

January 2001 Final Rule

66 Fed. Reg. 6228 (Jan. 19, 2001), 42 C.F.R. §§ xx.

August 2001 Proposed Rule

66 Fed. Reg. 43614 (Aug. 20, 2001), 42 C.F.R. §§ xx.

Information : Enrollees and Potential enrollees be provided information on how to access

January §§ 438.10(d)(2)(ii)(E), (e)(2)(xii).

Maintains requirement, except that health plans do not have to provide any information on where and h

Proposed §§ 438.10(e)(2)(ii)(E), (f)(6)(xii).

Information : Certain required information (i.e. scope of benefits available under the state

January §§ 438.10(d)(1)(ii), (d)(2)(ii).

Need only provide *summary* with more detail upon request.

Provision of information when beneficiary becomes eligible for or required to enroll in a managed care p

Proposed §§ 438.10(e)(1)(i), (e)(2)(ii).

Information : Enrollees to obtain information upon enrollment and annually thereafter.

Health plans responsible for providing information.

January § 438.10(e)(1)(i).

Provision of information upon enrollment. Notice on right to request information annually, instead of au

Deletes reference of responsible party for providing information. Thus, presumably, State must decide.

Proposed § 438.10(f)(2).

Information	: Enrollees to get information on, except deleted, required how to obtain health plans
Information	: Information specifically on pharmaceuticals, on how to obtain continued serv

January §§ 438.10(e)(2)(i), (e)(2)(x), (e)(2)(xiii); 438.414(b)(5).

Requirements deleted.

Proposed §§ 438.10(f)(6)(iv), (f)(6)(v), (g).

Information	: Health plans to give enrollees written notice 30 days prior to the effective da
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January §§ 438.10(e)(ii); 438.102(c)(1)(ii).

Same.

Proposed §§ 438.10(f)(4); § 438.102(c)(1)(ii).

Information	: Enrollees must be told of any limits on freedom of choice among network pr
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January § 438.10(e)(2)(v).

Same. Includes explanation that this includes limits by choosing subnetworks under contract with the p

Proposed § 438.10(f)(6)(ii); 66 Fed. Reg. at 43624

Information : Right to disenroll - no pre-conditions provision requiring to require States to notify e

Proposed § 438.10(f)(1).

Marketing : Marketing protections apply to potential enrollees and current enrollees.

January § 438.104.

Marketing protections for potential enrollees only.

Proposed § 438.104

Marketing : State option to impose sanctions on plans that falsify or misrepresent inform

January § 438.700(b)(5).

Same.

Proposed § 438.700(b)(5)

Enrollee-Provider Communication : Plans prohibited from limiting communication regarding enrollee's hea

January § 438.102(b)(1).

Same.

Proposed § 438.10(b)(1).

Enrollee-Provider Communication : Anti-gag rule applies to whom anti-gag rule applies.

January § 438.102(a).

Includes same list.

Proposed § 438.102(a).

Enrollee-Provider Communication/Moral/Religious Provision reimburse for, or provide coverage of a

Proposed § 438.102(b)(3).

Same.

January § 438.102(b)(2)

Enrollee-Provider Communication/Moral/Religious Provision individuals with information on how

January § 438.102(c)(2).

Deleted.

Proposed § 438.102(c)(2).

Enrollee-Provider Communication/Moral/Religious Provision plan services which are not include

January § 438.206(c).

Deleted. State's responsibility to ensure continued access discussed in preamble only.

Proposed § 438.206; 66 Fed. Reg. at 43629.

Enrollee-Provider Communication/Moral/Religious Provision health professionals should not be p

January, 66 Fed. Reg. at 6271.

Not addressed.

Enrollee-Provider Communication/Moral Religious Provision: HCFA refused to include requirement that states give precedence to health plan of enrollee over entities perhaps having a "moral" (as

January, 66 Fed. Reg. at 6272.

Not addressed.

Enrollee-Provider Communication/Moral Religious Provision: HCFA refused to include policy to exclude counseling or referral

January § 438.102(c)(1)(i).

Same.

Proposed § 438.102(c)(1)(i).

Enrollee-Provider Communication/Moral Religious Provision: HCFA refused to include requirement that states give precedence to health plan of enrollee over entities perhaps having a "moral" (as

January § 438.102(c)(1)(ii).

Same.

Proposed § 438.102(c)(1)(ii).

Default Enrollment: HCFA refused to include requirement that states give precedence to health plan of enrollee over entities perhaps having a "moral" (as

January, 66 Fed. Reg. at 6255.

Not addressed.

Enrollment: HCFA refused to require that one choice of health plan offer full scope reproductive services

January 66 fed. Reg. at 6257.

Not addressed

Disenrollment: Cause to disenroll at any time includes plan does not provide service due to

January § 438.56(d)(2).

Same.

Proposed § 438.56(d)(2).

Free-Choice of Provider Enrollees have right to a free choice of provider for family planning services.

January § 431.51(a)(4), (5), (6).

Same.

