MACPAC

Advising Congress on
Medicaid and CHIP Policy

January 13, 2023

The Honorable Bill Cassidy, M.D.
United States Senator
Committee on Finance
U.S. Senate
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Thomas R. Carper
United States Senator
Committee on Finance
U.S. Senate
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tim Scott
United States Senator
Committee on Finance
U.S. Senate
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Mark R. Warner
United States Senator
Committee on Finance
U.S. Senate
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable John Cornyn
United States Senator
Committee on Finance
U.S. Senate
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Robert Menendez
United States Senator
Committee on Finance
U.S. Senate
219 Dirksen Senate Office Building
Washington, DC 20510

Re: Request for information on data and recommendations to improve care for dually eligible beneficiaries

Dear Senators Cassidy, Carper, Scott, Warner, Cornyn, and Menendez,

On behalf of the Medicaid and CHIP Payment and Access Commission (MACPAC), I am pleased to offer these comments in response to your request for information (RFI) on improving care for dually eligible beneficiaries. As you know, MACPAC is a nonpartisan legislative branch agency that provides policy and data analysis and makes recommendations to Congress, the Secretary of the U.S. Department of Health and Human Services, and the states on a wide array of issues affecting Medicaid and the State Children's Health Insurance Program (CHIP). MACPAC appreciates this opportunity to share insights from our extensive body of work on policies affecting dually eligible beneficiaries. The Commission's long-term vision is for all dually eligible beneficiaries to be enrolled in an integrated model. To that end, the Commission's work has focused on three key goals: increasing enrollment in integrated products, making integrated products more widely available, and promoting greater integration in existing products.

The RFI seeks stakeholder input on integrated care through questions focused on three core principles: the diversity of the dually eligible population, the range of state capabilities in supporting coverage for the dually eligible population, and the role of financial incentives on outcomes and efficiency. The Commission offers comments in three areas where we have evidence-based findings and recommendations on policy issues that overlap with the questions in the RFI:

Medicaid and CHIP Payment
and Access Commission

1800 M Street NW
Suite 650 South
Washington, DC 20036

www.macpac.gov
202-350-2000
202-273-2452

requiring state strategies to integrate care; state capacity to integrate care; and considerations for a new, unified program for dually eligible beneficiaries. Our comments draw on the following analyses:

- Insights from a panel of three states – Washington, the District of Columbia, and Maine – on integrating care for dually eligible beneficiaries through fee-for-service (MACPAC 2022a, Alford 2022);
- Data book analyzing utilization and spending for dually eligible beneficiaries in calendar year 2019, published jointly with the Medicare Payment Advisory Commission (MedPAC) (MACPAC and MedPAC 2022);
- Chapter in our June 2022 report on raising the bar including a recommendation requiring all states to develop a strategy to integrate care, with federal financial support (MACPAC 2022b);
- Comment letter on a proposed rule published by the Centers for Medicare & Medicaid Services (CMS) on the Medicare Advantage program that makes a number of policy changes affecting dually eligible beneficiaries (MACPAC 2022c);
- Chapter in our June 2021 report on improving integration through strategies for state contracting with Medicare Advantage dual eligible special needs plans (D-SNPs) (MACPAC 2021a);
- Chapter in our March 2021 report to Congress on considerations for a unified program for dually eligible beneficiaries (MACPAC 2021b);
- Chapter in our June 2020 report on policy issues and options for integrating care, including a recommendation for additional federal funding to states to enhance state capacity to develop Medicare expertise and implement integrated care programs (MACPAC 2020a); and
- Insights from a roundtable of experts that MACPAC convened to better understand the factors affecting state decisions to integrate care and how the federal government can support them (Blom and Semanskee 2021).

