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ISSUE BRIEF

Upcoming Changes for Dually Enrolled Individuals: The Final 2025 Medicare Advantage Rule

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Rachel Gershon, Senior Attorney
Tiffany Huyenh-Cho, Director, California Medicare and Medicaid Advocacy

INTRODUCTION

In April 2024, the Centers for Medicare and Medicaid Services (CMS) issued a final rule for 2025 Medicare Advantage Plans and Prescription Drug Plans ("Part C/D Rule" or "Final Rule").[1] This rule makes multiple changes relevant to individuals dually eligible for Medicare and Medicaid ("dually eligible individuals"), including:

- Changes to the Special Enrollment Period (SEP) to leave a Medicare Advantage plan, go back to Original Medicare, and pick a new Prescription Drug Plan;
- Creation of an SEP to enroll into certain integrated Dual Eligible Special Needs Plans (D-SNPs);
- Changes to who can enroll in certain D-SNPs and when;
- Changes to Medicare Plan Finder; and
- Changes to how plans manage Special Supplemental Benefits for the Chronically Ill (SSBCI).

These changes will take place over time, starting in 2024 and continuing to 2030.[2] Effective dates are noted throughout this brief.

CHANGES TO SPECIAL ENROLLMENT PERIODS FOR DUALLY ELIGIBLE INDIVIDUALS AND LOW-INCOME SUBSIDY/EXTRA HELP ENROLLEES

The new Part C/D Rule made changes to when a dually eligible individual can leave or switch Medicare Advantage Plans (including D-SNPs). Specifically, the Final Rule modified an existing SEP and introduced a new SEP for certain D-SNPs. Following the Final Rule, dually eligible individuals and Low-Income Subsidy

(LIS) recipients will be able to make monthly changes to their enrollment in Medicare Advantage plans. The rules vary for full-benefit dually eligible individuals, partial-benefit dually eligible individuals, and people who are enrolled in the LIS program but who are not also enrolled in Medicaid (this group will be referred to as "LIS-only").[3] In summary, the Final Rule makes the following changes to SEPs described in more detail below:

- The current quarterly SEP available to all dually eligible individuals and LIS-only individuals, which allowed individuals to switch, or in certain circumstances, disenroll from a Medicare Advantage plan is eliminated (as of January 1, 2025).[4]
- There is a new monthly SEP for all dually eligible individuals and LIS-only individuals to disenroll from a Medicare Advantage plan with prescription coverage (Medicare Advantage Prescription Drug plan, or MAPD plan), return to Original Medicare, and enroll in a standalone prescription drug plan (as of January 1, 2025).[5]
- There is a new monthly SEP for all dually eligible individuals and LIS-only individuals to change standalone Prescription Drug Plan enrollment (as of January 1, 2025).[6]
- There is a new monthly SEP for full-benefit dually eligible individuals to enroll into integrated and aligned D-SNPs (as of January 1, 2025). [7]
- All other SEPs remain the same.[8]

ACRONYMS

AIP: Applicable Integrated Plan

CMS: Centers for Medicare and Medicaid Services

D-SNP: Dual Eligible Special Needs Plan

FIDE SNP: Fully Integrated Dually Eligible Special Needs Plan

HIDE SNP: Highly Integrated Dually Eligible Special Needs Plan

LIS: Low Income Subsidy (also known as Extra Help)

MAPD: Medicare Advantage Prescription Drug (Medicare Advantage plans with drug coverage)

PPO: Preferred Provider Organization

SEP: Special Enrollment Period

SSBCI: Special Supplemental Benefits for the Chronically Ill

New Monthly SEP for Dually Eligible Individuals and Low-income Subsidy Recipients

In 2018, CMS created a quarterly SEP that permitted dually eligible individuals and LIS recipients to enroll or disenroll from a Medicare Advantage plan with the prescription benefit or standalone Part D plan once per quarter (every three months).[9] Today, enrollment or disenrollment is effective the first day of the following month if the change is made in the first three quarters of the year. In the last quarter of the year, dually eligible individuals and LIS recipients must wait until the Annual Enrollment Period (Oct. 15 – Dec. 7). Any changes made during this time are effective January 1st of the following year. Effective January 1, 2025, this quarterly SEP is eliminated.

