

# Legal Basics: Dual Eligible Special Needs Plans

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- Written materials and a recording will be available at [NCLER.acl.gov](http://NCLER.acl.gov). See also the chat box for this web address.

# About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living's Administration on Aging.

# About Justice in Aging

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources.

Since 1972 we've focused our efforts primarily on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency.

# Key Lessons

- Dually eligible individuals have a choice with their Medicare coverage – they can remain in Original Medicare or choose another option like Medicare Advantage
- D-SNPs are a type of Medicare Advantage Plan
- Some states have D-SNP enrollment policies
- D-SNPs can offer supplemental benefits
- D-SNPs can vary in their level of integration
- Some D-SNPs must offer integrated appeals

# Agenda

- Overview of Dual Eligible Special Needs Plans
- Enrollment
- Integration Levels
- D-SNP Requirements
- Preparing for D-SNPs

# Overview

# What are D-SNPs: Dual Eligible Special Needs Plans

- Subset of Medicare Advantage
  - Provider networks, prior authorizations
- Core elements unique to D-SNPs
  - Enrollment limited to dually eligible individuals or a subset
  - State Medicaid Agency Contract (SMAC)
  - Federal requirement for *some* coordination with Medicaid services



# D-SNPs Are Growing – Fast!

- 5 million enrollees across 45 states & D.C. in 851 D-SNPs
- 93% of duals live in a county where at least one D-SNP is available
- Demographics:
  - More likely to have chronic illness; more likely to be admitted to hospital, more likely to be a person of color

# Who Regulates D-SNPs?

- Center for Medicare and Medicaid Services (CMS) sets minimum ground rules
- State Medicaid agencies use State Medicaid Agency Contracts (SMACs) to impose additional requirements
  - Enrollment criteria
  - Care coordination
  - Plan materials

**SMACs are key. States have broad discretion about how D-SNPs will operate.**

# Enrollment

# Paths to Enrollment

- Agents and brokers can market D-SNPs
- Default enrollment—at state option
  - D-SNPs must meet specific criteria
  - Limited to individual newly eligible for Medicare at age 65 and/or disability
  - Requires notice with opportunity to opt-out
- Details to look for:
  - Default enrollment notices and care continuity policies
- State Counseling Health Insurance Programs offer Medicare counseling:
  - <https://www.shiphelp.org/>

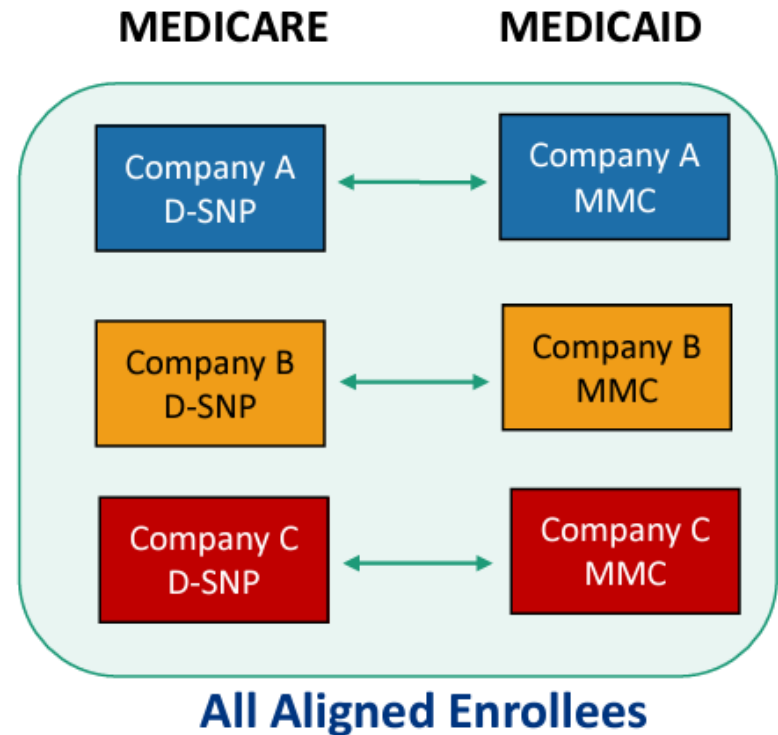
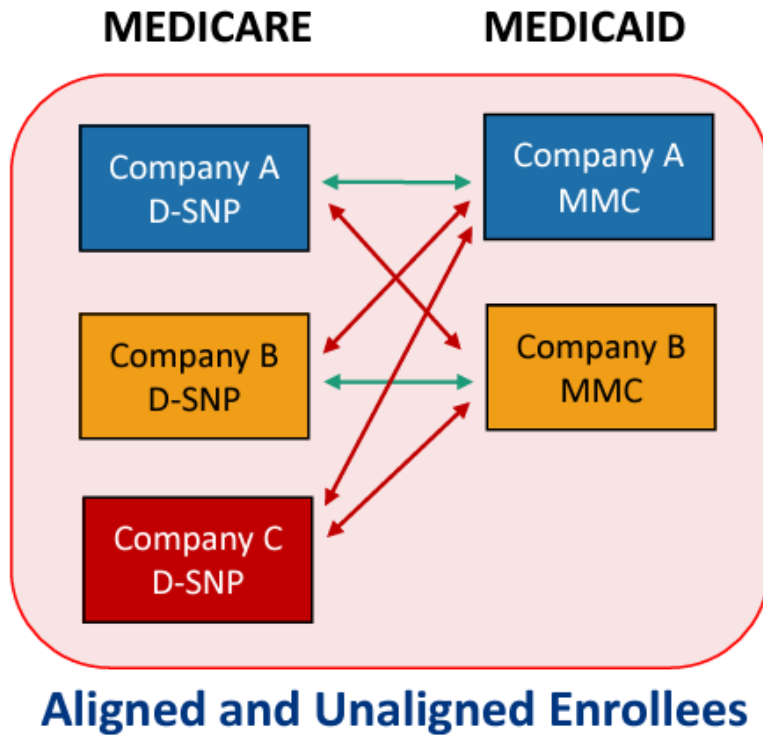
# Enrollment: Who Can Enroll

