

## CMS Issues CY2025 Notice of Proposed Rulemaking: Updated Page Numbers From Official, Published Version of Proposed Rule

On November 6, 2023, the Centers for Medicare & Medicaid Services (CMS) issued a [Notice of Proposed Rulemaking](#) (NPRM) on the Medicare Advantage (MA) program, Medicare Prescription Drug Benefit Program (Part D), Medicare Cost Plan Program, Programs of All-Inclusive Care for the Elderly (PACE), and Health Information Technology Standards and Implementation Specifications. CMS also issued a [fact sheet](#) summarizing the major provisions of the NPRM. On November 15, CMS issued the official, published version of that NPRM in the Federal Register.

**This e-alert contains the same content as the one issued by the Integrated Care Resource Center (ICRC) on November 8, but it provides updated page numbers (from the official, published version of the NPRM) for each of the proposed rule provisions mentioned below.**

**CMS will accept comments on the proposed rule received by 5 p.m. on January 5, 2024.** To submit comments electronically, go to <http://www.regulations.gov> and follow the "Submit a comment" instructions referencing file code CMS-4205-P.

The proposed rule includes several provisions that may be of interest to state Medicaid agencies, including the following proposals related to MA dual eligible special needs plans (D-SNPs):

- **Inter-related provisions aimed at increasing the percentage of dually eligible managed care enrollees who receive both Medicare and Medicaid benefits through the same organization** – CMS proposes to:
  - Replace the current quarterly special enrollment period (SEP) with a one-time-per-month SEP for dually eligible individuals and others enrolled in the Part D low-income subsidy program to elect a standalone Part D plan (pp. 78568 - 78570);
  - Create a new integrated care SEP to allow dually eligible individuals to elect to enroll in an integrated D-SNP on a monthly basis (pp. 78568 - 78570);
  - Limit enrollment in certain D-SNPs to those who are also enrolled in an affiliated Medicaid managed care plan through the same parent company (pp. 78570 - 78575); and
  - Limit the number of D-SNPs that organizations can offer in certain circumstances (pp. 78570 - 78575).
- **Limits on out-of-network cost sharing for D-SNP preferred provider organizations (PPOs)** – CMS proposes to limit out-of-network cost sharing for D-SNP PPOs for specific services, starting in 2026, to reduce cost shifting to Medicaid, increase payments to safety net providers, expand dually eligible enrollees' access to providers, and protect dually eligible enrollees from unaffordable costs. (pp. 78583 - 78586)
- **Lowering the threshold for D-SNP "look-alike" plans** – CMS proposes to lower the threshold for identifying a D-SNP look-alike plan over a two-year period. Currently, CMS identifies D-SNP look-alike plans as MA plans in which 80 percent or more of the plan's enrollees are dually eligible. In the NPRM, CMS proposes to decrease this threshold to 60 percent.(pp. 78578 - 78583).

CMS is also soliciting comments on: (1) **adding information about Medicaid benefits to the Medicare Plan Finder tool for Applicable Integrated Plan (AIP) D-SNPs** (pp. 78575 - 78576) and (2) **use of state enrollment vendors to support enrollment in integrated D-SNPs** (pp. 78576 - 78578).

In addition to the D-SNP-related provisions, the NPRM proposes to:

- Update the regulatory language at 42 CFR 422.2267(e)(31) and 423.2267(e)(33) regarding the **multi-language insert** to better align with the Medicaid translation requirements at § 438.10(d)(2) by requiring that a notice of availability be provided based on the languages most commonly spoken in the *state* rather than *nationally*. This would allow the notice to more accurately reflect the languages spoken and make it easier for AIPs to provide clear, concise information about available supports while complying with both sets of federal requirements. (pp. 78523 - 78526)
- Expand the permissible uses of MA encounter data to **enable CMS to share MA encounter data with state Medicaid agencies to support the Medicaid program** for program administration and evaluations and analysis, **including sharing MA encounter data with States prior to reconciliation for care coordination** of dually eligible individuals. (pp. 78526 – 78531)
  - This proposal includes a **comment solicitation on making MA encounter data available to States for quality review and improvement activities prior to reconciliation** to support Child and Adult Core Set reporting. Specifically, CMS is interested in comments on balancing considerations related to the timeliness of quality reporting with accuracy and completeness of the MA encounter data.

Other provisions that may be of interest to some states include proposals regarding MA supplemental benefits (pp. 78534 – 78540 and pp. 78549 - 78551), new guardrails for MA and Part D plan agent and broker compensation to prevent anti-competitive plan “steering” (pp. 78551 - 78556), and a proposal to add new behavioral health provider types to MA network adequacy standards in accordance with new rules allowing those providers to bill Medicare for their services (pp. 78483 - 78486).

## ABOUT THE INTEGRATED CARE RESOURCE CENTER

The Integrated Care Resource Center is a national initiative of the Centers for Medicare & Medicaid Services to help states improve the quality and cost-effectiveness of care for individuals dually eligible for Medicare and Medicaid. The state technical assistance activities are coordinated by Mathematica and the Center for Health Care Strategies. For more information, visit [www.integratedcareresourcecenter.com](http://www.integratedcareresourcecenter.com).

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