

Spotlight: Contract Year 2021 Medicare Advantage and Part D First Final Rule

On May 22, 2020, the Centers for Medicare & Medicaid Services (CMS) issued the [Contract Year \(CY\) 2021 Medicare Advantage and Part D Final Rule \(CMS-4190-F1\)](#) that finalizes a subset of the proposals from the February 18, 2020 proposed rule (85 FR 9002). This first final rule implements certain changes before the CY 2021 bid deadline (due by statute on the first Monday in June) stemming from the Bipartisan Budget Act of 2018 (BBA of 2018) and the 21st Century Cures Act. CMS plans to finalize the remaining proposals in a subsequent second final rule.

The Contract Year 2021 Medicare Advantage and Part D Final Rule includes multiple provisions that may be of interest to state Medicaid officials:

- **Contracting limitation on “D-SNP look-alikes.”** The Medicare Prescription Drug, Improvement, and Modernization Act created D-SNPs to allow for Medicare Advantage (MA) products that exclusively serve individuals dually eligible for Medicare and Medicaid. D-SNPs must meet a number of additional requirements, relative to non-SNP MA plans, related to coordination of care. Most recently, the BBA of 2018 required CMS to establish additional requirements related to Medicaid integration for D-SNPs.

Over the last few years, MedPAC¹ has noted an increase in MA plans that exclusively (or almost exclusively) serve dually eligible individuals, yet are not designated as D-SNPs. These MA plans – called D-SNP look-alikes – impede the ability of CMS and states to meaningfully implement existing and new statutory requirements for D-SNPs that Congress created in the BBA by allowing plans that fail to meet the requirement to create look-alikes instead.

Under the final rule, CMS will not enter into a contract:

- Starting for 2022, for a new MA plan – other than a SNP – that projects in its bid that 80 percent or more of the plan’s total enrollment will be entitled to Medicaid, or
- Starting for 2023, for a renewing MA plan – other than a SNP – that has actual enrollment of 80 percent or more of enrollees who are entitled to Medicaid, unless the MA plan has been active for less than one year and has enrollment of 200 or fewer individuals at the time of such determination.

Relative to CMS’ proposal, the final rule allows one additional year for existing D-SNP look-alikes to phase out. This contract requirement is limited to states where there is a D-SNP or any other plan authorized by CMS to exclusively enroll dually eligible individuals, such as Medicare-Medicaid Plans. CMS will allow sponsors of plans currently exceeding this 80 percent threshold to transition enrollees from a D-SNP look-alike into a D-SNP or another zero-premium plan offered by the MA organization.

- **Special Supplemental Benefits for the Chronically Ill (SSBCI).** CMS is finalizing a minor policy modification to SSBCI as it codifies prior guidance in regulation. Previously, CMS limited the chronic conditions an enrollee must have to be eligible under SSBCI to those conditions outlined in the Medicare Managed Care Manual (Chapter 16b). Beginning in contract year 2021, CMS is allowing plans to target other chronic conditions.
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- **Medical Loss Ratio (MLR).** CMS is finalizing rules related to calculating an MLR to include those supplemental benefits that may be delivered through non-traditional providers.

State Medicaid officials with questions related to CMS policies impacting D-SNPs can contact the CMS Medicare-Medicaid Coordination Office at MMCO_DSNPOperations@cms.hhs.gov or request technical assistance from the Integrated Care Resource Center at ICRC@chcs.org.

¹ See: MedPAC. "June 2018 MedPAC Report to Congress." Chapter 9. Available at: http://medpac.gov/docs/default-source/reports/jun18_ch9_medpacreport_sec.pdf?sfvrsn=0 and MedPAC. "June 2019 MedPAC Report to Congress." Chapter 12. Available at: http://www.medpac.gov/docs/default-source/reports/jun19_ch12_medpac_reporttocongress_sec.pdf?sfvrsn=0.

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