In place of the quarterly SEP, CMS created a new SEP for dually eligible individuals and LIS-only individuals to make changes to their MAPD and Prescription Drug Plan enrollment on a monthly basis, one time per month.[10] This SEP allows individuals to switch to a different standalone prescription drug plan or disenroll from a Medicare Advantage plan into Original Medicare and enroll in a standalone prescription drug plan.[11]

While individuals can use this SEP to return to Original Medicare and enroll in a standalone Prescription Drug Plan on a monthly basis, the SEP cannot be used to enroll into another Medicare Advantage plan. This new monthly SEP is effective January 1, 2025.

Who is impacted?

All dually eligible individuals and people receiving LIS or "Extra Help."

New Integrated Special Enrollment Period

To facilitate enrollment into integrated Medicare Advantage plans, the Final Rule creates a new SEP for full-benefit dually eligible individuals: the Integrated SEP. Starting January 1, 2025, full-benefit dually eligible individuals can choose to enroll into, or switch between, integrated D-SNPs on a monthly basis.[12] This SEP is limited and can only be used by full-benefit dual eligible individuals to enroll into integrated plans to align enrollment between their Medicare and Medicaid plans. This SEP can be used to enroll into: (1) A Fully Integrated Dually Eligible Special Needs Plan (FIDE SNP); (2) A Highly Integrated Dually Eligible Special Needs Plan (HIDE SNP); or (3) A D-SNP that is an Applicable Integrated Plan (AIP). For more on the different types of D-SNPs, see Justice in Aging's, Dual Eligible Special Needs Plans: What Advocates Need to Know.

This SEP is not available to enroll into (1) A Coordination Only D-SNP that is also not an AIP or (2) A standard Medicare Advantage plan. CMS cited their goals of increasing dually eligible enrollment in aligned plans in states where they are available as the basis for creating this new integrated SEP.

Who is impacted?

This SEP is limited to full-benefit dually eligible individuals with access to an integrated, aligned plan. LIS-only individuals, partial-benefit dually eligible individuals, and Medicare-only individuals cannot use this SEP. Currently, partial-benefit dually eligible individuals and LIS-only individuals have a quarterly SEP to switch Medicare Advantage Plans; as described above, this option is eliminated beginning January 1, 2025.

All populations will continue to be able to make a Medicare Advantage plan choice during the initial enrollment period, the annual enrollment period, and Medicare Advantage Open Enrollment period. Other SEPs will also continue to be available. For more information about times when individuals can enroll in, change, or disenroll from Medicare Advantage plans, see CMS' website on Joining a Plan.

What happens if a person uses both the monthly and integrated SEP in the same month?

If the monthly SEP and the integrated SEP are used in the same month, the SEP that was chosen last in time will be effective. For example, Mr. Rufio uses the monthly SEP to disenroll back to Original Medicare on September 3rd and on September 15th, uses the integrated SEP to enroll into "Integrated Plan A." The integrated SEP is last in time and Mr. Rufio will be enrolled into Integrated Plan A on October 1st.

Enrollment Restrictions Compared to Current SEP Policy

While the new SEPs simplify enrollment choices and advance goals of integration, the changes also act to limit enrollment and disenrollment options compared to before the Final Rule as follows:

- Individuals with LIS, but who are not also enrolled in Medicaid, will no longer be allowed to switch Medicare Advantage plans on a quarterly basis. They must wait until Open Enrollment, an initial enrollment period, or meet the requirements for one of the other SEP options available.[13]
- Partial-benefit dually eligible individuals will no longer be allowed to switch between Medicare Advantage plans on a quarterly basis. They must wait until Open Enrollment, an initial enrollment period, or meet the requirements for one of the other Medicare Advantage SEP options available.

- Full-benefit dually eligible individuals will no longer be allowed to switch Medicare Advantage plans on a quarterly basis when their choice of plan is not integrated and aligned. They must wait until Open Enrollment, the Medicare Advantage Open Enrollment period, an initial enrollment period, or meet the requirements for one of the other Medicare Advantage SEP options available to enroll into an un-integrated and aligned plan.
- Some states restrict when a person can change Medicaid managed care plans. Combined with the Final Rule that requires Medicaid managed care alignment to enroll into an integrated D-SNP, individuals may have limited opportunities to change plans.

