April 6, 2020

Seema Verma, Administrator
Centers for Medicare and Medicaid Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Administrator Verma:

Arnold Ventures welcomes the opportunity to provide comments to the Centers for Medicare and Medicaid Services (CMS) on the "Medicare and Medicaid Programs; Contract Year 2021 and 2022 Policy and Technical Changes to the Medicare Advantage Programs, Medicare Prescription Drug Benefit Program, Medicaid Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly" proposed rule (CMS-4190-P) that was published in the federal register on February 18, 2020. We appreciate the agency's efforts administering the Medicare Advantage program. We know your staff has competing demands in addition to receiving a significant number of comments on this proposed rule. We are hopeful our comments are helpful to these endeavors and are happy to serve as a resource if any follow-up is needed.

Arnold Ventures is a philanthropy dedicated to investing in evidence-based policy solutions that maximize opportunity and minimize injustice. Our work within the health care sector is driven out of a belief our current system costs too much and it does not do a very good job of taking care of people who have one chronic condition, let alone a complex array of conditions. There is no population that this is truer for than people who are dually eligible for Medicare and Medicaid. That is why in July 2019 we launched a new effort centered on funding research, technical assistance, and policy solutions aimed at improving the systems that deliver care to this vulnerable population.

We have three objectives as part of this work: (1) increase integration between Medicare and Medicaid through existing or new models, as necessary; (2) increase enrollment in integrated coverage options; and (3) increase flexibility within Medicare and Medicaid to ensure that dual eligible individuals get the types of services that lead to better experiences, higher quality, and reduced costs.

We submit the following comments for consideration:

E. Contracting Standards for Dual Eligible Special Needs Plan (D–SNP) Look-Alikes (§ 422.514)

Background: The proposed rule outlines a policy aimed at limiting the spread of dual eligible special need plan (D-SNP) look-alikes. These are plans that on the surface share many similar characteristics of plans dedicated to integrating Medicare and Medicaid services, but in reality they are not required to coordinate care and oftentimes do not. This is confusing for people trying to understand their coverage options at best, and can be harmful to their health at worst. More specifically, CMS proposes to terminate existing contracts or refuse new contracts for non-D-SNP Medicare Advantage plans if: (1) the plan estimates that 80 percent or more of its members will be dual eligible individuals in its bid; or (b) the plan is comprised of over 80 percent of dual eligible individuals and other truly integrated options are available within the state.

Policy Position: We applaud CMS for taking action on this important issue, but we urge the agency to go further than what is proposed and reduce the threshold for look-alike plans to 50 percent at a minimum.

Justification: Where integrated coverage options exist for full benefit dual eligible individuals, they should be prioritized relative to non-integrated options. Preventing D-SNP look-alikes is essential to achieving this. However, a threshold of only 80 percent will not address the problem adequately according to existing research.

When the Medicare Payment Advisory Commission (MedPAC) conducted its analysis of D-SNP look-alike plans, it found that most plans where at least 50 percent of its members were dually eligible were aimed at attracting this population and "most [were] being offered in situations... that [enabled] plan sponsors to circumvent restrictions on offering a D–SNP."[1] Fifty four plans are estimated to meet the enrollment threshold of 80 percent, while 95 plans would meet the 50 percent threshold in 2019 (MedPAC, 2019). Further, the 80 percent threshold would not prevent the problem in the majority of states where look-alikes exist. There are only 13 states where look-alike plans' enrollment has reached the 80 percent threshold, while 35 states have plans operating in their market that meet the 50 percent threshold (MedPAC, 2019). States have no ability to regulate the availability of these plans within their market. As states implement programs aimed at coordinating Medicare and Medicaid, CMS should support them by ensuring plans that are not intended to integrate care for dually eligible individuals are not targeted towards them.

The MedPAC analysis we cite is the best publicly available research we have on this topic and it most closely examined plans at the 50 percent threshold which is why we are referencing that cut-off point. However, we are skeptical of any Medicare Advantage plan that has a significant number of people that are dual eligibles enrolled. We believe this population is best served in integrated coverage options. Thus, we encourage CMS to contemplate a threshold or another approach that would limit the number of dually eligible individuals enrolled into general Medicare Advantage plans even well below 50 percent. A change of this magnitude could be implemented

[1] Medicare Payment Advisory Committee. Chapter 12: Promoting Integration in Dual Eligible Special Needs Plans. June 2019.

over the course of several years to reduce disruption and allow time for clear and concise communication to impacted beneficiaries.

Additionally, we appreciate CMS' proposed codification of the existing marketing and broker requirements that might be helpful thwarting the targeting of dual eligible individuals by non-integrated coverage options. However, in order for these regulations to make a difference, CMS must strongly enforce them. To the extent that the agency feels its authority is limited to stop this behavior, we ask Congress to act and give the agency such authority.

Conclusion

Arnold Ventures is prepared to assist with any additional information needed. Please contact Arielle Mir at amir@arnoldventures.org with any questions. Thank you again for the opportunity to comment and your review.

Arielle Mir