following eligibility for Part D.

*EXAMPLE: Mr. Duke lived in Italy at the time of his 65<sup>th</sup> birthday, which occurred on August 3, 2008. His Part B initial enrollment period began on May 1, 2008, and ended November 30, 2008. He plans to return to the U.S. to reside permanently in June 2010. Since he lived out of the U.S. and was not eligible to enroll in a Part D plan during his IEP for Part B, his initial enrollment period for Part D will occur when he meets all the eligibility requirements for Part D, that is, when he has Part A or B and resides in a Part D plan service area. His IEP for Part D is March 2010 – September 2010.*

Individuals eligible for Medicare prior to age 65 (such as for disability) will have another Initial Enrollment Period for Part D based upon attaining age 65. The ICEP and the IEP for Part D occur together as one period when a newly Medicare eligible individual has enrolled in BOTH Part A and B at first eligibility. Should an individual delay enrollment in Part B to a later time, the ICEP and IEP become separate with the ICEP changing to then occur as the 3 months immediately preceding entitlement to BOTH parts A and B. If a Medicare entitlement determination is made retroactively eligibility for Part D begins with the month in which the individual received notification of the retroactive entitlement decision. Therefore, the Part D IEP begins the month the individual receives the notice of the Medicare entitlement determination and continues for three additional months after the month the notice is provided. The effective date is generally the first day of the month after the organization receives a completed enrollment request. In MA context, the IEP for Part D applies only to MA-PD enrollment requests. Accordingly, when an applicant has both the ICEP and IEP available to him/her, the organization must submit the transaction to CMS as an IEP election. *Refer to Chapter 3 of the Medicare Prescription Drug Benefit Manual for additional information regarding Part D election periods.*

### **30.3 - Open Enrollment Period (OEP)**

In addition to their opportunities during the AEP, SEP, or ICEP, MA eligible individuals may make **one** MA OEP enrollment request from January 1<sup>st</sup> through March 31<sup>st</sup>. MA organizations are not required to open their MA plans for enrollment during an OEP. However, MA organizations must accept valid requests for disenrollment from MA-only plans during the OEP since Original Medicare is always open during an OEP. In addition, if an MA organization has more than one MA plan, the MA organization is not required to open each plan for enrollment during the same time frames. If an MA organization opens a plan during part of an OEP, it is not required to open the plan for the entire month – it may choose to open the plan for only part of the month. 29

The OEP (also including the OEP NEW and OEPI described below) is not available for Medicare MSA enrollment requests. Please refer to §30.7 for more information on Medicare MSA enrollment requests.

**OEP Limitation:** OEP (including OEPNEW but not including OEPI) enrollment requests must be made to enroll in the same type of plan (regarding Medicare prescription drug coverage) in which the individual is already enrolled, as follows: An individual who is enrolled in an MA-PD plan may elect another MA-PD plan or disenroll from the MA-PD by enrolling in a Part D plan (there is a corresponding SEP to permit this Part D enrollment). To effectuate this enrollment request, the individual must elect an MA-PD plan or enroll in a Part D plan. Either action will generate an automatic disenrollment from the current MA-PD plan. An individual enrolled in a Part D plan may elect an MA-PD.

Such individual may elect an MA-only PFFS only if he or she obtains Part D coverage as well. MA organizations must deny OEP requests for voluntary disenrollment from an MA-PD plan. (2) An individual who is enrolled in an MA plan and who does not have Part D coverage may elect another MA plan that does not include Part D coverage or may elect to disenroll from the MA plan. An individual enrolled in Original Medicare (or a non-MA Medicare health plan, such as a cost plan) but not in a PDP may elect an MA plan that does not include Part D coverage. Individuals who do not have Part D coverage, regardless of whether they have other creditable coverage, may not elect an MA-PD plan during this period.

The table below describes possible MA-OEP enrollment request options:

| <b>If current coverage is</b>                                   | <b>Can use OEP to get</b>  | <b>Cannot use OEP to get</b>   |
|---|--|--|
| Medicare Advantage with prescription drug coverage (MA-PD)      | A different MA-PD or Original Medicare + PDP or MA-only PFFS + PDP             | MA-only or Original Medicare only (cannot drop drug coverage)                        |
| Medicare Advantage with no prescription drug coverage (MA-only) | A different MA-only or Original Medicare only                                  | MA-PD or Original Medicare + PDP (cannot add drug coverage)                          |
| MA-only PFFS + PDP  | MA-PD or different MA-only PFFS and same PDP or Original Medicare and same PDP | MA-only or Original Medicare only (cannot drop drug coverage)                        |
| Original Medicare and a prescription drug plan (PDP)            | MA-PD or MA-PFFS and the same PDP.   | MA-only or A different PDP to use with Original Medicare (cannot drop drug coverage) |

