Integrated Care Resource Center

TECHNICAL ASSISTANCE TOOL

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Medicare Advantage D-SNP Non-Renewals, Service Area Changes, Terminations, and New Entries: CMS Requirements and State Options

IN BRIEF: States contracting with Medicare Advantage Dual Eligible Special Needs Plans (D-SNPs) need to know their options when a plan does not renew its contract with the Centers for Medicare & Medicaid Services (CMS), changes its service area, has its contract terminated, or requests entry to a state. This technical assistance tool outlines the basic CMS Medicare Advantage requirements for D-SNPs in these situations and state options for taking advantage of these requirements and building on them as necessary to address state concerns.

Medicare Advantage (MA) Dual Eligible Special Needs Plans (D-SNPs) are required by federal law to have a contract with state Medicaid agencies in order to operate in a state.[1] States are not required to contract with D-SNPs, but many have as a way of better integrating Medicare and Medicaid benefits for individuals eligible for both programs (also known as Medicare-Medicaid enrollees or "dually eligible individuals").

One concern for states that contract with D-SNPs is how to address situations in which an MA organization decides not to renew a D-SNP plan with the Centers for Medicare & Medicaid Services (CMS), or to reduce or expand the D-SNP's service area at the start of the calendar year (Medicare's contract year, which may not align with a state's contract year). States may also receive proposals for D-SNP entrants on an annual basis. Under less common circumstances, CMS or MA organizations may terminate D- SNPs for cause in the middle of a year.

CMS has established specific procedures and notification requirements for all of these situations for all MA managed care plans, including D-SNPs. While CMS requires that state Medicaid agency contracts with D-SNPs must include certain minimum requirements, formal notification by the D-SNP to states when these entry and departure situations occur is not one of the requirements. States may, however, add notification and other requirements to protect beneficiary and state interests to their state contract with D-SNPs. D-SNPs are required to submit their state contracts to CMS by July 1 of the year prior to the contract year, so negotiation of these contracts with D-SNPs may provide states with an opportunity to obtain the information they need from D-SNPs well in advance of the contract year.

To assist states in dealing with the issue of changes in D- SNPs, this technical assistance tool outlines the basic CMS Medicare Advantage requirements for D-SNP non-renewals, service area changes, terminations, and new entries, and state options for taking advantage of these requirements and building on them as necessary to address state concerns. References for the sources cited in parentheses in the table below are at the end of this document.

Type of Change	CMS Requirements	State Medicaid Agency Contract Options
D-SNP Non-Renewal or Service Area Reduction	MA Organizations (MAOs) may elect to non-renew their D-SNPs with CMS for any reason at the end of the contract year, or they may reduce their services areas for an upcoming contract year, provided they: • Notify CMS in writing by the first Monday in June of the year prior to the new contract year; and • On or after October 1 of that year, notify beneficiaries who would be affected by the service area reduction that they will be disenrolled from the D-SNP at the end of the contract year. (This notice may not be sent before October 1, when all MA plans are permitted to begin marketing.) CMS provides D-SNPs with a choice of two model notices to send to enrollees affected by non-renewals or service area reductions. One of these notices **(Tab L – Model Notice to Enrollees in SNPs that Exclusively Enroll Duals and Are Non-Renewing or Reducing Their Service Areas)** allows the D-SNP to populate the notice with information on how enrollees' Medicaid coverage will be affected and include additional information on alternative plan choices that provide integrated Medicare and Medicaid coverage. If an MAO non-renews its MA contract, CMS will not enter into a contract with the organization for two years "unless there are special circumstances that warrant special consideration, as determined by CMS." Since this penalty provision only applies to non-renewals of entire contracts, and not to non-renewal of benefit plans within a contract, it only applies to D-SNPs if the D-SNP is the only benefit plan under the MA contract**. (42 CFR §422.506)**	**Regarding D-SNP Notices Sent to the State:** States could include in their contracts with D-SNPs a requirement that the state be notified of the MAO's decision not to renew its D-SNP or to reduce its service area at the same time or within a specified timeframe around when the plan is required to notify CMS of its decision. In order to obtain early information on potential non-renewals, states could require D-SNPs at risk of termination because of low MA Star Ratings to report regularly to the state on their progress toward improvement. States may go beyond MA notice requirements by requiring in their D-SNP contracts that plans provide additional information to the state or directly to enrollees and providers, including information on care plans, prior authorizations, and pending appeals and fair hearing processes, in order to facilitate smooth care transitions. States could also work with State Health Insurance Assistance Programs (SHIPs), Aging and Disability Resource Centers (ADRCs), and other entities to further facilitate these transitions. **Regarding D-SNP Notices Sent to Enrollees:** States could require that contracted D-SNPs use the model disenrollment notice **(Tab L – Model Notice to Enrollees in SNPs that Exclusively Enroll Duals and Are Non-Renewing or Reducing Their Service Areas)** to advise beneficiaries of changes to their Medicaid benefits, including other available integrated plans. States could send their own notice to affected beneficiaries promoting additional integrated coverage options after the D-SNP notice is sent.

