May 29, 2024

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Administer Brooks-LaSure:

The Medicare-Medicaid Integration Alliance is a group of aligned organizations aimed at providing people who are dually eligible with a better coverage experience and health outcomes than is available today. The purpose of this letter is to comment on the "Medicare Program; Request for Information on Medicare Advantage Data" (CMS-4207-NC) that was published in the Federal Register on January 30, 2024.

First, we want to thank the agency for undertaking efforts to improve its data infrastructure to facilitate increased transparency and accountability within the Medicare Advantage program. Now, well over 50% of people who are dually eligible for Medicare and Medicaid (5.2 million) receive their Medicare coverage through one of these plans.[1] Certain Dual-Eligible Special Needs Plans (D-SNPs) are intended to integrate this population's Medicare coverage with their Medicaid coverage and provide additional supports to connect them with the care they need, yet only 5% of the people that are dually eligible are enrolled in one of these plans.[2] While these integrated plans are well intended, we must ensure that we have more transparency regarding the outcomes associated with them and are also holding all Medicare Advantage plans that serve people who are dually eligible accountable for delivering high-quality care to this population.

Our recommendations are centered around our core principles which include:

1. Every person who is dually eligible should have access to meaningfully integrated coverage;
2. People who are dually eligible should be provided with resources to ensure informed decision-making and enrollment in coverage are easy; and
3. Integrated coverage must be held accountable for meeting people's needs and goals.

At a high level, our recommendations include:

- Require all D-SNPs to operate on their own contract or on a contract with only other D-SNPs by state.
- Collect State Medicaid Agency Contracts (SMACs) from the states or Medicare Advantage plans and post them publicly or, at a minimum, create a process that makes it easy for stakeholders to request access to SMACs.
- Collect and report utilization management and certain administrative performance data at the plan level and delineated by people who are dually eligible for Medicare and Medicaid.
- Improve the information on Medicare Plan Finder in particular that is made available and aimed at people who are dually eligible.

More detailed comments follow.

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[1] Kaiser Family Foundation. 2023. How D*o Dual-Eligible Individuals Get Their Medicare Coverage?*. HYPERLINK "https://www.kff.org/medicare/issue-brief/how-do-dual-eligible-individuals-get-their-medicare-coverage/"https://www.kff.org/medicare/issue-brief/how-do-dual-eligible-individuals-get-their-medicare-coverage/

[2] Kaiser Family Foundation. 2024. *10 Things to Know About Medicare Advantage Dual-eligible Special Needs Plans (D-SNPs)*. https://www.kff.org/medicare/issue-brief/10-things-to-know-about-medicare-advantage-dual-eligible-special-needs-plans-d-snps/

Create more transparency and accountability for plans that serve people who are dually eligible for Medicare and Medicaid.

Background: Today, most quality and financial data is collected and publicly reported at the contract level, rather than at the plan level. This is the case even when plans might serve significantly different populations. For example, dual-eligible special needs plans (D-SNPs) are only made available to people who are dually eligible and are supposed to be tailored to meet their needs, yet a D-SNP can be embedded in an insurer's broader Medicare Advantage contract that includes many general Medicare Advantage plans. This approach has several disadvantages. First and foremost, it can be misleading to people who are dually eligible when they go to sign up for coverage—the star ratings that they see for a D-SNP may actually reflect their performance for the general Medicare Advantage population, and not be specific to the dual-eligible population. Additionally, it hinders states' ability to effectively contract with D-SNPs. All D-SNPs must have state contracts, but because states cannot easily see plans' performance for the dual eligible population, they must either require that the plans submit additional documentation or make a decision about which plans to give a contract to without this information. Anecdotally, the latter is what happens most frequently. Lastly, it hinders the work of researchers and advocates who try to better understand how well D-SNPs meet the needs of individuals who are dually eligible. For example, a recent brief on prior authorization was unable to provide a comprehensive look at D-SNP prior authorization because of the contract-level data.[3]

Recommendation: We urge CMS to require plans that primarily serve people who are dually eligible to operate on their own contract by state—this requirement should apply to D-SNPs at a minimum.