Advocacy Opportunities

Advocates can push states to align their Medicaid managed care plan "lock in" rules to coordinate with opportunities to change Medicare Advantage plans (e.g. during the Medicare Advantage enrollment period from January to March each year).

SUMMARY OF SPECIAL ENROLLMENT PERIOD CHANGES IN 2025

GROUP	CURRENT RULES	FINAL RULE (JANUARY 1, 2025)
All groups (full benefit dually eligible individuals, partial benefit dually eligible individuals, and LIS-only individuals)	On a **quarterly** basis, these individuals can disenroll from their Medicare Advantage Prescription Drug* (MAPD) plan and join Original Medicare. They can enroll in a standalone Prescription Drug Plan at the same time.	On a **monthly** basis, these individuals will be able to disenroll from their MAPD and join Original Medicare. They can enroll in a standalone Prescription Drug Plan at the same time.
Full-benefit dually eligible individuals	On a **quarterly** basis, these individuals can change Medicare Advantage plans.	On a **monthly** basis, these individuals can change from Original Medicare or a Medicare Advantage plan to (1) A Fully Integrated Dually Eligible Special Needs Plan (FIDE SNP), a Highly Integrated Dually Eligible Special Needs Plan (HIDE SNP), or a D-SNP that is an Applicable Integrated Plan (AIP) aligned with their Medicaid managed care enrollment.
Partial-benefit dually eligible individuals	On a **quarterly** basis, these individuals can change Medicare Advantage plans.	Partial-benefit dually eligible individuals will no longer have a SEP to change Medicare Advantage plans on a quarterly basis. Other SEPs may apply including **the new monthly SEP** to return to Original Medicare and a standalone PDP.

GROUP	CURRENT RULES	FINAL RULE (JANUARY 1, 2025)
LIS-only individuals	On a **quarterly** basis, these individuals can change Medicare Advantage plans.	LIS-only individuals will no longer have an SEP to change Medicare Advantage plans on a quarterly basis. Other SEPs may apply including **the new monthly SEP** to return to Original Medicare and a standalone PDP.

**A Medicare Advantage Prescription Drug Plan is a Medicare Advantage Plan that includes prescription drug coverage. Most, but not all, Medicare Advantage plans are also Medicare Advantage Prescription Drug Plans.*

CHANGES TO D-SNP ENROLLMENT AND CONTRACTING

CMS also introduced new rules that will limit the number of certain D-SNPs that a parent organization can offer and who can enroll in these D-SNPs. Together, these new policies are intended to increase aligned enrollment between the D-SNP and Medicaid Managed Care Organization (MCO). First, some definitions:

- An aligned Medicaid MCO is described in the federal regulation as a Medicaid MCO that operates under a contract with the state and (a) the D-SNP; (b) the D-SNP's parent organization; or (c) another entity that is owned and controlled by the D-SNPs parent organization.
- Aligned enrollment describes a scenario where an individual is enrolled in both a D-SNP and the D-SNP's aligned Medicaid MCO.
- Exclusively aligned enrollment is a term that refers to a situation where D-SNP enrollment is limited only to individuals who receive their Medicaid benefits through the D-SNP or the D-SNP's aligned Medicaid MCO. Exclusively Aligned Enrollment policies can be set by federal rules, state rules, or the plans themselves.

For example, the insurance parent company "CareRight" operates CareRight Complete D-SNP and CareRight Preferred Medicaid MCO. If a person were enrolled in both that D-SNP and that Medicaid MCO, it would be considered "aligned enrollment." If CareRight, or the state, or the federal government required that Care Right Complete D-SNP only allow CareRight Preferred Medicaid MCO members to enroll in the D-SNP, then that would be considered "exclusively aligned enrollment."

Changes to Exclusively Aligned Dual Eligible Special Needs Plans

CMS is phasing in two changes to D-SNPs who serve full-benefit dually eligible individuals and whose parent organization also operate a Medicaid MCO in the same, or overlapping, service area as the D-SNP.

