



TOBY DOUGLAS
DIRECTOR

State of California—Health and Human Services Agency
Department of Health Care Services



EDMUND G. BROWN JR.
GOVERNOR

DATE: APRIL 18, 2012

ALL PLAN LETTER 12-001

TO: ALL MEDI-CAL MANAGED CARE HEALTH PLANS

SUBJECT: CONTRACTS WITH DUAL-ELIGIBLE SPECIAL NEEDS PLANS

The purpose of this All Plan Letter (APL) is to notify Medi-Cal managed care plans (MC Plans) of the federal requirements for contracts with dual-eligible special needs plans (D-SNPs) under the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA), as amended by the Affordable Care Act of 2010 (ACA).

For a D-SNP to continue operation on January 1, 2013, the D-SNP must either subcontract with a MC Plan that operates in the D-SNP's service area or contract directly with the Department of Health Care Services' (DHCS) Medi-Cal Managed Care Division (MMCD). Before requesting a direct contract with DHCS, D-SNPs must enter into good faith negotiations with all MC Plans operating in their service area.

Background

D-SNPs provide specialized care coordination to Medi-Cal beneficiaries who are also enrolled in Medicare (dual eligibles). Consistent with the objective of integrating care across the continuum for dual eligibles, DHCS is developing the Duals Demonstration Program under the authority of the ACA and Welfare & Institutions (W&I) Code 14132.275. Under this program, the federal Centers for Medicare & Medicaid Services (CMS), DHCS, and MC Plans participating in the Duals Demonstration will enter into three-way agreements to provide fully integrated care to dual eligibles. DHCS anticipates that the Duals Demonstration Program will commence operations in January 2013 for a three-year term. DHCS also anticipates that these demonstration projects will create robust networks of contracted providers for the delivery of fully integrated care, consistent with the policy objectives of W&I Code 14132.275 and the ACA.

MIPPA Elements

Following are the required eight MIPPA elements listed in 42 CFR 422.107 that must be included in contracts between D-SNPs and the participating MC Plans:

1. The Medicare Advantage Health Plan's (MA Plan) responsibility, including financial obligations, to provide or arrange for Medi-Cal benefits.
2. The categories of eligibility for dual eligible beneficiaries to be enrolled under the D-SNP.

3. The Medi-Cal benefits covered under the D-SNP.
4. The cost-sharing protections covered under the D-SNP.
5. The identification and sharing of information on Medi-Cal provider participation.
6. The verification of enrollee's eligibility for both Medicare and Medi-Cal.
7. The service area covered by the D-SNP.
8. The contract period for the D-SNP.

Additional information and guidance from the CMS can be found at the following link:

www.cms.gov/Medicare/Health-Plans/SpecialNeedsPlans/StateResourceCenter.html

Options for D-SNP Contracting under MIPPA

D-SNPs can meet MIPPA contracting requirements by:

1. Entering into a subcontract with a MC Plan that operates in the D-SNP's service area. The subcontract is subject to these conditions:
 - It must meet the eight MIPPA elements;
 - It may include negotiated terms and conditions for the provision of Medi-Cal covered services, including long-term supports and services (LTSS), and terms and conditions on how the D-SNP can enroll members from a different MC Plan operating in its service area that is not participating in the Duals Demonstration Program; and
 - The contract period will be one year and cannot be renewed.
2. Entering into a contract directly with DHCS in a county in which there is no Medi-Cal MC Plan or in a county in which good faith negotiations between the MC plan and the D-SNP have failed. The direct contract is subject to these conditions:
 - If there is a MC Plan in the service area, the D-SNP must explain the good faith efforts it made to negotiate with MC Plans operating in its service area and why these efforts failed;
 - DHCS has the right to deny a direct contract if the D-SNP cannot demonstrate that good faith negotiations with a participating MC Plan failed;

- The contract period will be one year and cannot be renewed;
- DHCS shall not provide any remuneration or other form of compensation for the performance of any duties or obligations provided under this contract; and
- DHCS has the right to terminate the contract if the D-SNP:
 - ✓ Fails to negotiate a subcontract in good faith with a MC Plan in the service area(s) in which the D-SNP operates;
 - ✓ Reaches a contract negotiation impasse to enter into a subcontract with a Medi-Cal managed care plan operating in its service area(s) and DHCS determines that it is unlikely the D-SNP and the MC Plan will reach an agreement; and
 - ✓ In the event that the D-SNP enters negotiations to change ownership or actually changes ownership, enters negotiations to assign or delegate its duties and obligations under the contract to another party or actually assigns or delegates its duties or obligations under the Contract.

