

**EMPLOYER/UNION-ONLY GROUP PART C ADDENDUM TO CONTRACT WITH  
APPROVED ENTITY PURSUANT TO SECTIONS 1851 THROUGH 1859 OF THE  
SOCIAL SECURITY ACT FOR THE OPERATION OF A MEDICARE ADVANTAGE  
PLAN**

The Centers for Medicare & Medicaid Services (hereinafter referred to as “CMS”) and <<CONTRACT\_NAME>>, a Medicare Advantage Organization (hereinafter referred to as the “MA Organization”) agree to amend the contract <<CONTRACT\_ID>> governing the MA Organization’s operation of a Medicare Advantage plan described in §1851(a)(2)(A) or §1851(a)(2)(C) of the Social Security Act (hereinafter referred to as “the Act”), including all attachments, addenda, and amendments thereto, to include the provisions contained in this Addendum (collectively hereinafter referred to as the “contract”), under which the MA Organization shall offer Employer/Union-Only Group MA-Only Plans (hereinafter referred to as “employer/union-only group health plans”) in accordance with the waivers granted by CMS under §1857(i) of the Act. The terms of this Addendum shall only apply to MA-only health plans offered by the MA Organization exclusively to eligible individuals enrolled in employment-based health coverage under a contract between the MA Organization and the employer/union sponsor of the employment-based health coverage.

This Addendum is made pursuant to Subpart K of 42 CFR Part 422.

**Article I**  
**Employer/Union-Only Group Medicare Advantage Health Plan**

- A. MA Organization agrees to operate one or more employer/union-only group health plans in accordance with the Medicare Advantage contract (as modified by this Addendum), which incorporates in its entirety the *2023 Part C-Medicare Advantage and 1876 Cost Plan Expansion Application* (released on January 11, 2022) and any employer/union-only group waiver guidance, including, but not limited to those requirements contained in Chapter 9 of the Medicare Managed Care Manual).
- B. This Addendum is deemed to incorporate any changes that are required by statute to be implemented during the term of the contract, and any regulations and policies implementing or interpreting such statutory provisions.
- C. In the event of any conflict between the employer/union-only group waiver guidance issued prior to the execution of the contract and this Addendum, the provisions of this Addendum shall control.
- D. This Addendum is in no way intended to supersede or modify 42 CFR Part 422 or §§1851 through 1859 of the Act, except as specifically waived in applicable employer/union-only group waiver guidance or in this Addendum. Failure to reference a statutory or regulatory requirement in this Addendum does not affect the applicability of such requirement to the MA Organization and CMS.
- E. The provisions of this Addendum apply to all employer/union-only group health plans offered by MA Organization under this contract number. In the event of any conflict between the provisions of this Addendum and any other provision of the contract, the terms of this Addendum shall control.

**Article II**  
**Functions to be Performed by the Medicare Advantage Organization**

- A. PROVISION OF BENEFITS
  - 1. MA Organization agrees to provide enrollees in each of its employer/union-only group health plans the basic benefits (hereinafter referred to as “basic benefits”) as required under 42 CFR §§ 422.100 and 422.101 and, to the extent applicable, supplemental benefits under 42 CFR §422.102 and as established in the MA Organization’s final plan benefit package proposal as approved by CMS.
  - 2. MA Organization acknowledges and agrees that payment under Part C of Title XVIII for Part A and B services, including rebates under section 1854 of the Social Security Act, provided to enrollees in its employer/union-only group MA-PDs will be governed by the CY 2023 Rate Announcement issued on April 4, 2022.

3. The requirements in §1852 of the Act and 42 CFR §422.100(c)(1) pertaining to the offering of benefits covered under Medicare Part A and in §1851 of the Act and 42 CFR §422.50(a)(1) pertaining to who may enroll in an MA plan are waived for employer/union-only group health plan enrollees who are not entitled to Medicare Part A, provided that the MA Organization enrolls Part B-only employer/union group members in a separate Part B-only employer/union-only “800 series” plan in accordance with CMS requirements.
4. For employer/union-only group health plans offering non-calendar year coverage, MA Organization may determine basic and supplemental benefits (including deductibles, out-of-pocket limits, etc.) on a non-calendar year basis subject to the following requirements:
  - (a) Applications, plan benefit packages, bids, and other submissions to CMS must be submitted on a calendar year basis; and
  - (b) CMS payments will be determined on a calendar year basis.
5. For employer/union-only group MA-only plans that have a monthly beneficiary rebate described in 42 CFR §422.266:
  - (a) MA Organization may vary the form of rebate for a particular plan benefit package so that the total monthly rebate amount may be credited differently for each employer/union group to whom MA Organization offers the plan benefit package; and
  - (b) MA Organization must retain documentation that supports the use of all of the rebates on a detailed basis for each employer/union group within the plan benefit package and must provide access to this documentation in accordance with the requirements of 42 CFR §422.503(d) and 422.504(e) and (f).
6. MA Organization agrees it shall obtain written agreements from each employer/union that provide that the employer/union may determine how much of an enrollee’s Part C monthly beneficiary premium it will subsidize, subject to the restrictions set forth in II.A.5(a) through (c). MA Organization agrees to retain these written agreements with employers/unions and must provide access to this documentation for inspection or audit by CMS (or its designee) in accordance with the requirements of 42 CFR 422.503(d) and 422.504(d) and (e)
  - (a) The employer/union can subsidize different amounts for different classes of enrollees in the employer group health plan provided such classes are reasonable and based on objective business criteria, such as years of service, date of retirement, business location, job category, and nature of compensation (e.g., salaried vs. hourly).
  - (b) The employer/union cannot vary the premium subsidy for individuals within a given class of enrollees.