First, starting January 2027, if a D-SNP has an affiliated Medicaid MCO, then their parent organization can only offer one D-SNP for full-benefit dually eligible individuals in a service area.[14] Currently, Medicare Advantage organizations may offer more than one D-SNP that serves the same service area, or county, with little discernible difference between D-SNP offerings.

Second, also starting January 2027, these D-SNPs will only be permitted to enroll new members who are also enrolled in the affiliated Medicaid MCO, and, effective January 1, 2030, these D-SNPs will only be permitted to have members who are also enrolled in the affiliated Medicaid MCO.[15] Enrollees who are not enrolled in the affiliated MCO after January 1, 2030 will be disenrolled from the D-SNP. This rule only applies to D-SNPs that serve full-benefit dual eligible individuals and who have affiliated MCOs.

Who is impacted?

Starting in 2027, a full-benefit dually eligible individual who enrolls in D-SNPs with an affiliated Medicaid MCO will not have a choice of Medicaid MCO and must be in the matching, or affiliated Medicaid MCO. By January 1, 2030, all enrollees of these D-SNPs must be enrolled in the affiliated Medicaid MCO or they will be disenrolled from the D-SNP. If the D-SNP has partial-benefit dually eligible members, they will also be disenrolled from the D-SNP.

There are a few exceptions to the requirement that organizations only operate one D-SNP in a service area.

- Organizations can operate multiple D-SNPs in overlapping service areas if the company does not also operate a Medicaid MCO. If a D-SNP does not have an affiliated Medicaid MCO, they are permitted to enroll full dually eligible individuals regardless of their Medicaid MCO enrollment.
- Organizations can operate more than one D-SNP with an affiliated Medicaid MCO if the D-SNPs serve different eligibility groups, such as different age groups or to align enrollment in the D-SNP with the Medicaid MCO eligibility criteria present in a state.[16] These differentiations must be required by the State Medicaid Agency Contracts. For example, a Medicare Advantage organization can offer two D-SNPs in the same service area, with one serving only members aged 65 plus and another serving younger people who are on Medicare due to disability and not age (under 65).
- This restriction also does not apply to D-SNPs whose plan membership is limited to partial-benefit dually eligible individuals. A Medicare Advantage parent organization can operate an additional D-SNP in the same service area if membership is focused exclusively on partial-benefit dually eligible individuals, even if that parent organization has an affiliated Medicaid MCO.

There are also exceptions to the enrollment restrictions.

- If a D-SNP does not have an affiliated Medicaid MCO, they will be permitted to enroll full dually eligible individuals regardless of their Medicaid MCO enrollment status. (Note that if an individual is enrolling in such an unaffiliated D-SNP, then they would not be able to use the Integrated SEP).
- This enrollment restriction also does not apply to D-SNPs whose plan membership is limited to partial-benefit dually eligible individuals.

HELPING DUALLY ELIGIBLE INDIVIDUALS WITH PLAN CHOICE

Further Restrictions on "D-SNP look-alikes"

Currently, hundreds of non-D-SNP Medicare Advantage plans enroll high percentages of dually eligible individuals.[17] These plans are often referred to as "D-SNP look-alikes" and they enroll a large number of dually eligible individuals, but are not subject to requirements designed to serve those dually eligible individuals. D-SNP look-alikes are under increased scrutiny because they undermine efforts to improve integrated care and have no contractual responsibility to coordinate care, unlike true D-SNPs. Please see Justice in Aging's issue brief Dual Eligible Special Needs Plan (D-SNP) Look-Alikes: A Primer, to learn more.

The Final Rule builds on prior rulemaking to curb D-SNP look-alikes. If a Medicare Advantage plan is identified as a "look-alike" by CMS, CMS will not contract, or renew their contract, with the plan.[18] Today, the current enrollment threshold of dually eligible individuals that triggers a plan designation of "look-alike" is 80%. For plan year 2025, the threshold will drop to 70%. For plan year 2026 and beyond, the threshold will drop further to 60%.[19] If this provision was in effect today, it would affect 70 Medicare Advantage plans.[20]

This provision will help dually eligible individuals by reducing the incentives to steer them into plans that may not be designed to meet their needs.