Type of Change	CMS Requirements	State Medicaid Agency Contract Options
D-SNP Termination (Mid-Year)	MAO contracts may be terminated at any time for cause by an MA organization, by CMS, or by mutual consent. An MA organization seeking to terminate its contract must give CMS notice at least 90 days before the intended date of termination, and must notify its enrollees and the general public at least 60 days before the termination effective date. **(42 CFR §422.508, 422.510, and 422.512)**	States could require that they be notified of planned terminations involving D-SNPs at the same time or within a specified timeframe around when CMS is notified. Most mid-year terminations are due to bankruptcy, where there may be heavy state involvement through the state insurance department. If the termination is not due to bankruptcy, states could require more than 90 days' notice in order to coordinate notices to enrollees and procedures for transitions of enrollees. Minnesota, for example, requires a 150-day notice period.
New D-SNP Entrant and Existing D-SNP Requesting Service Area Expansion	MAOs intending to apply for contracts including D-SNP or other MA plans in new states or for service area expansions in existing states must submit a Notice of Intent to Apply (NOIA) to CMS in November of the year prior to the year in which they will be applying for a new contract. For MAOs that already hold a contract with CMS, the initial NOIA date is January of the year in which they will be applying for a new contract. Most MAOs applying for contracts taking effect in 2019 must submit NOIAs in November 2017, and must submit their actual applications to CMS by late February 2018 and their formal bids by the first Monday in June of 2018. **(CMS Final Call Letter for Calendar Year 2018, April 3, 2013, pp. 69-76 for an illustration of the detailed annual calendar for D-SNPs and other Medicare Advantage plans.)**	States could require that MAOs with D-SNP plans operating in their state submit their NOIAs for D-SNP service area expansions to the state at the same time or within a specified timeframe around the date they are submitted to CMS. While D-SNPs are not required to submit their actual applications with details on specific service areas until late February of the year prior to the contract year, and formal bids are not due until early June, states need as much advance notice of the service areas D-SNPs hope to serve as possible. States may need, for example, to coordinate state Requests for Proposals (RFPs) with NOIAs prior to the MA due dates in order to coordinate with D-SNP service areas. Although service areas may not be finalized until bids are reviewed and approved by CMS in September, states could require D-SNPs to keep the state informed of their plans throughout the application and bid process.