Contracting Conditions in a Duals Demonstration County

In a Duals Demonstration county, DHCS prefers that a D-SNP satisfy the MIPPA state contract requirement by entering into a subcontract with the Duals Demonstration MC Plan. Until a MIPPA-compliant subcontract can be executed, the contract between the D-SNP and DHCS will be subject to the following additional requirements:

- Certify enrollment of dual eligibles as of January 1, 2013, and monthly thereafter;
- Require the D-SNP to submit an update on the progress made toward execution of a subcontract with a MC Plan operating in the D-SNP's service area; and
- Establish that failure to execute a subcontract with the Duals Demonstration Program by August 15, 2013, will result in the enrollment of the D-SNP's beneficiaries in the Duals Demonstration Program, effective January 1, 2014.

For Dual Demonstration counties, if a D-SNP enters into a subcontracting arrangement with a MC Plan operating in the D-SNP's service area or contracts directly with DHCS, then the D-SNP's enrollment will not be subject to passive enrollment into the Duals Demonstration MC Plan.

D-SNP Direct Contracting Requests

DHCS prefers that D-SNPs subcontract with MC Plans, but for those D-SNPs who request contracting directly with MMCD, the due date for notifying DHCS of their intent to contract is May 11, 2012; the due date for returning signed contracts to MMCD is June 8, 2012. Requests to contract directly with DHCS can be sent to me at Margaret.tatar@dhcs.ca.gov.

DHCS appreciates the ongoing significant contributions MC Plans are making toward the fully integrated system of health care envisioned in the 1115 waiver. If you have any questions regarding this letter, please contact me.

Sincerely,

ORIGINAL SIGNED BY MARGARET TATAR

Margaret Tatar, Chief
Medi-Cal Managed Care Division

Attachment

Attachment One
Sample Contract Language

1. The contract must document the MA Plan's responsibility, including financial obligations, to provide or arrange for Medi-Cal benefits.

This contract is a care coordination agreement. The Medi-Cal benefits that Contractor must coordinate include all Medi-Cal benefits and services that are not covered by the Medicare Advantage health plan under whose authority the D-SNP operates.

- A. Contractor shall develop and implement care coordination procedures, that are submitted to and approved by [insert health plan name], for referral and coordination of care for Members who are also Medi-Cal beneficiaries and receive Medi-Cal benefits and services through a Medi-Cal managed care plan. Medi-Cal benefits and services requiring referral and coordination of care by Contractor are outlined in Attachment N of the 1115 Special Terms and Conditions and can be found at the following link:

<http://www.dhcs.ca.gov/provgovpart/Documents/Waiver%20Renewal/CA%20Special%20Terms%20%20Conditions.pdf>

- B. When a Member requests or the Contractor determines a Member may need a Medi-Cal benefit or service that is not covered by the D-SNP, it shall make a referral to the Member's Medi-Cal managed care plan for follow-up and possible provision of those benefits or services.

2. The contract must document the categories of eligibility for dual eligible beneficiaries to be enrolled under the SNP.

Sample contract language:

Members covered under this contract shall include the following:

- A. Existing dual eligible Members who are enrolled in the Contractors D-SNP.
B. Existing Medi-Cal beneficiaries who are receiving services from the Contractors commercial insurance line of business other than Medi-Cal and become eligible to enroll into a D-SNP.

Members not covered under this contract shall include the following:

A. Members who are required to spend down Medicare eligibility requirements.

This contract shall not include non-full benefit dual eligible, such as:

- a. Qualified Medicare Beneficiaries (QMBs)
- b. Special Low-Income Medicare Beneficiaries (SLMBs)
- c. Qualified Working Disabled individuals (QDWIs)
- d. Qualified Individuals (QIs)

B. Dual eligible Medi-Cal beneficiaries who reside in a county selected to participate in a demonstration project to maximize the continuum of services available through both Medicare and Medi-Cal, pursuant to Welfare and Institutions Code Section 14132.275.