Justification: Requiring each D-SNP to operate on their own contract by state would provide both people who are dually eligible and states with the information they need to understand plan quality and performance because the star ratings would be specific to the population and state. Furthermore, financial reporting, like medical loss ratio, would also be available for D-SNPs, which states and researchers could then also use to better understand the financial performance of plans that are specifically targeted at the dual-eligible population. While our primary policy goal is to impact D-SNPs, CMS could require all plans that serve a specified number of people who are dual-eligible to also report under a separate contract by state (e.g., any plan that has more than 20% of their population that is dually eligible would be required to file a under a separate contract). While states have no ability to influence these general Medicare Advantage contracts, this could benefit people who are dually eligible and comparing plans on Plan Finder, assuming this information was made publicly available.

Foster more transparency on state program design decisions for their dual-eligible population.

Background: Every D-SNP must sign a contract with the state, often referred to as the State Medicaid Agency Contract (SMAC). In these contracts, ideally, states include requirements to ensure that D-SNP coverage works well with an individual's Medicaid coverage (e.g., D-SNP enrollment eligibility for partial-benefit dually eligible individuals, care coordination and reporting requirements), allowing these two programs to feel like one to the people who enroll in D-SNPs. However, these contracts are not all publicly available today.

Recommendation: We urge CMS to collect SMACs from the states or Medicare Advantage plans and post them publicly or, at a minimum, create a process that makes it easy for stakeholders to request access to SMACs.

Justification: Making the SMACs publicly available not only fosters greater transparency but can support other states in managing their own programs. Anecdotally, states report struggling with how to best use these contracts to create alignment between their Medicaid programs and the Medicare program. If these contracts were made publicly available, states would be able to learn from their peers and borrow language from other states' contracts. Furthermore, making these contracts publicly available represents an important program integrity activity. Advocates and researchers, for example, will be able to review the contracts, study the design of states' programs or request improvements be made to the contracts.

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[3] Kaiser Family Foundation. 2024. *10 Things to Know About Medicare Advantage Dual-Eligible Special Needs Plans (D-SNPs).* https://www.kff.org/medicare/issue-brief/10-things-to-know-about-medicare-advantage-dual-eligible-special-needs-plans-d-snps/

Ensure that people are getting access to covered services through their Medicare Advantage plan.
Background: Today, CMS collects relatively little information about the utilization management practices and administrative performance of Medicare Advantage plans. There have been multiple calls to change this and make this data available, and there is precedent for requiring such data to be made available.[4,5] Medicaid managed care plans, which operate similarly to Medicare Advantage plans but serve the Medicaid population, are now required to provide information that is included in states' Managed Care Program Annual Report (MCPAR) each year.[6,7] States must report by plan information regarding appeals, grievances, and program integrity related concerns and post the data publicly, for example.

Recommendation: CMS should begin collecting and reporting utilization management and certain administrative performance data at the plan level. We recommend CMS consider bringing the data collected into alignment with Medicaid and the information that states are required to report on MCPAR to the degree it makes sense. We also recommend that these data be delineated by people who are dually eligible for Medicare and Medicaid.

Justification: The lack of utilization management and administrative performance data makes it challenging to assess plans relative to each other and their performance for people who are dually eligible. A number of reports point to potential concerns about access under Medicare Advantage plans, but little data is available to quantify the degree to which this is a problem across all plan types and populations. Specific information that we recommend be reported in a format that is usable by researchers and other stakeholders, and disaggregated by race, ethnicity, sexual identity, and gender identity whenever possible, includes:[8]

- Detailed prior authorization data, including as it pertains to number of requests, approvals, denials, and justification by denial by general service categories and certain provider types;
- Appeals and grievance data;
- Timely access to durable medical equipment;
- Disenrollment data at the beneficiary level;
- More detailed information on supplemental benefit utilization than has been contemplated to date, including utilization and denials;
- Language services utilization;
- Enrollee advisory committee information for all special needs plans that must have one, including information about the composition of the committee and potentially meeting minutes;
- Enrollment in various forms of D-SNPs, including applicable integrated plans; and
- Plan compliance information.

