Protecting the Rights of Low-Income Older Adults
State Dual Integration Projects:
What’s Going on?

Fay Gordon, Staff Attorney
The National Senior Citizens Law Center is a non-profit organization whose principal mission is to protect the rights of low-income older adults. Through advocacy, litigation, and the education and counseling of local advocates, we seek to ensure the health and economic security of those with limited income and resources, and access to the courts for all. For more information, visit our Web site at www.NSCLC.org.
Today: overview on the dual eligible demonstration projects

Update on the status of the dual eligible demo states

Overview of the Mass. three way contract and MOUs

CMS guidance

Opportunities for advocacy
Update on the status of the dual eligible demonstrations
State received approval (an MOU) for a demonstration.

State is currently pursuing a demonstration.

State applied for a demonstration, but withdrew.

Curious about the demonstration, but it’s not happening in my state.
Dual eligible demonstration: brief background

- Medicare and Medicaid
- 10.2 Million (7.4M Full)
- 60% Seniors 40% People with Disabilities
- High needs
- Low-income
- High Cost

Creation of Medicare Medicaid Coordination Office
Duals demos: Combine all services into one managed care plan

- Medicare
- Medicaid

One MCO for all services
Medicaid managed LTSS: LTSS through capitated care

Fee for service LTSS

- CMS and State
- LTSS Provider
- Beneficiary
- DME

Managed LTSS

- CMS and State
- MCO
- LTSS*
- Beneficiary
- DME*

* If provider is part of network and service part of care plan
States in different demonstration phases

More information: www.dualsdemoadvocacy.org
8 States approved

• Capitated (managed care) states:
  – Massachusetts, Illinois, Ohio, Virginia, California, New York

• Managed fee-for-service:
  – Washington

• Administrative changes:
  – Minnesota
Dual eligibles may have questions about changes on the horizon

<table>
<thead>
<tr>
<th>Choice</th>
<th>• Am I going to be forced into managed care?</th>
</tr>
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<tbody>
<tr>
<td>Time</td>
<td>• When do I need to think about this?</td>
</tr>
<tr>
<td>Notice</td>
<td>• How will I know if I have to make a change?</td>
</tr>
<tr>
<td>Access</td>
<td>• Will I lose access to my doctors?</td>
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In most states, changes are not happening yet.

<table>
<thead>
<tr>
<th>State</th>
<th>Notice Sent</th>
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| California (with major exceptions) | **First notice:** Jan. 2014  
                             **Second notice:** Feb. 2014  
                             **Third notice:** March 2014 |
| Illinois                      | Feb. 2014                                     |
| Ohio                          | Feb. 2014                                     |
| New York                      | May 2014 for community LTSS; Nov. 2014 for NH residents |
| Virginia                      | March 2014                                    |
Notices will explain choices and deadlines.

1. At least 2 notices—60 day and 30 day.
2. Passive enrollment: state picks a plan for you. If you do nothing, you will be enrolled in the plan the state picked.
3. When you get a notice, find out more. Read information, talk to your doctors, get enrollment counseling.
Learn the facts: Is your doctor part of a plan’s network?

1. You can continue to see your doctor if your doctor is in the plan’s network. If you need a new doctor, you will have to use one who is part of the plan.

2. Even if your doctor isn’t in the plan, you will be able to continue to see the doctor for a transition period until the plan sets up new providers for you.
Overview of the Three-Way Contract and MOUs
MOU: Agreement between CMS and state to begin a demo

• Memorandum of Understanding = MOU
• Explains at a high level the parameters of the demonstration:
  – Enrollment process
  – Covered benefits
  – Care continuity
  – Grievance and appeals
  – Network adequacy
Care continuity policies vary across states

<table>
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<tr>
<th>Transition Period</th>
<th>CA</th>
<th>IL</th>
<th>MA</th>
<th>NY</th>
<th>OH</th>
<th>VA</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>180/360 days Medicare/Medicaid</td>
<td>180 days</td>
<td>90 days</td>
<td>90 days</td>
<td>Depends on service</td>
<td>180 days</td>
</tr>
</tbody>
</table>