Type of Change	CMS Requirements	State Medicaid Agency Contract Options
Seamless Conversion	In situations in which newly Medicare eligible individuals are enrolled in non-MA health plans offered by an MAO (Medicaid or commercial plans, for example), the MAO may develop processes for seamless conversion of their enrollment into an MA plan operated by that organization (a D-SNP, for example) at the time the individual becomes eligible for Medicare. CMS must review and approve the organization's proposal before the seamless conversion process can be used. The proposed process must be able to identify newly eligible individuals no later than 90 days prior to the date of initial Medicare eligibility, and the MAO must send these individuals written notices of the conversion opportunity at least 60 days prior to that date. Seamless conversion may not be used to move an individual already enrolled in an MA plan into another MA plan offered by the same organization, including D-SNPs. **(Medicare Managed Care Manual, Chapter 2, §40.1.4, revised August 30, 2013)**	States could require that D-SNPs submit their seamless conversion proposals to the state at the same time they are submitted to CMS. State review of these proposals could focus on the impact of seamless enrollment on enrollees' continued access to Medicaid benefits. In addition, since states have access to information on new Medicare-Medicaid enrollees that MAOs do not have (e.g., individuals in Medicaid-only plans who are coming to the end of their Medicare disability waiting period), states could arrange for data-sharing with plans to provide that information, subject to existing privacy protections. (CMS sends files to states that provide advance notice of Medicaid beneficiaries who are about to become Medicare eligible, based on information from the Social Security Administration and monthly Medicare Modernization Act Files that states submit to CMS.) **(For more details on how states can obtain this information from CMS, see "Medicare Advantage Seamless Conversion," January 2014.)**
Novation Agreements	In situations in which a D-SNP withdraws from a state or a region within a state, it may be possible for a new owner to take over the MA contract, if CMS, the old contract owner, and the new owner all agree in writing. Under these "novation" agreements, the new owner becomes the "successor in interest" to the current owner's Medicaid contract. **(42 CFR §422.550(c), (d), and (e))** CMS currently only permits the novation of an entity's entire MA book of business, including all of their MA contracts. An entity cannot novate only a D-SNP, unless the D-SNP is the only plan under the contract and the contract is the only one operated by the MAO. **(Medicare Managed Care Manual, Chapter 12 – Effect of Change of Ownership, revised May 17, 2013)**	States could require in their contracts with D-SNPs that the state be consulted in negotiations regarding these novation agreements, and be a party to the agreement if appropriate. States could also require D-SNPs to coordinate any Medicare notices with the state as well as facilitate care transitions, if needed.

References

Integrated Care Resource Center. Medicare Advantage Seamless Conversion, January 2014. Available at: http://www.integratedcareresourcecenter.net/pdfs/ICRC%20Seamless%20Conversion.pdf.

Centers for Medicare & Medicaid Services. "Medicare Advantage Final Call Letter for CY 2018, April 3, 2017." Available at: https://www.cms.gov/Medicare/Health-Plans/MedicareAdvtgSpecRateStats/Downloads/Announcement2018.pdf

Centers for Medicare & Medicaid Services. "Medicare Managed Care Manual, Chapter 2 – Medicare Advantage Enrollment and Disenrollment." Revised August 30, 2013. Available at: http://www.cms.gov/Medicare/Eligibility-and-Enrollment/MedicareMangCareEligEnrol/Downloads/CY-2014-MA-Enrollment-and-Disenrollment-Guidance-r.pdf.

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Centers for Medicare & Medicaid Services. "Tab L – Model Notice to Enrollees in SNPs that Exclusively Enroll Duals and Are Non-Renewing or Reducing Their Service Areas." Available at: http://www.integratedcareresourcecenter.net/PDFs/Tab_L_NR-SAR_Letter_for_Integrated_D-SNPs_in_CY_2017-092016.pdf.

U.S. Code of Federal Regulations. Medicare Advantage Program Federal Regulations – 42 CFR Part 422 Available at: http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title42/42cfr422_main_02.tpl.

U.S. Federal Register. Vol. 79, No. 7, January 10, 2014, pp. 1994-1995 and 2051. Available at: http://www.gpo.gov/fdsys/pkg/FR-2014-01-10/pdf/2013-31497.pdf.

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 Medicaid's high-need, high-cost beneficiaries. The state technical assistance activities provided by the ***Integrated Care Resource Center*** are coordinated by Mathematica Policy Research and the Center for Health Care Strategies. For more information, visit **www.integratedcareresourcecenter.com.**

Endnotes

[1] Social Security Act, §1859(f)(3)(D). This requirement was added by Section 164 of the Medicare Improvements for Patients and Providers Act (MIPPA) of 2008, and amended by the Affordable Care Act in 2010.