Requiring State Strategies to Integrate Care

Dually eligible beneficiaries may experience fragmented care and poor health outcomes when their care is not integrated across Medicare and Medicaid. The Commission believes they could benefit from an improved experience and better outcomes in integrated care but states may need guidance and assistance to move forward. In our June 2022 report to Congress, MACPAC recommended that Congress authorize the Secretary of the U.S. Department of Health and Human Services to require that each state develop an integrated care strategy for full-benefit dually eligible beneficiaries. Developing a strategy, with support from the federal government, is a feasible first step for all states that could help raise the bar on integrated care. It would provide an impetus for states to act while maintaining flexibility to tailor the strategy to the conditions on the ground in each state. Because of how diverse states are, every state should devise a strategy for providing coverage to dually eligible beneficiaries that is compatible with its population, delivery system, provider capacity, and geography. The ultimate goal of such a strategy is for all full-benefit dually eligible beneficiaries to be enrolled in an integrated model that meets their specific needs. The integrated care strategy should also be structured to promote health equity for dually eligible beneficiaries and ensure the approach to integration addresses the needs of diverse subpopulations of beneficiaries.

MACPAC staff consulted with stakeholders about the requirement for a strategy and individuals we spoke with expressed support, particularly if the strategy stays away from rigid goals requiring a particular level of integrated care by a certain date. Stakeholders viewed the strategy as giving states a place to start, particularly states that may be uncertain as to how to proceed on integrating care.

Every strategy should include state plans for the following broad components—integration approach, eligibility and benefits covered, enrollment strategy, beneficiary protections, data analytics, quality measurement—and be structured to promote health equity (MACPAC 2022b). As the RFI notes, dually eligible beneficiaries represent a diverse population, including many subpopulations with varying needs. For example, in our analysis of spending and utilization data for the dually eligible population, we found that the prevalence of chronic conditions varies considerably between the dually eligible population that is under age 65 compared to individuals age 65 and older. People under age 65 are more likely to experience conditions related to behavioral health such as anxiety or depression, while older dually eligible beneficiaries had higher rates of physical health conditions such as hypertension or heart failure (MACPAC and MedPAC 2022).

The Commission applauds the Senators' efforts to draft legislation to improve integration of care for dually eligible beneficiaries and has been closely following those efforts. On May 19, 2022, Senator Scott, along with Senator Casey and Senator Cassidy, introduced the Advancing Integration in Medicare and Medicaid (AIM) Act (S. 4264). The Commission was pleased to see that the legislation adopted MACPAC's recommendation to require that states develop a strategy to integrate care for their full-benefit dually eligible populations. While the legislation did not incorporate MACPAC's recommendation to provide additional federal funding to support states in their efforts to develop a strategy, it represents an important step toward advancing integration of care for this population.

State Capacity to Integrate Care

States are at varying stages of integrating Medicare and Medicaid coverage for dually eligible beneficiaries, operating on a continuum of integration, which may reflect variations in state capacity and competing priorities. To assist states in raising the bar on integrated care, MACPAC highlighted existing strategies states can use to increase integration in their contracts with D-SNPs. The Commission has also recommended additional federal funding for states to support state efforts to integrate care. Recent legislation took up this idea in the form of proposed grants to states.

Continuum of integration

States operate on a continuum of integration with low, moderate, and high levels of integration (MACPAC 2021a). States that offer high levels of integration, such as Massachusetts through Medicare-Medicaid plans (MMPs) under the Financial Alignment Initiative, provide fully integrated coverage where beneficiaries receive all of their Medicare and Medicaid benefits under one umbrella. In the Commission's view, the key features of a fully integrated program include:

- coverage of all Medicare and Medicaid benefits;
- care coordination to establish individualized plans of care for beneficiaries;
- beneficiary protections, such as through an ombudsman, and a mechanism through which beneficiaries can provide input about their care; and
- financial alignment where a single entity receives a single payment to cover all Medicare and Medicaid services.

States at high levels of integration would include states that operate MMPs, fully integrated dual eligible special needs plans (FIDE SNPs), and Programs of All-Inclusive Care for the Elderly (PACE). These models cover all Medicare and Medicaid benefits, except in the case of the FIDE SNP, which would carve out behavioral health services and long-term services and supports if the state carves those benefits out of the capitation rate.

