



January 16, 2018

By electronic delivery to www.regulations.gov

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-4182-P
PO Box 8013
Baltimore MD 21244-8013

Re: CMS-4182-P Policy and Technical Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs for Contract Year 2019

Thank you for the opportunity to submit these comments regarding the above-referenced Notice of Proposed Rulemaking (NPRM) on behalf of the TennCare Division of Long-Term Services and Supports (LTSS). TennCare, a Division of the Tennessee Department of Finance and Administration, is the State Medicaid Agency in Tennessee. Our comments focus specifically on proposed changes to enrollment policies regarding Medicare Advantage Duals Special Needs Plans (D-SNPs).

Since 1994, the State of Tennessee has operated its entire Medicaid program under a managed care delivery model. We contract with three competitively procured Managed Care Organizations (MCOs), each of which is contractually obligated to operate an aligned Dual Eligible Special Needs Plan (D-SNP). Beginning in 2018, one of those MCOs also operates a Fully Integrated Dual Eligible Special Needs Plan (FIDE SNP). In addition, we currently contract with three additional D-SNPs that are not contracted to provide any Medicaid benefits.¹ Through the State's Contractor Risk Agreement with these three MCOs and the State's MIPPA Agreement with these three aligned D-SNPs and one FIDE SNP, TennCare has focused its efforts on enhancing integrated supports for members in these aligned plans to coordinate medical, behavioral, and long-term services and supports. Currently 45% of dual eligible individuals in Tennessee are enrolled in a D-SNP. Of those, 63% are in an aligned plan.

One important mechanism for increasing this alignment and coordination is seamless conversion. As the comments below demonstrate, TennCare supports Centers for Medicare and Medicaid (CMS) efforts to streamline the seamless conversion process for dually eligible individuals, and also codify default enrollment as restricted to aligned D-SNPs and MCOs under the same parent organization to facilitate enhanced coordination.

Default Enrollment Option for Medicaid Beneficiaries Becoming Medicare-Eligible

¹ These are historical contracting arrangements. The State is not contracting with any *new* D-SNPs that are not also contracted to provide Medicaid benefits.



As CMS recognizes on page 56366 of the Federal Register in its NPRM, CMS has encouraged states to enroll dually-eligible members in aligned plans that share the same parent organization and has seen evidence-based results in this approach. Tennessee echoes this point. We have robust coordination requirements across all of our six contracted D-SNPs and MCOs, but have found significantly greater opportunities for coordination when the Medicare and Medicaid plans are aligned. We have strong evidence that the default enrollment process is a valuable tool for ensuring continuity of care and providers for complex and fragile dually eligible beneficiaries. Further, extremely low opt-out rates prior to the effective date of enrollment and during the initial coverage period (5 % or less across all three aligned D-SNPs) support that beneficiaries are overwhelmingly satisfied with these default enrollment arrangements.

TennCare LTSS supports the proposed targeted application of default enrollment authority for Medicaid managed care-to-D-SNP enrollment. Further, TennCare LTSS supports the proposed criteria that D-SNPs must meet to engage in this default enrollment listed in the NPRM in 422.66(c)(2), and in particular, the role CMS envisions for states in the D-SNP default enrollment process, including contracting and state oversight, which are key to achieving integrated program goals. Finally, we encourage that the proposed rule clearly apply these requirements to FIDE SNPs in addition to traditional D-SNPs, as FIDE SNP plans enable greater integrated care than traditional D-SNPs, and the inclusion of FIDE SNP in default enrollment would thereby enhance CMS's goals of integrated care.

CMS specifically seeks comment on whether its approval of default enrollment authority for Medicare Advantage organizations should be time-limited, in order to provide more frequent opportunities to ensure regulatory requirements are being followed. While we believe that oversight of these processes is important, it is critical that such processes do not inadvertently undermine the goals of integrated care. TennCare LTSS supports CMS reviewing its approval decisions only when the state or CMS has reason to believe disruptions in beneficiary care are occurring. Alternatively, CMS may conduct, or delegate to the state an obligation to conduct, a review of regulatory compliance within a certain time period following initial approval (2 – 3 years), and grant permanent default enrollment authority upon satisfactory findings in that review.

Passive Enrollment Flexibilities to Promote Continuity of Integrated Care for Duals

CMS proposes to revise §422.60(G) to allow passive enrollment from one Fully Integrated Dual Eligible (FIDE) SNP or highly integrated D-SNP into another FIDE SNP or highly integrated D-SNP, under targeted circumstances. Tennessee supports CMS's proposal to allow for passive enrollment from one integrated health plan to another in circumstances when beneficiary enrollment would be disrupted by changes in health plan participation—in particular, due to results of a competitive Medicaid procurement. We concur with this should occur only in consultation with the state, and pursuant to the State's contract with the D-SNP. Any decision to passively enroll dually eligible beneficiaries from one D-SNP to another must reflect overall state integration goals and priorities, and be sensitive to any considerations or concerns the state may have for selecting one plan over another.



Limitations on Special Enrollment Periods for Duals

The State of Tennessee has long advocated for continuity of enrollment into managed care. This is critical in order to ensure health plan stability and to accomplish key quality outcomes and program goals. This is even more important for dual eligible beneficiaries, given the significant investments that plans are expected to make in care coordination, case management, and other supportive services that less medically complex populations may not require. The experiences of states participating in the FAI demonstrations have further demonstrated the challenges that can result from a continuous SEP approach.

In this NPMR, CMS focuses on the challenges posed by current regulatory constructs for duals in the Medicare Part D prescription drug benefit, and proposes modifying the current continuous SEP to a more limited universe of circumstances for SEPs, including a onetime, non-specific SEP each year, an SEP upon being assigned a plan by CMS or a state, and an SEP for changes in Medicaid or Medicare low-income subsidy eligibility status. All other SEPs that apply to the Medicare Advantage population writ large would also be available.

Tennessee supports CMS's proposed approach to convert the continuous SEP in current regulation to the more targeted SEPs that more accurately reflect appropriate circumstances for a beneficiary to seek a change in coverage. We further believe a similar approach (i.e., limiting the continuous SEP) would be appropriate for D-SNP, FIDE and other integrated care programs as well, especially when the arrangement the person would be moving to would provide for a less integrated approach to care (e.g., "traditional" Medicare, a Medicare Advantage Plan that is not a D-SNP, or a non-aligned D-SNP).

CMS seeks comment on whether the continuous SEP should be retained only for enrollment within a FIDE SNP or comparably integrated plan, while disallowing selection of a non-integrated MA-PD plan. We believe this option is a beneficial one which could promote beneficiary enrollment in integrated plans, given appropriate notices and beneficiary education. Tennessee recommends that CMS consider this approach, and its broader application for D-SNPs, including FIDE, and other aligned arrangements.

Thank you for the opportunity to comment and your consideration.

Respectfully,

Patti Killingsworth, Assistant Commissioner
Chief of Long-Term Services and Supports