3. The contract must document the Medi-Cal benefits covered under the D-SNP.

DHCS policy:

It is the intention of DHCS to require, at a minimum, care coordination agreements as outlined in MIPPA contracting requirement one. It is also the intent of DHCS to provide flexibility to MC Plans when negotiating contracts with D-SNPs operating within their service area(s). Therefore, subcontracting arrangements with D-SNPs may include provisions for Medi-Cal benefits.

The Medi-Cal benefits, along with applicable financial obligations, must be outlined in the subcontracting arrangement.

4. The contract must document the cost-sharing protections covered under the D-SNP.

Sample contract language:

The Contractor, including its network providers and subcontractors, shall not bill an enrollee for any services provided under this contract. The Contractor shall ensure that all in-network provider contracts include requirements whereby the enrollee shall be held harmless for charges for any Medi-Cal covered service.

Pursuant to Section 1932(b)(6), (42 U.S.C. § 1396u-2 (b)(6)), the Contractor and all of its subcontractors shall not hold a D-SNP enrollee liable for:

- A. Debts of the MC Plan in the event of the MC Plan's insolvency;
- B. Payment for services provided by the MC Plan if the MC Plan has not received payment from DHCS for the services or if the provider, under contract or other arrangement with the MC Plan, fails to receive payment from DHCS or the MC Plan; or
- C. Payments to providers that furnish covered services under a contract or other arrangement with the MC Plan that are in excess of the amount that normally would be paid by the participant if the service had been received directly from the MC Plan.

DHCS is subject to imposition of sanctions as authorized by 42 CFR 422.6 if the Contractor imposes premiums or charges enrollees in excess of the premiums or charges permitted under the Medi-Cal Managed Care Program.

5. The contract must document the identification and sharing of information on Medi-Cal provider participation.

DHCS policy:

If the subcontracting arrangements include provisions for Medi-Cal benefits, here is sample provider data sharing contract language:

Sample contract language:

Upon execution of this contract, the MC Plan shall submit to Contractor an initial report that outlines the MC Plan's full Medi-Cal provider network within the defined service area. The Contractor shall submit to the MC Plan an initial report that outlines the MC Plan's full Medi-Cal provider network within the defined service area prior to January 1, 2013.

The report, at a minimum, shall include the following:

- 1. NPI.
- 2. First and last name.
- 3. Specialty type.
- 4. Group association.
- 5. Full address.

6. Telephone number.
7. Cultural and linguistic services, including provider and provider staff language capability.
8. Hospital admitting privileges.
9. Provider capacity, including current capacity.

After the initial submission of a Medi-Cal provider network report, the MC Plan and Contractor shall submit an updated report at least:

1. Quarterly.
2. Whenever a significant change to the network affects provider capacity and services, including changes in:
 - a) Services or benefits;
 - b) Geographic service area or payments; or
 - c) Enrollment of a new population.

The quarterly report shall include, at a minimum, the following:

1. Network provider deletions.
 - a) The number of members assigned to each primary care physician that has been deleted from the network.
2. Network providers who are not accepting new patients.
3. Provider additions.
 - a) Each provider addition must include the information prescribed in the initial Medi-Cal provider network report.

6. The contract must document the verification of enrollee's eligibility for both Medicare and Medi-Cal.

Sample contract language:

To ensure that only eligible enrollees receive services under this contract, prior to an enrollee receiving covered services, the following Medi-Cal and Medicare eligibility verification process must be completed:

1. MC Plan.
 - a) Prior to being assigned to Contractor, the MC Plan shall verify that each enrollee is eligible for Medi-Cal and Medicare through the monthly enrollment file received from DHCS.
 - b) On at least a monthly basis, the MC Plan shall verify the Medi-Cal and Medicare eligibility of Contractor's assigned enrollees and notify the contractor of all eligibility changes.
2. Contractor.
 - a) Prior to administering any non-emergency covered services, Contractor shall verify the enrollee's Medi-Cal and Medicare eligibility through the Automated Eligibility Verification System (AEVS).

7. The contract must document the service area covered by the D-SNP.

Sample contract language:

Contractor shall cover [Insert County] county as its service area. The service area under this contract shall not exceed the county boundaries (as defined by U.S. Postal Codes).

8. The contract must document the contract period for the D-SNP.

Sample contract language:

This contract shall be effective from January 1, 2013, through December 31, 2013.