The dually eligible population experiences their Medicare coverage differently than people who are not dually eligible because of the overlapping benefits they receive due to being enrolled in two programs. For this reason, it is also important to understand whether a Medicare Advantage plan's utilization management practices impact this population differently than their counterparts with Medicare-only coverage, which may impact a person's ability to access care and

[4] Kaiser Family Foundation. 2024. *Gaps in Medicare Advantage Data Remain Despite CMS Actions to Increase Transparency*. https://www.kff.org/medicare/issue-brief/gaps-in-medicare-advantage-data-remain-despite-cms-actions-to-increase-transparency/
[5] Government Accountability Office. 2022. *Medicare Advantage: Continued Monitoring and Implementing GAO Recommendations Could Improve Oversight*. https://www.gao.gov/products/gao-22-106026
[6] Federal Register. n.d. *42 CFR § 438.66(e)*. https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-C/part-438
[7] Medicaid. n.d. *Medicaid and CHIP Managed Care Reporting*. https://www.medicaid.gov/medicaid/managed-care/guidance/medicaid-and-chip-managed-care-reporting/index.html
[8] Kaiser Family Foundation. *Gaps in Medicare Advantage Remain Despite CMS Actions to Increase Transparency*. https://www.kff.org/medicare/issue-brief/gaps-in-medicare-advantage-data-remain-despite-cms-actions-to-increase-transparency/

states' ability to assess plans for participating as a D-SNP in their state and hold plans that do operate D-SNPs accountable for outcomes. The ability of states to do these analyses is also a reason why creating alignment with the Medicaid managed care requirements to the greatest extent possible is ideal.

For this data to be of use though, it will have to be accurate. Therefore, CMS should not only collect this data but audit it. We recognize that this could create a significant burden for CMS and may require additional resources in order to be executed effectively. Our recommendation is that audits be conducted based on the risk of the contract and the identification of outliers to reduce the operational burden that conducting audits on a data set of this nature could create.

Relatedly, we encourage CMS to continue exploring ways to hold Medicare Advantage plans accountable for maintaining accurate provider directories to support access to covered services for people who are dually eligible. Further, CMS should encourage that integrated D-SNPs have Medicare and Medicaid provider networks that are as congruent as possible, and make the level of provider overlap clear to beneficiaries, to support an integrated and informed care experience.

Make the enrollment process easier by providing people who are dually eligible with information that is important to them at the time in which they are making their decision.

Background: People are faced with an overwhelming number of coverage choices and information about those choices today that is not meaningful, leaving many confused not knowing where to turn. Addressing these challenges not only requires additional data to potentially be collected or to be collected in a more consistent way, but also for it to be reported in a way that is accessible to people and the people who help them enroll in coverage, which is far from the case today.

Recommendation: Improve the information that is made available in a person-centered way, including any necessary descriptions to help people understand the information they are being provided with. More specifically, the following should be available:

- Easy access to evidence of coverage documentation.
- Information regarding whether the plan will integrate with their Medicaid coverage using clear, easy to understand language (e.g., is it an Applicable Integrated Plan),
- Holistic and accurate provider network information, inclusive of Medicare and Medicaid information when a plan is integrated, in a consistent, searchable format across programs; and
- Data regarding the plans' performance serving people who are dual-eligible (e.g., information on out-of-pocket cost liabilities, plan performance related to utilization management, etc.).

Justification: Tools like Medicare's Plan Finder were not designed with people who are dually eligible in mind. As a result, it can serve to exacerbate confusion, rather than address it. Given that people who are dually eligible are selecting Medicare Advantage plans to provide their Medicare coverage at higher rates than their non-Medicaid eligible peers, it is important to re-examine this tool and the tools that CMS provides more broadly for this population in particular. Our goal is for people to understand their coverage options, and the potential value of coverage options that can integrate their Medicare and Medicaid coverage is made clearer by providing information about plans that are able to integrate their coverage in a more holistic way.

Thank you in advance for your consideration. We are more than happy to meet with you to discuss these recommendations and answer any questions you may have. Please reach out to Amy Abdnor at aabdnor@arnoldventures.org or Allison Rizer at allison@atiadvisory.com with any questions.

Sincerely,

Arnold Ventures
Community Catalyst
Families USA
Justice in Aging
LeadingAge
Legal Action Center
Medicare Rights Center