Following publication of a CMS final rule in May 2022, states are now required to end their capitated Medicare-Medicaid plan (MMP) demonstrations under the Financial Alignment Initiative at the end of calendar year 2025 (CMS 2022). CMS is moving away from the demonstrations and has encouraged states to use Medicare Advantage dual eligible special needs plans (D-SNPs) as the primary mechanisms for integration. MACPAC commented in support of this rule as it makes changes to improve integration of care for dually eligible beneficiaries but expressed concern about the conversion of MMPs to D-SNPs because of the difficulty of replicating some features of the MMPs in Medicare Advantage, such as a dedicated ombudsman, and opportunities for states to share in savings to Medicare that may result from integrating care (MACPAC 2022c). The Commission is monitoring state activities to transition to D-SNPs, focusing on issues that states have flagged to us as potential areas of heightened activity, including stakeholder engagement, Medicaid managed care procurement, information technology system changes, and enrollment processes.

In contrast, some states may not offer any integrated options. States have told us about barriers related to state capacity that they face when contemplating integrated care initiatives, including a lack of dedicated state staff to manage integrated care initiatives, competing priorities and lack of buy-in from leadership, and limited Medicare expertise among state leadership and staff. Some states may also have limited experience with managed care or a sparsely distributed population that might make it difficult for them to establish a fully integrated program even if they were interested in doing so. States not yet offering integrated options, including states that do not enroll dually eligible beneficiaries in Medicaid managed care and provide coverage exclusively through fee-for-service (FFS), have indicated that additional resources to learn about programmatic options and develop a long-term strategy would be helpful.

The Commission has twice recommended that Congress provide additional federal funding to states to support efforts to integrate Medicare and Medicaid coverage for the dually eligible population, most recently in June 2022 (MACPAC 2022b).

Strategies for contracting with D-SNPs

The Commission has also highlighted existing authorities that states could harness to increase integration for their dually eligible beneficiaries who are enrolled in Medicare Advantage D-SNPs (MACPAC 2021a). In order to operate in a state, a D-SNP must sign a contract with that state. However, the state is not obligated to contract with a D-SNP, giving the state leverage to design a contract that meets the state's needs and lays out requirements for the D-SNP. After hearing from states about the limits on staff capacity and expertise in Medicare, MACPAC set out to highlight the available contracting strategies that Congress provided in the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA). For example, states can require that D-SNPs obtain state review of any materials sent to members that relate to delivery of Medicaid benefits to make sure the information is accurate and clear for beneficiaries. The following strategies are available to all states:

- Limit enrollment to full-benefit dually eligible beneficiaries,
- Contract directly with D-SNPs to cover Medicaid benefits,
- Require D-SNPs to use specific or enhanced care coordination methods,
- Require D-SNPs to send data or reports to the state for oversight purposes,
- Require state review of D-SNP materials related to delivery of Medicaid benefits, and
- Partner with D-SNPs to develop supplemental benefit packages that complement Medicaid benefits.

Other strategies can only be used by states that enroll dually eligible beneficiaries in Medicaid managed care. For example, states can allow or require D-SNPs to use default enrollment, a process by which Medicaid beneficiaries

are enrolled in a D-SNP that is aligned with their current Medicaid managed care plan when they become eligible for Medicare.

Recent legislation

The Commission recognizes the efforts of Senator Scott and Senator Casey to increase state capacity to integrate care. On February 10, 2022, Senator Scott introduced the Supporting Care for Dual Eligibles Act (S. 3630), which would provide federal grants to states to improve their capacity to integrate care in a number of ways, including by developing Medicare knowledge among state staff. The Commission has found that limited state capacity is a challenge to integration efforts and appreciates the Senator's focus on addressing that barrier through legislation.

On May 19, 2022, Senator Casey introduced the Supporting States in Integrating Care Act of 2022 (S. 4273). The bill would provide federal grants to states to carry out the activities associated with developing a plan for integrating care for dually eligible beneficiaries for submission to the Secretary of the Department of Health and Human Services. States that do not use all of their grant funds and receive approval of their plan from the Secretary may use the funds that remain for increasing state capacity to integrate care.

