

# JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

October 17<sup>th</sup>, 2022

Chiquita Brooks-LaSure, Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-2440-P  
P.O. Box 8016, Baltimore, MD 21244-8016

[Via electronic submission](#)

## **Re: RIN0938-AU52; Mandatory Medicaid and Children's Health Insurance (CHIP) Core Set Reporting**

Justice in Aging is an advocacy organization with the mission of improving the lives of low-income older adults. We use the power of law to fight senior poverty by securing access to affordable healthcare, economic security, and the courts for older adults with limited resources. We have decades of experience with Medicare and Medicaid, with a focus on the needs of low-income beneficiaries and populations that have traditionally lacked legal protection such as women, people of color, LGBTQ individuals, and people with limited English proficiency.

Justice in Aging supports efforts to strengthen data collection and reporting on care quality in the Medicaid and CHIP programs, including mandatory reporting on the 12.3 million persons eligible for both Medicare and Medicaid.<sup>1</sup> Insufficient coordination between the Medicare and Medicaid programs contributes to poor quality care and high overall spending on this population. Analysis of service quality, stratified by demographic elements, will aid states in identifying and implementing effective interventions to improve the health outcomes of dually eligible beneficiaries. **Justice in Aging supports the inclusion of populations dually eligible for Medicare and Medicaid in mandatory quality measures reporting, as this information will enhance the specificity and comprehensiveness of Medicaid quality reporting, further integration efforts, and advance health equity for beneficiaries.**

Justice in Aging's comments discuss our support for the changes outlined in the proposed rule specific to people dually eligible for Medicare and Medicaid. Our comments also explore solutions to ensure successful implementation of these changes. In addition to the comments below, Justice in Aging contributed to a sign-on letter produced by aging and disability stakeholder partners about this proposed rule.

### [Include Dual Eligible Populations in Core Set Reporting](#)

Standardized quality measures across the Medicaid program are critical to ensuring high-quality care for recipients. **To accomplish this goal, Justice in Aging supports this proposed rule's inclusion of specific populations historically excluded from reporting, such as populations that are dually eligible for Medicare and Medicaid, in mandatory Core Set measures.** Including dually eligible individuals will enhance states' ability to improve the beneficiary experience and provide a more nuanced picture of the impact of their Medicaid spending. While only 19 percent of Medicare enrollees, dually eligible

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<sup>1</sup> *Data Analysis Brief: Medicare-Medicaid Dual Enrollment 2006 through 2019.* (2020). CMS MMCO. <https://www.cms.gov/files/document/medicaremedicaiddualenrollmenteverenrolledtrendsdatabrief.pdf>



individuals account for 34 percent of Medicare spending.<sup>2</sup> Similarly, dually eligible individuals account for 30 percent of Medicaid spending while comprising only 14 percent of the Medicaid population.<sup>3</sup> A better understanding of service utilization, quality, and access, including but not limited to the core measures discussed in this proposed rule, will advance state-based efforts to identify beneficiaries' needs and develop complementary strategies to improve their health outcomes. For example, one in three dually eligible individuals is enrolled in a Dual Special Needs Plan (D-SNP).<sup>4</sup> Analysis of core measures data would enhance state understanding of the needs of their dually eligible population and thus could inform their approach to requirements they place on D-SNPs through the State Medicaid Agency Contract (SMAC) process.