- Continuity of providers v. continuity of services

Appeals

• All MOU states:
  – Integration at plan level
  – Aid paid pending at plan level

• Most states:
  – If overlapping Medicare/Medicaid services, can pursue parallel tracks
  – Best resolution trumps

• Massachusetts contract says IRE will apply Medicare/Medicaid standard
New York: First state with an integrated appeals approach

Plan (APP cont’d)

State integrated hearing officer (APP cont’d)

Medicare Appeals Council (APP cont’d)

Federal District Court

APP = Aid Paid Pending an appeal (benefits continue during the appeal)
Three-way contract

Basic structure:

- Starting point to understand other state contracts

Many consumer protections detailed in the three-way contract

Key consumer sections in the three-way contract:

• Section 2 (p. 17-151):
  – Enrollment
  – Care Coordination
  – Assessments
  – Access to Services
  – Interdisciplinary Care Team
  – Long-term services and supports
  – Appeals
  – Enrollee Rights

• Ombudsman details in FOA, not three-way contract

Demonstrations may include additional benefits

Massachusetts Plans Benefits Package

Expanded services

Personal Care Attendant (PCA) and Durable Medical Equipment (DME)

Supplemental Services

Day services, home care services, respite care, peer support, care transitions assistance, home modification, community health workers, medication management, and non-medical transportation.

Beneficiaries may appeal denial of these benefits in the same manner as any Medicare or Medicaid benefit.

Mass contract identifies enrollee rights and protections

- Be treated with dignity
- Privacy and confidentiality in all aspects of care
- Receive a copy of medical records upon request
- No discrimination on the basis of race, ethnicity, national origin, religion, sex, age, sexual orientation, medical or claims history, mental or physical disability, genetic information or source of payment
- All plan options, rules and benefits fully explained, including through the use of a qualified interpreter
More enrollee rights in the three-way contract

- Be provided covered services
- Freedom from any form of restraint or seclusion used as a means of coercion, discipline, convenience or retaliation
- Full involvement in maintaining health and health care decision-making
- Receive current information required pursuant to the contract
CMS Guidance
CMS has shared several guidance documents

• MMC0 information on:
  – Marketing
  – Enrollment
  – Ombudsman
  – Joint Rate Setting
Ombudsman FOA describes basic requirements

• State requirements to receive funding for ombudsman:
  – States must have a signed MOU to receive funding
  – Funding will be provided over a three-year period to *plan, develop and provide* demonstration ombudsman services
  – Person-centered assistance to resolve demonstration problems

Address is #6 7th St., SE, Washington, DC 20003 (corner of East Cap and 7th St., SE)
Ombudsman FOA sets out three goals

- The demonstration ombudsman program will:
  - work to empower beneficiaries and support their engagement in resolving problems they have with their health care, behavioral health care, and LTSS;
  - investigate and work to resolve beneficiary problems with Plans; and
  - provide system-level analysis and recommendations.
CMS support to Demonstration Ombudsman

- Planning
- Technical Assistance
- Reporting
- Training needs
CMS Financial Support to Demonstration Ombudsman

- $12 million available for the demonstration
- Up to $3 million per state over three years
- California received funding approval:
  - $708,366 for first year
Ombudsman information in the FOA

• Additional guidance in the FOA:
  – Conflict free, culturally competent
  – Confidential, free to beneficiary
  – Role:
    • Education, outreach
    • Consumer assistance program
    • Conflict resolution
    • Identify systemic issues
  – Access to records of plan and service providers to resolve complaint
Opportunities for current ombudsman

• States are not restricted from using existing ombudsman services

• The state shall consider:
  – Existing entities
  – The capacity of existing entities to expand the scope of their work
  – How to avoid compromising the capacity of the State or designated entity providing services to the population
Opportunities for advocacy
Opportunities for advocacy: Preparing for implementation

• Know what is going on in your state

• Educate consumers and providers

• Plan your resources for the implementation phase
Duals Demo:

www.dualsdemoadvocacy.org

• Enrollment timelines
• MOU Summaries
• Informational webinars
Contact:
Fay Gordon
fgordon@nsclc.org
Questions?