

Medicare Improvements for Patients and Providers Act of 2008: *Information for State Medicaid Agencies*

Background

On July 15, 2008, Congress enacted the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA), making a number of changes to the Medicare program. Among the more than 200 provisions, the legislation includes several related to Medicare Advantage Special Needs Plans (SNPs). These provisions are likely to have some impact on state Medicaid agencies that have developed (or are interested in developing) an integrated care program for dual eligibles, and for states in which SNPs currently operate. The following may be of particular interest to state Medicaid agencies:

- **SNP Authority.** MIPPA extends authority for one additional year (through plan year 2010) and lifts the current moratorium on CMS approval of SNPs. It does, however, create new criteria that dual eligible SNPs must meet in order to receive CMS approval (see below).
- **New Requirements for Dual Eligible SNPs.** MIPPA requires that dual eligible SNPs provide all prospective enrollees with a comprehensive, written statement that describes the benefits and cost-sharing protections provided under Medicaid as well as the benefits and protections that are covered by the plans. In addition, dual eligible SNPs are required to contract with the state for the provision of Medicaid benefits in order to enter the market. SNPs already in operation do not have to enter into contracts with the state unless they want to expand into new service areas. The law also requires the provision of technical assistance resources to work with states on the coordination of care with SNPs (it is assumed that CMS will work with states to determine the best way to provide this technical assistance). It is important to note, however, that states are not required to contract with SNPs.
- **Quality Provisions.** MIPPA requires that all SNPs provide a number of care management activities for all of its members. These activities include: evidence-based models of care; appropriate networks of providers/specialists; initial/annual assessments of physical, psychosocial, and functional needs; and individual care plans that identify goals, objectives, measurable outcomes, and specific benefits. In addition, all SNPs must provide data to measure health outcomes and other measures of quality. Data will be reported at the plan level and may be based on claims data.
- **SNP Cost Sharing.** MIPPA places a limitation on out-of-pocket costs for full dual beneficiaries and Qualified Medicare Beneficiaries (QMBs) enrolled in a SNP. SNPs may not impose cost-sharing for these beneficiaries that exceeds the amount permitted under Title XIX.

Potential Impact of MIPPA Provisions on State Medicaid Agencies

- *SNPs that have been waiting to enter the market may start approaching states (e.g., Medicaid agency, legislature, etc.).*¹ States interested in contracting with SNPs for Medicaid benefits/services will be able to proceed. However, SNP authority was renewed only through 2010. This may have an effect on the health plans as even those who have expressed interest may be cautious about

¹ The CMS web site has a list of all SNPs operating in 2008, including current enrollment and service areas. The list now includes state identifiers, so states can sort the list to identify all the SNPs operating in their state. See this link for the list: <http://www.cms.hhs.gov/MCRAAdvPartDEnrolData/SNP/list.asp#TopOfPage>.

expanding or entering the market. It may also cause states to rethink how much they want to invest in such relationships/infrastructure until the future of SNPs becomes clearer.

- ***SNPs are required to provide new information to potential beneficiaries, which may create work for the state.*** The state may be asked to provide and/or review written information that is being shared with beneficiaries for accuracy of the description of state benefits. Although the law prohibits “cold calling” to potential enrollees, the need to pay attention to marketing practices has not diminished. Ideally, SNPs and states would work together to educate clients about their enrollment options and the potential benefits to be gained from SNPs. Enrollment brokers should have current, accurate information about Medicaid benefits.
- ***SNPs entering the market or expanding into new service areas will be required to contract with states, creating new opportunities and challenges for state involvement in SNP offerings.*** To the extent that the MIPPA requirements give states a new, stronger “seat at the table,” states may see this as an opportunity to limit participation to organizations that they believe are well aligned with their priorities and their target populations. In addition, states may be able to use this new leverage to request additional information from SNPs. For example, states can request information on the SNP’s model of care, care plan, and quality of care. This information may allow states to more effectively monitor the population enrolled in SNPs. States may also want to request that plans submit encounter data on duals in order to monitor utilization.

On the other hand, this requirement may also result in states being approached by a significant number of new and/or existing SNPs regarding establishing a contractual relationship. States may want to indicate to SNPs via a website announcement or other broad communication whether or not they are interested in pursuing formal arrangements or have the administrative capacity to handle requests from interested health plans. States may even want to direct SNPs to a specific person within the Medicaid agency. If states have a standard contract or contract language that all SNPs will be required to agree to, they may want to post it to a website to avoid multiple negotiations with individual plans.

- ***All beneficiaries enrolled in SNPs will be offered care management.*** States may also have care/case management programs for dual eligible beneficiaries, so it is important to clarify with the SNPs what the state’s expectations are around communication and coordination.
- ***The new quality provisions could cause a change in the SNP market.*** There is a possibility that the stronger quality provisions (e.g., requiring individual care plan for every beneficiary) may lead some plans to revert to Medicare Advantage-Prescription Drug plans.

CMS has issued an interim final rule with comment period for these provisions. A copy of the rule and associated guidance can be found at: www.cms.hhs.gov/healthplansgeninfo/. States are encouraged to **submit comments to CMS by November 16th** at:

www.regulations.gov/fdmspublic/component/main?main=DocumentDetail&o=090000648070cd14.

The Center for Health Care Strategies (CHCS) is a nonprofit policy resource center dedicated to improving health care quality for low-income children and adults, people with chronic illnesses and disabilities, frail elders, and racially and ethnically diverse populations experiencing disparities in care. CHCS works with state and federal agencies, health plans, and providers to develop innovative programs that better serve people with complex and high-cost health care needs. For more information, visit www.chcs.org.

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