- (c) The employer/union cannot charge an enrollee for coverage provided under the employer group health plan more than the sum of his or her monthly beneficiary premium attributable to basic benefits provided under the plan as defined in 42 CFR §422.2 (i.e., all Medicare-covered benefits, except hospice services) and 100% of the monthly beneficiary premium attributable to his or her non-Medicare Part C benefits (if any). MA Organization must pass through the monthly payments described under 42 CFR 422.304(a) received from CMS to reduce the amount that the enrollee pays (or, in those instances where the subscriber to or participant in the employer plan pays premiums on behalf of a Medicare eligible spouse or dependent, the amount the subscriber or participant pays).

## B. ENROLLMENT REQUIREMENTS

1. MA Organization agrees to restrict enrollment in an employer/union-only group health plan to those individuals eligible for the employer's/union's employment-based group coverage.
2. MA Organization is not subject to the requirement to offer the employer/union-only group health plan to all eligible beneficiaries residing in the plan's service area as set forth in 42 CFR §422.50.
3. If an employer/union elects to enroll eligible individuals eligible for its employer/union-only group health plan through a group enrollment process, MA Organization is not subject to the individual enrollment requirements set forth in 42 CFR §422.60. MA Organization agrees that it will comply with all the requirements for group enrollment contained in CMS guidance, including those requirements contained in the MA Enrollment and Disenrollment Guidance.

## C. BENEFICIARY PROTECTIONS

1. Except as provided in subparagraph 2 of this paragraph, CMS agrees that with respect to any employer/union-only group health plans, MA Organization is not subject to the prior review and approval of marketing materials and election forms requirements set forth in 42 CFR Part 422 Subpart V. MA Organization is subject to all other disclosure requirements contained in 42 CFR §422.111 and Part 422, Subpart V and that are conditions on any waivers for EGWPs provided in CMS guidance in Chapter 9 of the Medicare Managed Care Manual.
2. CMS agrees that the disclosure requirements set forth in 42 CFR §422.111 do not apply with respect to any employer/union-only group health plan when the employer/union is subject to alternative disclosure requirements (e.g., the Employee Retirement Income Security Act of 1974 ("ERISA")) and fully complies with such alternative requirements. As a condition of this waiver, MA Organization must:
  - (a) Provide summary plan descriptions and all other beneficiary communications required by the alternative disclosure requirements on a timely basis;

- (b) Provide these materials to CMS, upon request, in the event of beneficiary complaints, or for any other reason CMS requests, so that CMS may ensure the information accurately and adequately informs Medicare beneficiaries about their rights and obligations under the plan.
  - (c) Retain these dissemination materials and provide access to these written materials to CMS (or its designees) in accordance with 42 CFR 422.503(d) and 422.504(d) and (e).
3. MA Organization agrees to comply with the conditions of this waiver contained in employer/union-only group waiver guidance, including those requirements contained in Chapter 9 of the Medicare Managed Care Manual.

#### D. SERVICE AREA

- 1. CMS agrees that local employer/union-only group health plans that provide coverage to individuals in any part of a State may offer coverage to individuals eligible for the employer/union-only group throughout that State, provided the MA Organization has properly designated (in accordance with CMS operational requirements) its employer/union-only group service areas in CMS's Health Plan Management System (HPMS) as including those areas outside of its individual service area(s) to allow for enrollment of these beneficiaries in CMS enrollment systems provided it meets the requirements designated in Chapter 9 of the Medicare Managed Care Manual for this waiver.
- 2. Notwithstanding 42 CFR § 422.50(a)(3), CMS agrees that those Local Coordinated Care Health MA-PDs that provide coverage to individuals in any part of a State can offer coverage to beneficiaries eligible for the employer/union-only group plan that reside outside of the State provided it meets the conditions of this waiver designated in Chapter 9 of the Medicare Managed Care Manual.

#### E. PAYMENT TO MA ORGANIZATION

MA Organization is not required to submit a Part C bid pricing tool; MA Organization acknowledges and agrees that payment under Part C of Title XVIII for Part A and B services, including rebates under section 1854 of the Social Security Act, provided to enrollees in its employer/union-only group MA plans will be governed by the CY 2023 Rate Announcement issued on April 4, 2022. MA Organization acknowledges that the risk sharing, plan entry and retention bonus provisions of section 1858 of the Act and 42 CFR §422.458 shall not apply to any employer/union-only group Regional MA-PDs.

In witness whereof, the parties hereby execute this contract.

This document has been electronically signed by:

FOR THE MA ORGANIZATION

<<CONTRACTING\_OFFICIAL\_NAME>>

Contracting Official Name

<<DATE\_STAMP>>

Date

<<CONTRACT\_NAME>>

Organization

<<ADDRESS>>

Address

FOR THE CENTERS FOR MEDICARE & MEDICAID SERVICES

<<KATHRYN\_COLEMAN\_ESIG>>

Kathryn A. Coleman

Director

Medicare Drug and Health

Plan Contract Administration Group,

Center for Medicare

<<DATE\_STAMP>>

Date