- Generally, full benefit dually eligible individuals - simultaneously enrolled in Medicare and Medicaid
- “Partial duals” - Medicare and a Medicare Savings Program, but not full Medicaid coverage
  - MSPs offer no Medicaid benefits so nothing to coordinate
  - But D-SNP supplemental benefits are sometimes valuable to MSP-only individuals
- States can set enrollment criteria

# Aligned Enrollment

- **Aligned Enrollment:** enrolled in D-SNP and the Medicaid managed care plan (MMCO) affiliated with the D-SNP
- **Exclusively Aligned Enrollment:** D-SNP membership limited to enrollees in matching MCO
- Unaligned: D-SNP plan without a matching MMCO
  - D-SNP members in fee-for service Medicaid, or in misaligned MMCO operated by another sponsor
- Aligned enrollment creates financial incentive to reduce unnecessary spending & duplicative services, increase communication between D-SNP and MMCO

# Aligned vs Unaligned Enrollees



- MMC = Medicaid Managed Care

- Graphic Credit: Integrated Care Resource Center, [Using Exclusively Aligned Enrollment to Integrate Medicare and Medicaid Benefits for Dually Eligible Individuals](#) (June 2023).

# Disenrollment

- In all cases, can change plans or move to Original Medicare during any available enrollment period
  - Medicare Advantage General Enrollment Period
  - Quarterly Special Enrollment Period
  - Several others on [Medicare.gov](https://www.medicare.gov)



# Integration Levels

# D-SNP Categories

- **FIDE-SNP (Fully Integrated D-SNP):** has contract with the state to provide virtually all Medicaid services to its members
- **HIDE-SNP (Highly Integrated D-SNP):** SNP or its matching MMCO has contract with the state to provide *most* Medicaid services, but not all
- **Coordination Only D-SNPs:** D-SNP provides Medicare services and Medicaid provided by MMCO or fee-for service Medicaid

# D-SNP Enrollment

- **As of January 2024:**
  - 400,000 individuals enrolled in FIDE-SNPs
  - 2.1 million individuals enrolled in HIDE-SNPs
  - 3.3 million individuals enrolled in CO D-SNPs
  - Source: CMS, SNP Comprehensive Data

# FIDE SNPs

- One entity provides almost all Medicare and Medicaid services
  - Separate accountability - Medicare and Medicaid funding streams are not co-mingled
- Highest level of integration - integrate enrollee communication materials, grievances, and appeals
- FIDE-SNPs get higher level of payment from Medicare
- FIDE - 7% of all D-SNP enrollment
- 2025 – must be exclusively aligned, cover additional Medicaid services

# HIDE SNPs

- D-SNPs that provide coverage of most Medicaid benefits
  - HIDE SNP can carve out behavioral health *or* long-term services & supports
  - Can be 2 entities: MMCO and D-SNP as long as affiliated
- Exclusive alignment not required unless state says so
- Can be stepping stone to FIDE-SNP status

