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MEMORANDUM

DATE: July 17, 2009

TO: Medicare Advantage Organizations (MAO) offering Special Needs Plans (SNP)

FROM: Teresa DeCaro, Acting Director /s/
Medicare Drug and Health Plan Contract Administration Group

SUBJECT: Contract Guidance for Medicare Advantage Organizations and State Medicaid Agencies for Dual-Eligible Special Needs Plans

The Medicare Improvement for Patients and Providers Act (MIPPA) requires that all organizations seeking to offer new dual-eligible (DE) Special Needs Plans (SNPs) (i.e., those that serve individuals eligible for both Medicare and Medicaid), or those seeking a service area expansion, have a contract with their State Medicaid agency in the 2010 contract year. The finalized State Medicaid/SNP contract is due to CMS by October 1, 2009.

Existing CMS-approved 2009 DE SNPs without State Medicaid agency contracts may continue to operate and enroll beneficiaries in 2010 (provided all other statutory requirements are met); however, these DE SNPs may not expand their service area.

The contract must document each entity's roles and responsibilities toward dual-eligible individuals. The contract elements must include:

- Terms and conditions
- Duties of each party under the Medicaid contract or arrangement
- Third party liability and coordination of benefits, and
- Requirement for Compliance with Federal, State, and local law (e.g., MIPPA, Medicaid Managed Care Requirements in 438, etc.)

Section 42 CFR 422.107 requires eight components which are discussed in more detail below.

1. The MAO's responsibilities to provide or arrange for Medicaid benefits.

Meeting this contracting element requires that the process by which the State Medicaid agency provides and arranges for Medicaid benefits must be clearly outlined in the contract by and between the State Medicaid agency and the entity. All contracts must specify how the Medicare and Medicaid benefits are integrated and/or coordinated.

2. The eligibility category(ies) of the SNP.

Meeting this contracting element requires that the contract clearly identify the dual population eligible to enroll in the DE SNP. Any enrollment limitations for Medicare beneficiaries under this SNP must parallel any enrollment limitations under the Medicaid program. For example, if a State Medicaid agency contracts with a plan for a Medicaid wraparound package for certain dual-eligibles (such as those aged 65 and above), an MA organization may establish a SNP that limits enrollment to that same subset of dual-eligibles. For those organizations whose contract with the State is for Medicaid managed care, enrollment in the DE SNP must be limited to Medicaid dual-eligibles permitted to enroll in that organization's Medicaid managed care contract.

3. The Medicaid benefits covered under the SNP.

This contractual element requires information to be included on benefit design and administration as well as assigning plan responsibility to provide or arrange for this benefit. Meeting this contracting element requires that the information provided in the contract include the benefit design, how it will be administered and that it is the plan's responsibility to provide or arrange for this benefit. The contract should specify the benefits offered in the State plan as well as benefits that go beyond Original Medicare parameters that the MA SNP will offer. If the list of services is an attachment it must be referenced in the body of the contract.

4. The cost-sharing protections covered under the SNP.

MIPPA requires that MAOs offering DE SNPs must enforce limits on the out-of-pocket costs for dual-eligibles. Meeting this contracting element requires that DE SNPs not impose cost-sharing requirements on specified dual-eligible individuals (full benefit dual-eligibles and qualified Medicare beneficiaries (QMB), or any other population designated by the State) that would exceed the amounts permitted under the State Medicaid plan if the individual were not enrolled in the dual-eligible SNP.

5. The identification and sharing of information on Medicaid provider participation.

Meeting this contracting element requires that the information provided include a process for the State to identify and share information on providers contracted with the State Medicaid agency for inclusion in the SNP provider directory. The Medicare and Medicaid networks should meet the need of the dual-eligible population served.

6. The verification process of an enrollee's eligibility for both Medicare and Medicaid.

Meeting this contracting element requires the State Medicaid agency to provide MAOs with access to real time information verifying eligibility of enrolled dual-eligible members. The agreed upon eligibility verification process must be described in detail.

7. The service area covered under the SNP.

Meeting this contracting element requires that the contract clearly identify the covered service area in which the State has agreed the MAO may market and enroll.

8. The contracting period.

Meeting this contracting element requires a period of performance between the State Medicaid agency and the DE SNP of at least January 1 through December 31 of the year following the due date of the contract. If not met, the plan may indicate the evergreen clause within the contract and provide an explanation of when the state issues an update.

Technical Assistance for States

CMS will soon post and distribute more detailed contract guidance on a new CMS webpage. In the interim, if you need further assistance, please contact Eric Nevins at (410) 786-1162.