



# Proposed Rule: Provisions Affecting Dually Eligible Beneficiaries

**Medicaid and CHIP Payment and Access Commission**

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# Overview

- The Centers for Medicare & Medicaid Services (CMS) proposed rule (published January 12) revises regulations governing Medicare Advantage (MA) dual eligible special needs plans (D-SNPs); many provisions affect dually eligible beneficiaries
- One of CMS's stated purposes for the proposed rule is improving the integration of Medicaid and Medicare programs for people enrolled in D-SNPs

# Overview

- Medicare-Medicaid plans (MMPs) established under the Financial Alignment Initiative (FAI) are prominent in the proposed rule; many proposed CMS changes would apply MMP features to D-SNPs
- Examples of MMP features to be applied to D-SNPs:
  - Enrollee advisory committee
  - Health risk assessment to include social determinants of health
  - Exclusively aligned enrollment
  - Unified appeals and grievances
  - Continuation of Medicare benefits pending appeal
  - Integrated member materials

# Overview

- CMS suggests converting MMPs to D-SNPs if proposed rule becomes final
- Other proposed changes are largely consistent with Commission discussions but may not result in significant changes in the three areas where we have focused:
  - increasing enrollment in integrated care,
  - making integrated products available to more dually eligible beneficiaries, and
  - promoting greater integration in existing products
- Staff have identified areas for potential comment

# Areas for Potential Comment

1. Enrollee advisory committee required for all D-SNPs
2. Adds questions on social determinants of health to required health risk assessments
3. Unified appeals and grievance processes for all FIDE SNPs and some coordination-only D-SNPs based on a change to the definition of an applicable integrated plan; continuation of benefits protection extended to more beneficiaries

# Areas for Potential Comment, continued

4. Exclusively aligned enrollment required for all FIDE SNPs
5. Capitation of Medicare cost sharing for FIDE SNPs
6. Medicaid benefit carve-outs
7. Service area overlap required between HIDE and FIDE SNPs and companion Medicaid plans

# Areas for Potential Comment, continued

## 8. Converting MMPs to integrated D-SNPs; some features of MMPs would be lost in transition to D-SNPs

- Ombudsman
- Passive enrollment
- State ability to share in savings to Medicare
- Other features including integrated medical loss ratios (calculated and reported)

# Areas for Potential Comment, continued

- 9. Limiting certain MA contracts to D-SNPs
- 10. Integrated member materials
- 11. Streamlining plan oversight (joint state and CMS)
- 12. Maximum out-of-pocket limit



# Other Provisions

- Scope of services covered by FIDE SNPs
- Comment solicitation on financing issues that create misalignments
- Coordination of Medicaid benefits and MA supplemental benefits
- Permitting organizations with 1876 cost plans to offer D-SNPs in same service area
- D-SNPs that only enroll partial-benefit dually eligible beneficiaries

# Next Steps

- Obtain input from Commissioners
- Draft comment letter for Commissioner review based on today's discussion

# Areas for Potential Comment

1. Enrollee advisory committee	7. Service area overlap between HIDE and FIDE SNPs and companion Medicaid plans
2. Health risk assessment with questions on social determinants of health	8. Converting MMPs to integrated D-SNPs
3. Unified appeals and grievances & continuation of Medicare benefits	9. Limiting certain MA contracts to D-SNPs
4. Exclusively aligned enrollment	10. Integrated member materials
5. Capitation of Medicare cost sharing	11. Streamlining plan oversight
6. Medicaid benefit carve-outs	12. Maximum out-of-pocket limit

**Notes:** MACPAC review of Centers for Medicare & Medicaid Services (CMS) notice of proposed rulemaking (CMS-4192-P). D-SNP is dual eligible special needs plan. FIDE SNP is fully integrated dual eligible special needs plan. HIDE SNP is highly integrated dual eligible special needs plan. MA is Medicare Advantage. MMP is Medicare-Medicaid plan.

**Source:** Centers for Medicare & Medicaid Services (CMS), U.S. Department of Health and Human Services. 2022. Medicare program: Contract year 2023 policy and technical changes to the Medicare Advantage and Medicare Prescription Drug Benefit Programs. Proposed rule. *Federal Register* 87, no. 8 (January 12): 1842–1960. <https://www.federalregister.gov/documents/2022/01/12/2022-00117/medicare-program-contract-year-2023-policy-and-technical-changes-to-the-medicare-advantage-and>



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