Proposed Rule Affecting Dually Eligible Beneficiaries

Medicaid and CHIP Payment and Access Commission

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Introduction

- CMS published a notice of proposed rulemaking for Medicare Advantage (MA) on November 1
- Proposed rule implements provisions of the Bipartisan Budget Act of 2018 (BBA 2018; P.L. 115-123) enacted in February
- BBA 2018 established new requirements for dual eligible special needs plans (D-SNPs) that must be met by 2021
  - Integrate Medicare and Medicaid benefits
  - Unify grievance and appeals procedures, to the extent feasible

Integration Requirements

Integration Requirements

- BBA 2018 mandated that D-SNPs meet at least one of three requirements regarding the integration of Medicare and Medicaid benefits
  – Meet additional minimum integrated care requirements determined by the Secretary
  – Enter into capitated arrangements to provide certain Medicaid benefits
  – Certain D-SNPs must assume clinical and financial responsibility for Medicaid benefits

Option 1: Integrated Care Requirements

- The proposed rule would require that D-SNPs notify the Medicaid agency (or designee) of hospital and skilled nursing facility admissions for high-risk full benefit dually eligible beneficiaries
- According to CMS, these notifications could be used to improve care transitions

Option 1: Integrated Care Requirements

- States would select the subpopulation(s) requiring D-SNP attention
  - e.g., using claims or encounter data to target certain high-risk individuals
- States would also establish their own notification procedures and protocols, timeframes, and method of notification
- CMS noted states may choose to expand requirements over time

Option 2: Capitated Arrangements

- D-SNPs either (1) meet most of the requirements of a fully integrated dual eligible special needs plan (FIDE-SNP), or
- (2) enter into a capitated contract with the state to provide long-term services and supports (LTSS), behavioral health, or both
  - These plans would be defined as highly integrated dual eligible special needs plans (HIDE-SNPs)

Option 3: Clinical and Financial Responsibility

- Under BBA 2018, a parent organization operating both a D-SNP and a Medicaid managed care organization providing LTSS or behavioral health services must assume clinical and financial responsibility for benefits provided to beneficiaries enrolled in both
- FIDE-SNP or HIDE-SNP with exclusively aligned enrollment would satisfy this requirement

Sanctions for Noncompliance

- CMS proposes to prevent a D-SNP from enrolling new members if it does not meet the new integration standards
  - Applies to plan years 2021 through 2025
- Organization offering the sanctioned D-SNP must submit a plan describing how it will come into compliance
- Sanctioned D-SNPs could continue to serve previously enrolled beneficiaries
  - CMS says this is a lesser penalty than plan termination

Unifying Grievance and Appeals Procedures

Scope of Unified Process

- BBA 2018 requires the Secretary to unify the processes across Medicare and Medicaid for D-SNP enrollees, to the extent feasible
- CMS proposes that unified procedures are most feasible for a subset of D-SNPs with exclusively aligned enrollment
  - Exclusively aligned means one plan is responsible for both Medicare and Medicaid coverage
  - Affects D-SNPs in 8 states; about 7% of D-SNP enrollees

Scope of Unified Process

- Because procedures are unified for only a subset of D-SNPs
  - Requirements for D-SNPs that are not exclusively aligned would not change
  - Going forward, different types of D-SNPs would have different requirements for grievance and appeals procedures

Aligned at Health Plan Level

- CMS proposes alignment at the health plan level only, due to challenges beyond that level
- Gives beneficiaries a single point of contact, the health plan, to process their appeal
- Similar to Financial Alignment Initiative

Key Elements of Unified Process

- Assistance with Medicaid coverage issues
  - D-SNPs would be required to assist their enrollees with Medicaid coverage issues and with filing grievances and appeals
- State flexibility
  - Consistent with current Medicaid rules
- Continuation of benefits
  - Adopts Medicaid's provision allowing beneficiaries to continue receiving benefits while appeal is pending

Considerations for Additional Alignment

- Could learn from New York FIDA experience integrating procedures at all levels of appeal
- Differing jurisdictions may require delegating authority to state or federal entities by either program
- Additional rulemaking would probably be necessary
- Potential constraints on state flexibility

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