Considerations for a Unified Program

Congress has created multiple authorities to improve integration of care between Medicare and Medicaid but as of 2021, only about 18 percent of full-benefit dually eligible beneficiaries were enrolled in integrated coverage (CMS 2021). In addition, integrated options are not available in many areas of the country. In some states, integrated coverage is only available in certain counties. Given the challenges and inherent limitations of integrating care across two distinct federal programs with overlapping coverage rules and misalignments on processes like appeals and grievances as well as incentives for cost shifting between programs, some stakeholders have begun to explore how to create a unified program exclusively for dually eligible beneficiaries (MACPAC 2020b, 2021b). MACPAC has reported on design considerations for establishing a unified program (MACPAC 2021b). We drew on the work of two stakeholder groups in particular–the Bipartisan Policy Center (BPC) and the Dual Eligible Coalition convened by Leavitt Partners–that are promoting new approaches to serving this population (Dual Eligible Coalition 2022, BPC 2020).

In the Commission's view, a unified program designed specifically for the dually eligible population has the potential to address the fragmentation of care and poor outcomes for beneficiaries that result from having two uncoordinated programs. The complexity of designing such a program, however, requires careful consideration of available options and their attendant trade-offs. Moreover, the wide availability of managed care options envisioned by both the BPC and the Dual Eligible Coalition are not yet a reality, and they acknowledge this in their proposals. States and the federal government would also need a substantial amount of time to stand up a new structure of coverage for the dually eligible population.

Key considerations

For purposes of our response to the congressional RFI, we are highlighting three high-level considerations for establishing a unified program: (1) defining program goals, (2) deciding how the program would be administered, and (3) maintaining state flexibility. Please see our full report for additional considerations on establishing a unified program (MACPAC 2021b).

Goals of a unified program. A unified program could achieve some of the outcomes that have been challenging to achieve to date. This could include further simplifying coverage for beneficiaries, aligning financial incentives to reduce spending, and meeting beneficiary needs for services through a comprehensive benefit to include acute care, long-term services and supports, and behavioral health under one umbrella. Establishing a unified program would require statutory and regulatory changes at the federal and state levels, affecting a broad range of policies including eligibility, beneficiary protections and enrollment, benefits, delivery system, care coordination, program administration, and financing.

We know from our analysis of Medicare and Medicaid data that individuals who are dually eligible are more likely to report being in poor health and to have limitations in activities of daily living than Medicare beneficiaries who are not dually eligible (MACPAC and MedPAC 2022). They are also more likely to have disabilities and more likely to be Black or Hispanic (MACPAC and MedPAC 2022). Overarching goals of such a unified program could include ensuring access to needed services, allowing beneficiaries to exercise choices about their care, providing adequate consumer protections, and improving equity in outcomes relative to people who are not dually eligible.

Defining program goals would require considering varying perspectives on integrated care. Federal and state officials are likely to start from a perspective aimed at both improving care and containing costs. States may also look for opportunities to share in any potential savings that may result from more integrated coverage for dually eligible beneficiaries. Outside of the Medicare-Medicaid plans (MMPs) under the Financial Alignment Initiative, no mechanism exists for a state Medicaid program to share in savings that may accrue to Medicare. Based on our interviews, states indicated that the potential for shared savings or another type of budgetary reduction is a motivator to participate. States may also consider whether provider education would improve their participation in integrated care.

Administration. Policymakers would also need to make decisions about the administration of a unified program. Currently, Medicare is administered by CMS and Medicaid is administered by the states under broad federal guidelines and with CMS oversight. Under the proposals we reviewed, the unified program would be administered by states with oversight from the federal government. Oversight responsibilities would be consolidated under the Medicare-Medicaid Coordination Office (MMCO) (Dual Eligible Coalition 2022, BPC 2020). MMCO is the federal entity best situated to provide oversight of a unified program because of its expertise and experience with integrating care for the dually eligible population. Policymakers could consider whether MMCO should have full regulatory authority over all federal programs affecting this population, the approach taken by BPC's proposal, to include D-SNPs, as well as PACE.

