



April 12, 2018

Tim Engelhardt, Director
Medicare-Medicaid Coordination Office
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850

Submitted electronically via email to MMCOCapsmodel@cms.hhs.gov

Re: Comments on Section 50311

Dear Director Engelhardt,

Medicaid Health Plans of America (MHPA) appreciates the opportunity to comment on the Centers for Medicare & Medicaid's (CMS) Medicare-Medicaid Coordination Office's (MMCO) Request for Stakeholder Input (RFI) entitled "Implementing the Dual Eligible Special Needs Plans (D-SNPs) Provisions of the Bipartisan Budget Act of 2018 (Public Law No. 115-123)" issued on March 13, 2018. MHPA applauds CMS' efforts to strengthen integration of care for dual eligible beneficiaries and to develop unified processes across programs to ensure access to seamless, coordinated care for vulnerable beneficiaries.

MHPA is the national trade association representing 126 private-sector health plans that contract with state Medicaid agencies in 34 states plus DC to provide comprehensive, high-quality health care to more than 24 million Medicaid enrollees in a coordinated and cost-effective way. According to a recent analysis by PWC, 73 percent of all Medicaid enrollees received their care through a private Medicaid health plan in 2017 (up from 66 percent in 2014),¹ this number continues to rise annually as more states turn to the expertise of managed care plans to help manage health care for a growing number of Medicaid enrollees with diverse needs.

For the over 11 million dual eligible Medicare beneficiaries, Medicaid plays a critical part in their full health coverage. Many MHPA plans serve dual eligible beneficiaries in some capacity and have long led efforts to improve care and benefit coordination for this population. As part of this, a number of MHPA's plans have diversified into the Medicare Advantage (MA) space, particularly

¹ Gottlieb, Ari, *The Complicated State of Medicaid in the United States: Stability Amidst Considerable Future Uncertainty*, PWC, October 2017.

as dual eligible special needs plans (D-SNPs) to act in a broader, more comprehensive role in serving this population.

Overall, MHPA appreciates continued commitment to increasing coordination across Medicare and Medicaid. Our member plans have extensive experience providing high-quality, comprehensive care to high-cost, high-need populations such as the dual eligible population, and we believe that we can be effective partners in helping to transform care for these beneficiaries.

We offer the following high-level comments on the two sections included in the RFI and include more specific comments below:

- **MHPA continues to support efforts to integrate benefits, including long-term services and supports and/or behavioral health services for duals.** However, we encourage the Agency to ensure that any new requirements do not jeopardize current D-SNP contracts that already meet one or more of the Bipartisan Budget Act of 2018 (BBA 2018) requirements for integration, particularly fully integrated D-SNPs (FIDE-SNPs).
- **MHPA supports development of unified grievance and appeals processes for D-SNPs that build on the processes and experiences established by states under the Financial Alignment Demonstration.** While MHPA realizes that there may need to be waiver flexibility or legislative changes to Medicare requirements to streamline some of these processes, we do support use of the Medicaid processes where they are most protective of the enrollee.

Comments on Requirements for Integration

MHPA supports efforts to integrate benefits, including long-term services and supports and/or behavioral health services for dual eligibles. We appreciate the MMCO's RFI soliciting feedback on new requirements for integration and offer the following comments based on our members' experience offering D-SNPs, participating in Financial Alignment Demonstration, and general efforts to support integrated care across programs for vulnerable populations.

MHPA strongly encourages CMS to ensure that any new requirements for integration do not impose additional burdens on states or plans that currently meet one or more of the new integration requirements. In some states, D-SNPs are already meeting one or more of the integration standards outlined in the RFI (e.g. FIDE SNPs, aligned enrollment into a D-SNP and Medicaid managed plan operated by the

same parent organization). In introducing any additional requirements for integration, CMS should work to ensure that these do not impose new contracting, reporting or other requirements that jeopardize or impede current D-SNP programs in place or that pose additional, unnecessary burden on states or plans already meeting the higher standards of integration required under the BBA 2018.