### The Importance of Stratified Reporting by Demographic Elements

The proposed rule states that the Secretary will disaggregate state reporting of Core Set data “through a phased-in approach in which the Secretary would specify, through the annual reporting guidance, which measures and by which factors States must stratify reported measures.” The proposed rule also considers whether to “stratify data based on delivery system.” **We strongly support the analysis of quality measures by both demographic factors and delivery systems so that states will have the information needed to deploy targeted strategies that better account for the needs of Medicare and Medicaid recipients.** Compared to Medicare-only recipients, individuals dually eligible for Medicare and Medicaid are more likely to be female, Black or Latino, experience higher rates of chronic disease, utilize high-cost emergency services, and be limited in English proficiency.<sup>5</sup> More granular analysis of quality measures is critically important, especially for the dually eligible population, as unique needs stemming from the demographic diversity of dually eligible beneficiaries and coordination challenges between the Medicare and Medicaid programs puts them at increased risk of poor health and utilization of high-cost services. Disaggregating the Core Set data by delivery system will shed insight into how specific delivery types, including fee-for-service, managed care, and PACE, care for beneficiaries; this transparency is needed, especially given managed care's increased prominence in LTSS. **We also suggest data disaggregation, beyond the scope of this proposed rule, of Medicare and Medicaid data by demographic characteristics within each delivery system to better understand utilization, access, and quality for beneficiaries.** Technical assistance, as discussed below, is needed to support states in developing their capacity to conduct this analysis.

### Build State Capacity to Integrate Medicare and Medicaid Data

This proposed rule acknowledges that barriers such as “additional work to obtain and analyze Medicare utilization data” hinder reporting compliance. Challenges surrounding states' ability to link and analyze

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<sup>2</sup> *Dually eligible beneficiaries* : MACPAC. (n.d.). MACPAC. <https://www.macpac.gov/topics/dually-eligible-beneficiaries/>

<sup>3</sup> Ibid.

<sup>4</sup> Freed, M., Fuglesten Biniek, J., Damico, A., & Neuman, T. (2022). *Medicare Advantage in 2022: Enrollment Update and Key Trends*. Kaiser Family Foundation. [https://www.kff.org/medicare/issue-brief/medicare-advantage-in-2022-enrollment-update-and-key-trends/#:~:text=PNG-,More%20than%204.6%20million%20Medicare%20beneficiaries%20are,Special%20Needs%20Plans%20\(SNPs\)/](https://www.kff.org/medicare/issue-brief/medicare-advantage-in-2022-enrollment-update-and-key-trends/#:~:text=PNG-,More%20than%204.6%20million%20Medicare%20beneficiaries%20are,Special%20Needs%20Plans%20(SNPs)/). Given that there are 12.3 million dually eligible for Medicare and Medicaid, and 4.12 million individuals enrolled in D-SNPs, approximately one in three dually eligible individuals are enrolled in a D-SNP.

<sup>5</sup> *A Profile of Medicare-Medicaid Dual Beneficiaries*. (2022). ATI Advisory and Arnold Ventures. <https://atiadvisory.com/wp-content/uploads/2022/06/A-Profile-of-Medicare-Medicaid-Dual-Beneficiaries.pdf>

Medicare and Medicaid data prevent robust services analysis. Insufficient data coordination makes designing appropriate services for beneficiaries more challenging, resulting in poorer quality of care. States must develop the capacity to link Medicare and Medicaid data, not solely for the core measures outlined in this proposed rule, but to further integration efforts for dually eligible individuals. **CMS should encourage states to develop the data infrastructure needed to link Medicare and Medicaid datasets promptly so that states can identify and address the current needs of persons dually eligible for Medicare and Medicaid.**

**Technical assistance from CMS is needed to support states in developing system upgrades to ensure the usability of both Medicare and Medicaid data.** The suggestions outlined in the proposed rule, including one-on-one sessions, written guidance, measure specification, coding assistance, site visits, webinars, learning collaboratives, and shared best practices from states, are needed to ensure state compliance with reporting requirements. We also encourage CMS to explore technological interventions, such as open-source tools, that could be implemented at the federal and state levels to facilitate the integration of Medicare and Medicaid databases.

### Conclusion

Justice in Aging appreciates the essential steps CMS takes in this proposed rule to include persons dually eligible for Medicare and Medicaid in the applicable Core Set quality measures. We look forward to working with the agency to implement these important changes in order to enhance the quality of care for millions of people with Medicare and Medicaid. If any questions arise concerning this submission, please contact Hannah Diamond, Policy Advocate, at [hdiamond@justiceinaging.org](mailto:hdiamond@justiceinaging.org).

Sincerely,



Amber Christ  
Managing Director, Health Advocacy