### **30.3.1 - Open Enrollment for Newly Eligible Individuals (OEPNEW)**

An individual who becomes MA eligible may make one MA OEPNEW election during the period that begins the month the individual is entitled to both Part A and Part B and ends on the last day of the 3<sup>rd</sup> month of entitlement, or on December 31<sup>st</sup> of the same year, whichever occurs first, subject to the limitations described in §30.3 above. An OEPNEW election is separate from an OEP election. An MA organization is not required to accept requests to enroll into its plan during the OEPNEW, but if it is open for these enrollment requests, it must accept all OEPNEW requests to enroll into the plan.

### **30.4 - Special Election Period (SEP)**

Special election periods constitute periods outside of the usual IEP, AEP or OEP when an individual may elect a plan or change his or her current plan election. As detailed below, there are various types of SEPs, including SEPs for dual eligibles, and for individuals whose current plan terminates, who change residence and who meet “exceptional conditions” as CMS may provide, consistent with §1851(e)(4) of the Act and §422.62(b) of the MA regulations. Depending on the nature of the particular special election period, an individual may:

- Discontinue an enrollment in an MA plan and enroll in Original Medicare
- Switch from Original Medicare to an MA plan
- Switch from one MA plan to another MA plan

Certain SEPs are limited to an enrollment or disenrollment request. If the individual disenrolls from (or is disenrolled from) the MA plan and changes to Original Medicare, the individual may subsequently elect a new MA plan within the SEP time period. Once the individual has elected the new MA plan, the SEP ends for that individual even if the time frame for the SEP is still in effect. In other words, **the SEP for the individual ends when the individual elects a new MA plan or when the SEP time frame ends, whichever comes first, unless specified otherwise within an SEP.**

Note: An individual’s eligibility for an SEP *provides an opportunity to make an election but* does not convey eligibility to enroll in the plan; an individual must also meet all applicable MA eligibility criteria.

It is generally the responsibility of the organization to determine whether the individual is eligible for an SEP. The exception to this determination requirement would be enrollment requests completed or approved by CMS staff. To make this determination, the organization may need to contact the individual directly or request this information as part of the enrollment request by incorporating specific statements regarding SEP eligibility (see Exhibit 1a). Unless *stated* otherwise in this guidance, the organization **MUST** accept *an individual’s* verbal or written confirmation regarding the conditions that make him or her eligible for the SEP. *Determination of eligibility for some SEPs requires that the organization obtain the date on which the individual’s circumstances changed (i.e. change in residence, loss of special needs status, etc.).* Organizations that obtain this information on the enrollment request are not required to obtain an additional verbal or written confirmation of SEP eligibility. 32

For enrollment requests obtained during a face-to-face interview or telephone request, the determination of SEP eligibility can be made at that time. For enrollment requests made using paper, or via the internet or the Medicare OEC (without accompanying CMS approval), the organization is not required to contact the applicant to confirm SEP eligibility if the enrollment request includes the applicant's attestation of SEP eligibility. If SEP eligibility is obtained orally (by phone), the organization must document this contact and retain this information with the enrollment record. If the organization obtains this confirmation through a written notice, such notice must afford the beneficiary the option of calling the organization and confirming this information verbally. The organization must obtain this confirmation in accordance with §40.2.2. If the organization is not able to obtain SEP eligibility information from the applicant, the organization must deny the enrollment request and provide the individual a notice of denial of enrollment (see Exhibit 7). The following are examples of questions that might be used to determine eligibility for an SEP:

**Type of SEP?**

**Examples of Questions**

Change in Residence

Have you recently moved? If so, when?  
Where did you move from?

Employer/Union Group Health Plan (EGHP)

Do you currently have (or are leaving) coverage offered by an employer or union?  
Have you recently lost such coverage?

Disenroll from Part D to enroll in Creditable Coverage

Are you a member of TriCare? Do you have or want to obtain VA benefits?

Full and Partial Dual Eligible

Do you currently have Medicaid coverage?  
Did you recently receive a yellow letter from CMS? Does your state pay for your Medicare premiums? Have you recently lost coverage under Medicaid?

Other Low Income Subsidy

Have you recently been approved for extra help? Have you recently received a green letter from CMS? Do you receive SSI cash benefits without Medicaid? Did you receive a letter from Medicare letting you know that you automatically qualify for extra help?

Retroactive notice of Medicare entitlement

Have you recently received a notice telling you that you have been approved for Medicare for a "retroactive" date? If so, when did you receive this notice?