**Remember - Most D-SNPs today are *not* FIDE-SNPs or HIDE-SNPs**

# CO D-SNPs

- Coordination-Only D-SNPs: D-SNP has no clinical or financial involvement on Medicaid side
  - Provide care coordination
  - Must notify Medicaid when certain enrollees are hospitalized or admitted to nursing facility

# Applicable Integrated Plans

- New designation for D-SNPs
- In order to be an AIP:
  - **FIDE SNPs** must have exclusively aligned enrollment. All FIDE SNPs will be AIPs by 2025
  - **HIDE SNPs** must have exclusively aligned enrollment
  - **CO D-SNPs** must have exclusively aligned enrollment and the CO D-SNP (or affiliated Medicaid plan) must cover certain additional Medicaid services
- AIPs can only exist in states that also have Medicaid managed care

# Medicaid Managed Care Landscape

- States vary in terms of managed care offered to dually eligible individuals
- Considerations:
  - Consumer protections during transitions, including for carved-out services
  - Individual experience and access



# D-SNP Requirements

# Minimum Requirements

- All D-SNPs must:
  - Develop an evidence-based Model of Care
  - Coordinate all Medicaid benefits, including Medicaid fee for service benefits
  - Assist with grievances and appeals
  - Screen for transportation, housing, and food needs
  - As of January 2023, establish an enrollee advisory committee

# Communications

- Aligned D-SNPs can combine enrollment information, provider directories, etc. for both Medicare and Medicaid services
- Considerations:
  - Translation requirements can vary between Medicaid and Medicare
  - Focus groups and enrollment advisory councils can be helpful for testing message clarity
  - Capacity of state and health plan contact centers to answer Medicare and Medicaid questions

# Care Coordination

- At minimum, coordinate Medicaid services across delivery spectrum
- Establish care plan and care team
- Ensuring communication among providers
- Coordinating during transitions-hospital/skilled nursing/home, etc.
- Assisting with maintaining Medicaid eligibility
- Good data exchange throughout

# Supplemental Benefits

- D-SNPs can offer supplemental benefits (vision, dental, hearing – food, cash cards, etc.) beyond Part A and Part B
- Considerations:
  - Availability of eligibility criteria for supplemental benefits
  - Are individuals given information and assistance with coordinating supplemental benefits with Medicaid?

# Social Determinants of Health

Conditions in the environments where people are born, live, learn, work, play, worship, and age that affect a wide range of health, functioning, and quality-of-life outcomes and risks.  
(HHS definition)

D-SNP responsibility to:

- Learn the individual's situation
- Address SDOH
  - Through supplemental benefits
  - Through referrals to other sources of assistance
  - Through collaborations and partnerships

# Appeal Process

- D-SNPs with AIP designation must offer a unified appeal process at the plan level
  - D-SNP reviews request using both Medicaid and Medicare criteria, sends a single notice with the determination
  - Covers the initial decision and 1<sup>st</sup> level reconsideration
  - Higher levels of appeal are not integrated
- Non-AIP appeals are not integrated

# Upcoming New D-SNP Requirements 2025 Proposed Rulemaking

- Reduce “choice overload”
- Promote aligned enrollment through state D-SNP contracting
- New monthly SEP for integrated plans
- Increased transparency around supplemental benefits
- Medicare Plan Finder changes
- [2025 Proposed Rule CMS-4205-P](#)



# Preparing for D-SNPs

# Challenges to Smooth Implementation

- State capacity, commitment of resources to oversight, developing state Medicare expertise
- Effective channels for individual input from inception through implementation
- Substantive issues: communications, appropriate supplemental benefits, transitions, etc.
- Transparency and accountability: data collection

# Getting Ready for D-SNPs

- Get up to speed:
  - Learn your local and state D-SNP landscape now
  - Engage with the state
  - Review your state's SMAC

# Resources

- Justice in Aging
  - [D-SNP Basics](#)
  - [Integrated Care Education Project](#)
  - [D-SNP Look-Alike Primer](#)
- Integrated Care Resource Center
  - [Comparison of Existing Appeals and Integrated Appeals](#)
- KFF:
  - [10 Things to Know Medicare Advantage Dual-Eligible Special Needs Plans \(D-SNPs\)](#)
  - [A Profile of Medicare-Medicaid Enrollees \(Dual Eligibles\)](#)
  - [Medicaid Arrangements to Coordinate Medicare and Medicaid for Dual-Eligible Individuals](#) ([Appendices](#) give state by state information)

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# Case Consultations

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at [ConsultNCLER@acl.hhs.gov](mailto:ConsultNCLER@acl.hhs.gov).