Changes to Medicare Plan Finder

Medicare Plan Finder allows individuals to find available Medicare Advantage and Part D plans by zip code. Following a solicitation of comments as part of the Final Rule process, CMS has decided to take administrative action and change Medicare Plan Finder to help dually eligible individuals understand the full range of benefits available to them. For certain D-SNPs[21], in 2025, Medicare plan finder will indicate both Medicaid and Medicare services as available.[22]

IMPROVING SPECIAL SUPPLEMENTAL BENEFITS FOR THE CHRONICALLY ILL

Special Supplemental Benefits for the Chronically Ill (SSBCI) are benefits that Medicare Advantage plans are allowed to offer in addition to Traditional Medicare services. They can include transportation, food assistance, home modification, and even cash cards. In the last few years, Medicare Advantage plans have heavily marketed supplemental benefits, including SSBCI, and this marketing has driven plan choice and enrollment. And yet, CMS still has little data on whether eligible individuals are able to access SSBCI once they enroll in plans. The Final Rule makes a number of changes to improve transparency and access to SSBCI by:

- Curbing misleading SSBCI advertising. Starting October 2024, Medicare Advantage plans will need to include more information in their advertising regarding the eligibility criteria for SSBCI to make clear that not everyone who signs up for a Medicare Advantage plan will get that plan's SSBCI benefits.[23]
- Stabilizing eligibility criteria. Starting in January 2025, Medicare Advantage plans will not be allowed to change eligibility criteria in the middle of a plan year. Medicare Advantage plans will be required to use objective criteria when determining whether an enrollee is eligible for SSBCI.[24]
- Documenting SSBCI approvals and denials. Starting in January 2025, Medicare Advantage plans will need to keep a record of both when they approve and when they deny a request for SSBCI. That data must be provided to CMS on request.[25]
- Showing evidence of SSBCI effectiveness. Medicare Advantage plans are now required to submit evidence of SSBCI effectiveness as part of their bids submitted to CMS in order to offer a specific SSBCI.[26]
- Notifying Medicare Advantage enrollees of available SSBCI. Starting in January 2026, Medicare Advantage plans will be required to send notices to enrollees letting them know which SSBCI they are likely eligible for and not using.[27] The Final Rule does not require plans to let members know about SSBCI that they have used but not exhausted.

Advocacy Opportunities

Advocates can observe and report on how plans are implementing these requirements, and file complaints when they are not being properly followed. For example, some SSBCI notices may not include clear instructions for how to access SSBCI, or a plan may change its eligibility criteria in the middle of a plan year.

OTHER RULE CHANGES

Additional changes relevant to dually eligible individuals in the Final Rule include:

- New Network Adequacy Rules for Mental Health and Substance Use Disorder Services. Starting January 1, 2025, CMS will require Medicare Advantage plans to show they have a certain number of mental health or substance use disorder treatment providers within their plan area.[28]
- Restrictions on D-SNP Preferred Provider Organization (PPO) Cost-Sharing. Starting in 2026, D-SNP PPOs will have their cost-sharing amounts limited.[29] This will address some issues with high cost-sharing that states are paying for out-of-network PPO services for Medicaid enrollees.
- Improved Language Access. Starting for contract year 2026, CMS will change the required languages in the Notice of Availability of Language Assistance Services and Auxiliary Aids and Services ("Notice of Availability", formerly known as the "multi-language insert"). These changes will be more in line with Medicaid requirements and with the languages spoken in the state.[30]
- Changes to Prior Authorization and Other Utilization Management. Medicare Advantage plans will be required to issue an annual report on their prior authorization data and how it intersects with health equity (starting in 2025). Medicare Advantage plans will also be required to have at least one utilization management committee member with experience with health equity (effective January 1, 2025).[31]
- State Access to Encounter Data. Effective January 1, 2025, the Final Rule makes it easier for states to access Medicare Advantage encounter data, which will be helpful for states to assess the state of their dually enrolled population.[32]
- Agents and Brokers. Brokers and agents will now be subject to contract and payment restrictions designed to prevent large inducements to sign individuals up for Medicare Advantage plans (note that this provision has been paused due to an ongoing lawsuit).[33]

CONCLUSION

The Final 2025 Medicare Advantage Rule makes major changes to D-SNP enrollment and contracting; Medicare Advantage plan choice, SSBCI, and other areas. These changes have the potential to improve the experience of dually eligible individuals. However, the D-SNP landscape is complicated, and could give rise to unintended consequences. Advocates who are concerned about the impact of the Final Medicare Advantage Rule should contact Rachel Gershon at rgershon@justiceinaging.org.

