August 24, 2012

Massachusetts and CMS Sign Off on First Memorandum of Understanding for Dual Eligible Integration Demonstration

As announced on Thursday, August 22, the Centers for Medicare and Medicaid Services (CMS) and Massachusetts have signed a Memorandum of Understanding (MOU) between the two for a demonstration to integrate care for dual eligibles. With the release of the MOU, Massachusetts is the first state to receive approval from the federal government to begin implementing a new system of integrated care for dual eligibles.

Massachusetts was one of 26 states to submit to the Medicare-Medicaid Coordination Office (MMCO) at CMS a proposal to participate in CMS' Dual Eligible Financial Alignment Demonstration. A draft of the proposal was first released in December 2011 for a state-level public comment period. In February, Massachusetts formally submitted the proposal to CMS for a 30 day federal comment period.

Over the spring and summer, Massachusetts and CMS negotiated the terms of the contract for the demonstration. The final agreement between the state and federal government was memorialized with the Memorandum of Understanding, released Thursday. The MOU has significant state and national implications. For Massachusetts consumers and their advocates, the MOU provides more detail than was previously available on the new delivery system, and stakeholders can begin preparing for the April 1, 2013 implementation date. For other states, the MOU provides an idea of the guidance and principles CMS will require for those states seeking to participate in the demonstration

The MOU provides insight into the plan between CMS and MA, but raises many questions and leaves significant detail to be determined in the three-way contract between CMS, the state and the managed care plans. While more time is needed to fully understand the MOU's impact, the following summary provides an overview of how the agreement impacts consumers:

- The Basics
    - Under the MOU, Massachusetts and CMS will contract with managed care plans to provide all Medicare and Medicaid services to dual eligibles aged 21-64. There are 109,000 of these individuals in Massachusetts. The managed care plans, referred to as Integrated Care Organizations (ICOs), will be paid on a capitated

basis. The demonstration will last from April 1, 2013 to December 31, 2016.

- Enrollment
    - ICOs may begin accepting enrollment from full dual eligible individuals aged 21-64 after January 1, 2013 for coverage beginning April 1, 2013. For individuals who do not elect to enroll in a plan, MassHealth will conduct passive enrollment in two periods: July 1, 2013 and October 2, 2013.[1] Individuals will have the ability to opt out of the demonstration prior to the passive enrollment taking effect. They will also retain the right to disenroll or switch plans on a month to month basis at anytime during the year.[2] CMS and MassHealth will utilize an independent third party to facilitate all enrollment into the participating plans.[3] CMS and MassHealth are developing uniform enrollment and disenrollment forms.[4]
        - *Details still to come in three-way contract:* MassHealth is working to develop an "intelligent assignment" algorithm for passive enrollment.[5]
- Care continuity
    - Integrated care organizations (ICOs) must allow enrollees to maintain current providers for 90 days, or until the ICO completes a service assessment, whichever is longer.[6] In urgent or emergency situations, the ICO must reimburse an out-of-network provider at the Medicare or Medicaid FFS rate applicable for the service. Beyond the 90 day transition period, under certain defined circumstances, plans will be required to offer an out-of-network agreement to providers who are currently serving the enrollee and are willing to continue serving them.[7]
- Care coordination

[1] Memorandum of Understanding between CMS and the Commonwealth of Massachusetts (August 22, 2012) at 56. Individuals 21-64 will be passively enrolled into the demonstration. Fully benefit dual eligibles who are currently in a PACE or Medicare Advantage program, or part of an Independence at Home demonstration may enroll if they wish. Individuals residing in an ICF/MR facility may not enroll, nor may individuals enrolled in a 1915(c) waiver.
[2] MOU at 9.
[3] MOU at 9.
[4] MOU at 10.
[5] MOU at 57.
[6] MOU at 82.
[7] MOU at 82. The circumstances for defined circumstances for the out of network exception are not discussed in the MOU.

- The ICOs will offer care coordination to all enrollees through a care coordinator or clinical care manager for medical and behavioral health services. Care coordination will also be offered through an Independent Living and LTSS coordinator contracted from a community based organization for LTSS.

    - *Details still to come in three-way contract:* Information about the roles and qualification for the coordinator.[8]

- Provider capacity

    - MassHealth and CMS will require the ICOs to contract with providers that demonstrate an ability to accommodate the physical access and flexible scheduling needs of enrollees.[9] ICOs and their contractors must provide interpreters for enrollees who are deaf or hard of hearing. They must also provide accommodations for members with cognitive limitations and interpreters for those who do not speak English.

        - *Additional development needed:* CMS and MassHealth will work with stakeholders to further develop monitoring mechanisms and quality measures to ensure ICOs and providers are in compliance with the ADA.[10]

- Network adequacy:

    - When evaluating the network for long-term supports and services, Medicaid standards will be utilized. If Medicare and Medicaid standards overlap, such as in home health and durable medical equipment (DME) requirements, the state will use the Medicaid standard, or the standard that is more stringent and beneficiary-friendly. MassHealth's standards for participating plans, such as including in the network at least two primary-care providers and two community LTSS providers within a 15 mile radius of the enrollee's home, will remain.[11]

- Supplemental services

    - In addition to the requirement that they provide all Medicare and Medicaid services, ICOS must also cover supplemental benefits including: day services, home care services, respite care, peer support/navigation, care transitions assistance, home modifications, community health workers, medication

[8] MOU at 58.
[9] MOU at 12.
[10] MOU at 13.
[11] MOU at 60.

management, non-medical transportation, preventive, restorative and emergency dental benefits, PCA, and DME.[12] Unfortunately, the MOU provides no standards for determining when these services must be provided.

- Benefit determination
    - The ICOs will be required to provide services that at least meet the Medicare or MassHealth definition of medical necessity.
        - *Details to come in the three-way contract*: If there is an overlap between Medicare and MassHealth, coverage and rules will be delineated in the contract.
- Grievances and appeals
    - All initial appeals must be filed within 60 days directly with the ICO. Plan appeals must be resolved within 30 days of submission for standard appeals, and within 72 hours for expedited appeals. Appeals for traditional Medicare A and B services will be automatically forwarded to the Medicare Independent Review Entity (IRE). If the appeal relates to a Medicaid benefit, the appeal may go to the MassHealth Board of Hearings. Aid paid pending will be provided for both Medicaid and Medicare A and B services during the internal appeal, but only for Medicaid services during the external appeal process. Existing appeal mechanisms for Medicare Part D will be unchanged.[13]

In addition to the consumer protections and services detailed in the MOU, the agreement also establishes principles for administration and reporting, ICO contracting, quality management, financing, and evaluation of the demonstration. The MOU indicates which Medicare and Medicaid statutes and regulations are being waived to allow for the demonstration. It also has a provision allowing for modification. Further analysis of the MOU will be provided soon.

More information on the dual eligible demonstrations and the 26 state proposals can be found at www.dualsdemoadvocacy.org. Questions about the Massachusetts MOU or the dual eligible demonstrations generally can be directed to Kevin Prindiville, Georgia Burke, or Fay Gordon.

[12] MOU at 70-81.
[13] MOU at 85.