§ 4406-i. Utilization review determinations for medically fragile children. 1. Notwithstanding any inconsistent provision of the health maintenance organization's clinical standards, the health maintenance organization, and any utilization review agent under contract with such health maintenance organization, shall administer and apply the clinical standards (and make determinations of medical necessity) regarding medically fragile children in accordance with the requirements of this section and any regulations with special considerations and processes for utilization review related to medically fragile children.

2. Health maintenance organizations shall undertake the following with respect to medically fragile children, and as applicable, shall ensure that their contracted utilization review agents undertake the following with respect to medically fragile children:

(a) Consider as medically necessary all covered services that assist medically fragile children in reaching their maximum functional capacity, taking into account the appropriate functional capacities of children of the same age. In the case of Medicaid managed care, health maintenance organizations shall continue to cover services until that child achieves age-appropriate functional capacity.

(b) Shall not base determinations solely upon review standards applicable to (or designed for) adults to medically fragile children. Determinations shall take into consideration the specific needs of the child and the circumstances pertaining to their growth and development.

(c) Accommodate unusual stabilization and prolonged discharge plans for medically fragile children, as appropriate. Health maintenance organizations, and as applicable their contracted utilization review agents, shall consider when developing and approving discharge plans issues including sudden reversals of condition or progress which may make discharge decisions uncertain or more prolonged than for other children or adults.

(d) It is the health maintenance organization's network management responsibility to identify an available provider of needed covered services, as determined through a person centered care plan, to effect safe discharge from a hospital or other facility. In the case of Medicaid managed care, payments shall not be denied to a discharging hospital or other facility due to lack of an available post-discharge

provider as long as they have worked with the utilization review agent to identify an appropriate provider.

(e) This section does not limit any other rights the medically fragile child may have, including the right to appeal the denial of out of network coverage at in-network cost sharing levels where an appropriate in-network provider is not available pursuant to subdivision one-b of section forty-nine hundred four of this chapter.

(f) Health maintenance organizations shall contract with providers with demonstrated expertise in caring for the medically fragile children. Network providers shall refer to appropriate network community and facility providers for covered services to meet the needs of the child or seek authorization from the health maintenance organization for out-of-network providers when participating providers cannot meet the child's needs.

3. In the case of Medicaid managed care, when rendering or arranging for care or payment, both the provider and the health maintenance organization shall inquire of, and shall consider the desires of the family of a medically fragile child including, but not limited to, the availability and capacity of the family, the need for the family to simultaneously care for the family's other children, and the need for parents to continue employment.

4. In the case of Medicaid managed care, the health maintenance organization shall pay for all days of inpatient hospital care at a participating specialty care center for medically fragile children when the health maintenance organization and the specialty care facility mutually agree the patient is ready for discharge from the specialty care center to the patient's home but requires specialized home services that are not available or in place, or the patient is awaiting discharge to a residential health care facility when no residential health care facility bed is available given the specialized needs of the medically fragile child. In the case of Medicaid managed care, the health maintenance organization shall pay, for all days of residential health care facility care at a participating specialty care center for medically fragile children when the health maintenance organization and the specialty care facility mutually agree the patient is ready for

discharge from the specialty care center to the patient's home but requires specialized home services that are not available or in place. In the case of Medicaid managed care, such requirements shall apply until the health plan can identify and secure admission to an alternate provider rendering the necessary level of services. The specialty care center shall facilitate placement efforts to effectuate the discharge.

5. In the event a health maintenance organization enters into a participation agreement with a specialty care center for medically fragile children in this state, the requirements of this section shall apply to such participation agreement and to all claims submitted to, or payments made by, any other health maintenance organizations, insurers or payors making payment to the specialty care center pursuant to the provisions of that participation agreement.