ENDNOTES

1 Center for Medicare and Medicaid Services, Medicare Part C and D 2025 Final Rule, 89 FR 30,448 (April 23, 2024).

2 Applicability dates can be found at 89 FR 30,448.

3 Full-benefit dually eligible individuals have full Medicaid in addition to Medicare. They may also be enrolled in a Medicare Savings Program. Partial-benefit dually eligible individuals have a Medicare Savings Program in addition to Medicare, but do not have full Medicaid. LIS-only individuals have LIS, but do not have Medicare Savings Program or full Medicaid.

4 89 FR 3,0677. The regulation for this SEP is currently at 42 C.F.R. § 423.38(c)(4).

5 89 FR 30,677. To be codified at 42 C.F.R. § 423.38(c)(4)(i).

6 89 FR 30,677. To be codified at 42 C.F.R. § 423.38(c)(4)(i).

7 89 FR 30,677. To be codified at 42 C.F.R. § 423.38(c)(35).

8 See CMS, Special Enrollment Periods.

9 42 C.F.R. § 423.38(c)(4).

10 Individuals enrolled in a Medicare Advantage plan that does not include drug coverage do not have the opportunity to disenroll from the Medicare Advantage plan using this SEP.

11 89 FR 30,678.

12 89 FR 30,676-30,678.

13 For a complete list of 2024 Special Enrollment Periods for Part D, see CMS, "Special Enrollment Periods," and Medicare Interactive, "Changing Part D Plans."

14 42 C.F.R. § 422.514(h)(1)(i)).

15 42 C.F.R. § 422.514(h)(2)).

16 42 C.F.R. § 422.514(h)(3)).

17 89 FR 30,707.

18 Enrollees will be transitioned out of the plan. 42 C.F.R. § 422.514(d); See also CMS memo, Dual Eligible Special Need Plan "Look-Alike" Transitions for Contract Year 2025, (April 5, 2024).

19 42 C.F.R. § 422.514(d).

20 89 FR 30,707.

21 Specifically, for D-SNPs that are Applicable Integrated Plans.

22 CMS memo, "Medicare Plan Finder Enhancements for Contract Year 2025," (May 31, 2024). Note that the website linked gives individuals an opportunity to download a zipped file containing HPMS memos from the week of May 27 – 31. The CMS memo referenced here is in that zipped file, entitled CY2025_MPF_HPMS_updates_05312024_final.

23 To be codified at 42 CFR § 422.2267(e)(34).

24 To be codified at 42 CFR §422.102(f)(3)(v); 422.102(f)(4)(iv).

25 To be codified at 42 CFR § 422.102(f)(4)(v).

26 To be codified at 42 CFR § 422.102(f).

27 To be codified at 42 C.F.R. §§ 422.111, 422.2267(e)(42). Effective date at 89 FR 30,565. Cost-sharing reductions will not be included in the mid-year notice.

28 To be codified at 42 C.F.R. § 422.116(b)(2)(xiv).

29 To be codified at 42 C.F.R. § 422.100(o).

30 To be codified at 42 C.F.R. § 422.2267(e)(31).

31 To be codified at 42 C.F.R. § 422.137.

32 To be codified at 42 C.F.R. § 422.310.

33 To be codified at 42 C.F.R. § 422.2274; See Maya Goldman, "Judge Pauses New Pay Cap Policy for Medicare Brokers" (July 9, 2024); See Americans for Beneficiary Choice v. HHS, Civil Action Nos. 4:24-cv-00439-O, 4:24-cv-00446-O (July 3, 2024).