Proposed §§ 431.51(a)(4), (5), (6).

Out-of-Network Access If health plan cannot provide necessary contract services, services must be

January § 438.206(d)(5), 66 Fed. Reg. at 6262.

Same, except related services not addressed. Also, where January rules required States to directly en

Proposed § 438.206(b)(4).

Out-of-Network Access Out-of-Network access is not to result in additional costs to the enrollee.

January § 438.206(d)(8).

Same.

Proposed § 438.206(b)(5).

Out-of-Network Access/Rural Out-of-network access permitted where service or type of provider not availa

January 438.52(b)(2)(ii)(A).

Same, except "type of provider" limited to mean "in terms of training, experience, and specialization" w

Proposed § 438.52(b)(2)(ii)(A).

Out-of-Network Access/Rural Out-of-network access for individuals with pre-existing relationships with a p

January § 438.52(b)(2)(ii)(B).

Out-of-network access for pre-existing providers limited to 60days, then enrollee must choose (or be as

Proposed § 438.52(b)(2)(ii)(B).

Out-of-Network Access/Right to access out-of-network providers when (1) the only plan or provider

January §§ 438.52(b)(2)(ii)(C), (b)(2)(ii)(D), (b)(2)(ii)(E).

Same, except preamble says that, except for (1), the state need not have a fee-for-service system and

Proposed §§ 438.52(b)(2)(ii)(C), (b)(2)(ii)(D), (b)(2)(ii)(E);

66 Fed. Reg. at 43627.

Availability of Services Each health plan is to pay particular attention to pregnant women and other

January § 438.206(d).

Deleted.

Proposed § 438.206(b).

Direct Access to Women's Health Specialists have direct access to women's health specialists for

January § 438.206(d)(2); 66 Fed. Reg. at 6305-06.

Same, except there is no mention of the issues discussed in the January rules' Preamble.

Proposed § 438.206(b)(2).

Identification of Persons with Special Needs	that women be identified among persons with special ne
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January, § 438.208(b)(3); 66 Fed. Reg. at 6308.

Deleted.

Proposed § 438.208(b).

Screenings and Assessments	Differentiates "initial screening" and "comprehensive health assessment" (th
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January § 438.208(b)(3), (d); 66 Fed. Reg. at 6309.

Deletes distinction and deletes pregnant women from list of individuals who must be screened and req

Proposed § 438.208(c), 66 Fed. Reg. at 43635.

Screenings and Assessments	Contains specific time frames in which screens and assessments must be d
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January, § 438.208(d), (e).

Deleted.

January § 438.208(d), (e).

Treatment planning	: Sets forth rules for health plans to develop and implement treatment plans f
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January §§ 438.208(f), 66 Fed. Reg. at 6312

Deleted. Requires States only to ensure that health plans have a mechanism in place for individuals de

Proposed § 438.208(d).

Liability and Cost Sharing	Enrollees may not be held liable for covered services including family planni
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January § 438.106; 66 Fed. Reg. at 6281-82.

Same, but no preamble discussion.

Proposed § 438.106.

Liability and Cost Sharing Any cost sharing must comply with fee-for-service cost sharing requirements.

January § 438.108, 66 Fed. Reg. at 6282-83, 42 C.F.R. § 447.53.

Same, except that there is no discussion clarifying cost sharing for non-emergency services access in

Proposed § 438.108, 66 Fed. Reg. at 43630.

Liability and Cost Sharing Providers may not deny care due to an eligible individuals inability to pay for

January § 447.53(e).

Same.

Proposed § 447.53(e).

Liability and Cost Sharing Services accessed out-of-network due to health plan's inability to provide ne

January, § 438.206(d)(8), 66 Fed. Reg. at 6303.

Same, except no discussion on related services.

Proposed § 438.206(b)(5).

Specification of Contract Benefits Contracts with MCOs, PHPs, and PCCMs must clearly specify those s

January § 438.210(a).

Same, except exempts PCCM and PAHP contracts.

Proposed, § 438.210(a).

Prior Authorization Requests : Health plans and subcontractors must have in place and follow written policies

January § 438.210(b)(1).

Same, except policies and procedures do not have to reflect current standards of medical practice.

Proposed, § 438.210(b)(1).

Limitations on Payments to Providers : State to pay out-of-network providers for services included in the

January § 438.60; 66 Fed. Reg. at 6267.

Same.

Proposed § 438.60.

Confidentiality : In addition to following state and federal confidentiality and disclosure laws,

- maintain medical records and information in a timely and accurate manner;
- specify for what purposes the health plan uses the information and to what entities outside of the health plan;
- permit each enrollee to request and receive a copy of records and information pertaining to the enrollee;
- permit each enrollee to request and receive information on how the health plan uses and discloses information.

January § 438.224.

Deleted. Now requires that States, through their contracts, ensure that health plans have procedures in place

Proposed § 438.224.

Public Participation : States must specify in the state plan the process used to involve the public in

January § 438.50(b)(4).

Same.

Proposed § 438.50(b)(4).