For the requirements in subsection 1859(f)(8)(D)(i)(I), MHPA believes that requirements for integration established by the Secretary should allow states and plans to use available information, where appropriate, to demonstrate coordination of LTSS and/or behavioral health. States have access to various types of information to demonstrate the coordination of the LTSS and/or behavioral health benefits. CMS requirements to demonstrate integration could, utilize or build off current information they collect from plans for these purposes. Specifically, as part of Medicare Improvements for Patients & Providers Act (MIPPA) contracts, states may already be collecting information from plans on care coordination and utilization. In establishing requirements for integration, CMS should consider incorporating existing state practices to ensure it is not implementing duplicative, or unnecessary requirements on states and plans that could impede existing efforts.

For the requirements in subsection 1859(f)(8)(D)(i)(II), MHPA believes the current contracting processes for FIDE-SNPs and inclusion of coverage for LTSS and/or behavioral health services is sufficient, and we urge the Agency not to introduce additional requirements to this process. In situations where D-SNPs contract with state Medicaid agencies to provide LTSS and/or behavioral health services, the current process used to review integration should be used to assess compliance with new integration requirements. Establishing a new process would be duplicative and potentially burdensome on states and plans.

Finally, for the new requirements under section 1859(f)(8)(D)(i)(III), in states that require aligned enrollment in a D-SNP and Medicaid managed care product offered by the same parent organization, plans should be viewed as assuming “clinical and financial responsibility” for benefits provided to beneficiaries. Some states currently require dual eligible beneficiaries to enroll into D-SNP and Medicaid managed care products offered by the same parent company. In states that have any such requirement, parent companies should be assessed to have met the requirement to demonstrate “clinical and financial responsibility” for benefits. Imposing new requirements in addition to those already imposed by the state will be duplicative and unnecessarily burdensome on plans.

Unified Grievance and Appeals Processes for Dual Eligible Special Needs Plans (D-SNPs)

The RFI also solicits input on the development of unified grievance and appeals processes for D-SNPs as required under the BBA 2018. The statute requires that the Secretary establish unified grievance and appeals processes by April 1, 2020 and that D-SNPs contracts with state Medicaid agencies include the unified processes for 2021 and subsequent years.

The MMCO anticipates that the unified grievance and appeals processes for D-SNPs would build on the processes and experiences established with Medicare-Medicaid Plans (MMPs) in the Financial Alignment Initiative. The MMCO also requests more specific input on elements of the grievance and appeals processes that would be appropriate for unification, which processes are most protective to enrollees, and accounting for variations in Medicaid program differences.

MHPA supports development of unified grievance and appeals processes for D-SNPs that builds on the processes and experiences established by states with MMPs. While we believe this will provide a good foundation, we also would like to highlight the following areas to better unify these processes to simplify the administrative complexities that currently exist and to improve the experiences of dual eligible beneficiaries:

- **Standardize Amount in Controversy Requirements:** Currently there exist differences in financial thresholds, or “amounts in controversy”, required to access higher levels of appeals processes under Medicare and Medicaid. While Medicare includes a threshold amount in controversy for appeals to an Administrative Law Judge and federal district court levels, Medicaid thresholds vary and many states have no threshold. MHPA plans support having no “amount in controversy” threshold for appeals for dual eligibles in D-SNPs.
- **Continued Medicare Benefits Pending Appeals:** While Medicaid is required to continue to cover benefits while an appeal is pending, there is not the same protection in Medicare. Medicare should be required to cover services during this period for services where there is overlapping coverage between Medicare and Medicaid to protect continuity of care for dual eligibles. There are a few services that are covered with different limits, amounts and cost sharing including durable medical equipment, skilled nursing facility care and home health.
- **Right to In-Person Fair Hearing:** Medicare and Medicaid also have differing standards around the right to in-person fair hearings.



Although it varies by state, most Medicaid programs provide an automatic right to an in-person fair hearing. Under Medicare, hearings may be conducted by video conference or telephone, unless an administrative law judge approves good cause request for in-person hearing. MHPA supports access to in-person fair hearings for D-SNP enrollees.

While MHPA realizes that there may be need for waiver flexibility or legislative changes to Medicare requirements to streamline some of these processes, we do support use of the Medicaid processes where they are most protective of the enrollee.

Thank you for the opportunity to provide input on the D-SNP integration requirements that were included in the BBA 2018. We look forward to working with you to help implement these changes and welcome the opportunity for continued dialogue and collaboration with you in addressing the needs of dual eligible beneficiaries.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeff Myers", is written over a faint, light blue circular stamp or watermark.

Jeff Myers
President and CEO
Medicaid Health Plans of America