Policymakers should also consider establishing best practices for states to follow when implementing a unified program, including for ease of administration and, most importantly, as it relates to beneficiary protections. For example, policymakers may want to consider new approaches to helping beneficiaries choose the plan that best meets their needs, such as establishing an independent entity with expertise in both Medicare and Medicaid who can help beneficiaries meaningfully compare integrated care options. In addition, policymakers may want to consider establishing a unified appeals process that dually eligible beneficiaries could use to appeal a coverage decision, like exists in the MMPs. Medicare and Medicaid have different processes for filing appeals and grievances, which can create confusion and lead to gaps in coverage for beneficiaries.

State flexibility. Another key consideration is whether the unified program would be mandatory or optional for states. Flexibility for states is a longstanding principle in Medicaid. The Medicaid program itself is optional but all states choose to participate. Policymakers would have to consider whether to give states the option to participate, as in the Dual Eligible Coalition proposal (Dual Eligible Coalition 2022). Conversely, in BPC's proposal, if states choose not to establish their own fully integrated programs, the federal government within five years of enactment would establish one for them, in what is referred to as a federal fallback program (BPC 2020). States are also

likely to look for opportunities to maintain flexibility under a unified program in order to make the program compatible with the conditions, such as the delivery system and geography, in each state.

Conclusion

The Commission is appreciative of your bipartisan efforts to improve coverage for dually eligible beneficiaries and hopes the analyses we highlighted in this letter are helpful and informative. Our longstanding view is that integrating care has the potential to improve beneficiary experience and reduce federal and state spending that may arise from duplication of services or poor care coordination. Requiring states to have a strategy for integration is an important first step. Given the limitations inherent in integrating care across two separate programs, some stakeholders have begun to explore options to replace the fragmented system we have today. A unified program could simplify coverage for beneficiaries, providing all benefits under a single umbrella. Such a program would have the potential to decrease beneficiary and provider fragmentation and confusion, align incentives, eliminate cost shifting that currently occurs between Medicare and Medicaid, and fill existing gaps in coverage. MACPAC staff is available as a resource to support you as you work toward a legislative solution to reform coverage for the dually eligible population.

Sincerely,

Melanie Bella
Chair

References

Bipartisan Policy Center (BPC). 2020. *A pathway to full integration of care for Medicare-Medicaid beneficiaries*. Washington, DC: BPC. https://bipartisanpolicy.org/report/a-pathway-to-full-integration-of-care-for-medicaremedicaid-beneficiaries/

Blom, K. and A. Semanskee. 2022. Presentation before the Medicaid and CHIP Payment and Access Commission, October 29, 2021, Washington, DC. https://www.macpac.gov/publication/raising-the-bar-and-supporting-state-efforts-to-integrate-care-for-dually-eligible-beneficiaries/

Centers for Medicare & Medicaid Services (CMS), U.S. Department of Health and Human Services. 2022a. Financial Alignment Initiative (FAI). Baltimore, MD: CMS.

Centers for Medicare & Medicaid Services (CMS), U.S. Department of Health and Human Services. 2022b. Medicare program; Contract year 2023 policy and technical changes to the Medicare Advantage and Medicare Prescription Drug Benefit Programs; Policy and regulatory revisions in response to the COVID-19 Public Health Emergency; Additional policy and

regulatory revisions in response to the COVID-19 Public Health Emergency. Final Rule. *Federal Register* 87, no. 89 (May 9): 27704–27902. https://www.federalregister.gov/documents/2022/05/09/2022-09375/medicare-program-contract-year-2023-policy-and-technical-changes-to-the-medicare-advantage-and

Centers for Medicare & Medicaid Services (CMS). 2021. *Medicare-Medicaid Coordination Office FY 2021 report to Congress.* Baltimore, MD: CMS. https://www.cms.gov/files/document/reporttocongressmmco.pdf

Dual Eligible Coalition. 2022. About the coalition. Washington, DC: Leavitt Partners. https://info.leavittpartners.com/dual-eligible-coalition

Integrated Care Resource Center (ICRC). 2021. Glossary of terms related to integrated care for dually eligible individuals. Washington, DC: ICRC. https://www.integratedcareresourcecenter.com/resource/glossary-terms-related-integrated-care-dually-eligible-individuals

