



Department of
Health Care Services



Federal Managed Care Regulations Part 438

Final Rule Overview

- Federal Managed Care Regulations – Part 438 of title 42 Code of Federal Regulations
- Issued in the Federal Register on May 6, 2016
- Applies to the provision of Medicaid Managed Care (MMC) programs and managed care organizations (MCOs)
- Mental Health Plans classified as Pre-paid Inpatient Health Plans (PIHPs)
- Effective date of Final Rule was July 5, 2016
- Phased implementation of new provisions over a 3-year period

CMS' Goals of the Final Rule

The final rule advances CMS' mission of better care, smarter spending, and healthier people.

Key Goals:

- To support State efforts to advance delivery system reform and improve the quality of care
- To strengthen the beneficiary experience of care and key beneficiary protections
- To strengthen program integrity by improving accountability and transparency
- To align key Medicaid and CHIP managed care requirements with other health coverage programs

42 C.F.R. Part 438 Overview

- Subpart A – General Provisions
- Subpart B – State Responsibilities
- Subpart C – Enrollee Rights and Protections
- Subpart D – MCO, PIHP and PAHP Standards
- Subpart E – Quality Measurement and Improvement; External Quality Review
- Subpart F – Grievance and Appeal System
- Subpart G – *Reserved*
- Subpart H – Additional Program Integrity Safeguards
- Subpart I – Sanctions
- Subpart J – Conditions for Federal Financial Participation
- Subpart K – Parity in Mental Health and Substance Use Disorder Benefits

Key Provisions Effective July 5, 2016

- §438.2 Definitions
- §438.3(a) CMS Review and Approval of Contracts
- §438.3(d) Enrollment Discrimination Prohibition
- §438.3(f) Compliance with Applicable Laws and Conflict of Interest Safeguards
- §438.3(j) Advance Directives
- §438.3(k) Subcontracts
- §438.3(l) Choice of Network Provider
- §438.100 Enrollee Rights
- §438.102 Provider-Enrollee Communications
- §440.262 Access and Cultural Considerations
- §438.610 Prohibited Affiliations

Key Provisions Effective July 1, 2017

- §438.3(h) Inspection and Audit of Records and Access to Facilities
- §438.10 Information Requirements
- §438.66 State Monitoring Requirements
- §438.208 Coordination and Continuity of Care
- §438.210 Coverage & Authorization
- §438.230 Subcontractual Relationships and Delegation
- §438.242 Health Information Systems
- §438.330 Quality Assessment and Performance Improvement
- Subpart F - Grievance and Appeal System
- Subpart H – Additional Program Integrity Safeguards
- Subpart K – Parity in Mental Health and Substance Use Disorder Benefits– **October 2, 2017**

Key Provisions Effective July 1, 2018

- §438.62 Continued Services to Enrollees
- §438.68 Network Adequacy
- §438.206 Availability of Services
- §438.207 Assurances of Adequate Capacity
- §438.71 Beneficiary Support System
- §§ 438.602(b) and 438.608(b) Screening & Enrollment
- §438.340 Quality Strategy
- §§ 438.350-364 EQR Requirements
- §438.818 Encounter Data

Provisions Effective after 2018

- §438.66(e) Annual Program Assessment Reports
- §438.358 Activities Related to External Quality Review
- §438.334 Quality Rating System

Priorities for Implementation

Citation	Rule Description	Suggested MHP Action Steps
§438.3(h)	Inspection and audit of records and access to facilities	Update P&Ps
§438.3(u)	Recordkeeping requirements	Update P&Ps Inventory records/storage capacity
§438.10	Information Requirements	Update P&Ps Update County portion – handbook Update written materials – language and format requirements Update provider directory
§438.230	Sub-contractual relationships and delegation	Update P&Ps Update provider subcontracts
§438.332	State review of accreditation status	Report to DHCS if accredited
Subpart F (§438.400-438.424)	Grievance and appeal systems	Update P&Ps Revise posted notices and signs Update grievance and appeal forms Update Logs Notify network providers

Priorities for Implementation

Citation	Rule Description	Suggested MHP Action Steps
§438.602(d)	Federal database checks	Update P&Ps
§438.608(a)	Program integrity requirements	Update P&Ps Update compliance plan
§438.610	Prohibited affiliations	Update P&Ps
§438.808	Exclusion of entities	Update P&Ps

Priorities Pending Forthcoming DHCS Guidance

- §438.3(m) - Audited Financial Reports
- §438.14 - Requirements that apply to managed care contract involving Indians, IHCPs
- §438.214 - Provider Selection
- Subpart F (§438.400-438.424) - Grievance and Appeal Systems
- §438.602(i) - Entities located outside the U.S.
- §438.604 - Data, information and documentation that must be submitted
- §438.608(d) - Treatment of recoveries of overpayments
- Subpart K – Mental Health and Substance Use Disorder Parity

Additional Updates

- MHP Contract
 - CMS Review
 - CBHDA Review
- TA Contract
 - Harbage Consulting
 - Effective August 15, 2017
- Network Adequacy Standards