Medicaid and CHIP Payment and Access Commission (MACPAC). 2022a. Panel on integrating care for dually eligible beneficiaries in Medicaid fee-for-service. Washington, DC: MACPAC. https://www.macpac.gov/publication/panel-on-integrating-care-for-dually-eligible-beneficiaries-in-medicaid-fee-for-service/

Medicaid and CHIP Payment and Access Commission (MACPAC). 2022b. Chapter 5: Raising the bar: Requiring state integrated care strategies. In *Report to Congress on Medicaid and CHIP*. June 2022. Washington, DC: MACPAC. https://www.macpac.gov/publication/raising-the-bar-requiring-state-integrated-care-strategies/

Medicaid and CHIP Payment and Access Commission (MACPAC). 2022c. Comment letter on proposed rule: Medicare program; Contract year 2023 policy and technical changes to the Medicare Advantage and Medicare Prescription Drug Benefit Programs (March 7, 2022). https://www.macpac.gov/publication/comment-letter-on-proposed-rule-on-dual-eligible-special-needs-plans/

Medicaid and CHIP Payment and Access Commission (MACPAC). 2021a. Chapter 6: Improving integration for dually eligible beneficiaries: Strategies for state contracts with dual eligible special needs plans. In *Report to Congress on Medicaid and CHIP*. June 2021. Washington, DC: MACPAC. https://www.macpac.gov/publication/improving-integration-for-dually-eligible-beneficiaries-strategies-for-state-contracts-with-dual-eligible-special-needs-plans/

Medicaid and CHIP Payment and Access Commission (MACPAC). 2021b. Chapter 4: Establishing a unified program for dually eligible beneficiaries: Design considerations. In *Report to Congress on Medicaid and CHIP*. March 2021. Washington, DC: MACPAC. https://www.macpac.gov/publication/establishing-a-unified-program-for-dually-eligible-beneficiaries-design-considerations-2/

Medicaid and CHIP Payment and Access Commission (MACPAC). 2020a. Chapter 2: Integrating care for dually eligible beneficiaries: Policy issues and options. In *Report to Congress on Medicaid and CHIP*. June 2020. Washington, DC: MACPAC. https://www.macpac.gov/publication/chapter-2-integrating-care-for-dually-eligible-beneficiaries-policy-issues-and-options/

Medicaid and CHIP Payment and Access Commission (MACPAC). 2020b. Chapter 1: Integrating care for dually eligible beneficiaries: Background and context. In *Report to Congress on Medicaid and CHIP*. June 2020. Washington, DC: MACPAC. https://www.macpac.gov/publication/chapter-1-integrating-care-for-dually-eligible-beneficiaries-background-and-context/

Medicaid and CHIP Payment and Access Commission (MACPAC). 2019. *Care coordination in integrated care programs serving dually eligible beneficiaries—Health plan standards, challenges and evolving approaches.* Washington, DC: MACPAC. https://www.macpac.gov/publication/care-coordination-in-integrated-care-programs-serving-dually-eligible-beneficiaries-health-plan-standards-challenges-and-evolving-approaches/

Medicaid and CHIP Payment and Access Commission (MACPAC) and Medicare Payment Advisory Commission (MedPAC). 2022. *Data book: Beneficiaries dually eligible for Medicare and Medicaid.* Washington, DC: MACPAC and MedPAC. https://www.macpac.gov/publication/data-book-beneficiaries-dually-eligible-for-medicare-and-medicaid-3/

U.S. Senate. 2022. Letter from Senator Bill Cassidy, M.D., Senator Thomas R. Carper, Senator Tim Scott, Senator Mark R. Warner, Senator John Cornyn, and Senator Robert Menendez requesting information on existing data and ways to improve care for dually eligible enrollees. November 22, 2022. https://www.cassidy.senate.gov/newsroom/press-releases/cassidy-scott-carper-menendez-cornyn-and-warner-launch-bipartisan-effort-to-improve-care-for-patients-jointly-enrolled-in-medicare-and-medicaid