



Health Plan Benefits Group/CBC

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To: Medicare+Choice Organizations
Medicare Cost Plans
Medicare+Choice Demonstrations

From: Jean D. LeMasurier
Acting Director

Subject: Marketing to Individuals Entitled to Medicare and Medicaid (Dual Eligibles)

I am pleased to provide you with clarification on marketing your plan participation to beneficiaries who are dually entitled to both Medicare and Medicaid benefits. We are clarifying our Medicare+Choice marketing policies to permit you to develop a unique advertisement or brochure that is targeted to dual eligible individuals. Whether you provide Medicaid benefits under a fee-for-service arrangement or under a capitated contract with the State, this opportunity will assist you in educating the Medicare and Medicaid population on the benefit of “one stop shopping” for their Medicare and Medicaid benefits.

This dual eligible advertisement or brochure would supplement your current Medicare+Choice marketing materials which must be available to all eligible beneficiaries in your service area. This effort will complement the current marketing authority that allows you to conduct outreach activities to your Medicare members to assist them through the Medicaid application process.

Specifically, we have determined that developing a targeted brochure for the dual eligible population does not violate the provisions in 42 CFR 422.80(e)(1)(ii) which prohibit selected discriminatory marketing, such as targeting beneficiaries with higher income, or higher health status. Typically the dual Medicare-Medicaid eligible beneficiaries are lower income and disabled. Marketing brochures and advertisements that are designed specifically for existing and potential dual eligibles will allow Medicare+Choice organizations to develop and describe how services from both programs can be coordinated and emphasize features such as an integrated delivery of services and access to primary and preventative care. Further, you will not have to distribute these focused materials throughout the entire geographical service area if the potential target population is concentrated in certain areas of your market; instead, you may distribute the materials only to the target population. If your Medicare and Medicaid services are available through an integrated plan, you may also discourage non-dual eligible beneficiaries from selecting this plan by advising them of other Medicare+Choice plans you offer that would better benefit their needs. However, since the Medicare+Choice statute does not authorize specialty plans for dual eligibles, enrollment in the plan must be open to all Medicare beneficiaries in the service area.

Specific Guidance for a DE Advertisement or Brochure

MCOs must submit these targeted marketing materials to their CMS Medicare Regional Office Plan Manager for approval. Marketing activities can be conducted with current plan members and potential plan members.

Depending on the specific Medicare and Medicaid contracting arrangements, MCOs can choose to provide to an individual that has Medicare and Medicaid general information that a plan participates in both the Medicare and Medicaid programs, or more detailed information on integrated benefits and eligibility requirements. Medicare+Choice organizations will have to follow any applicable state Medicaid marketing guidelines, but CMS Regional Office staff will assist in expediting this review wherever possible.

Enrollment applications may not be included when sending out material on participation in the Medicare and Medicaid plans. This will ensure that Medicare beneficiaries do not become confused and attempt to enroll in the incorrect plan. Further, since this is only a brochure/advertisement, it would not provide a complete description of the plan's benefits.

Because marketing materials should be designed to specifically attract individuals with Medicare and Medicaid, we recommend that Medicare+Choice organizations explain in their materials that this program is for beneficiaries who may qualify for Medicare and Medicaid coverage and outline the advantages of being enrolled in a plan that participates in Medicare and Medicaid.

Another option, if permitted under state marketing guidelines, is to include in general mailings sent to all Medicare beneficiaries a follow up or response card that dual eligible beneficiaries can return to get further information. This will allow the plan to advise the beneficiary of the advantages of being enrolled in a program that includes both Medicare and Medicaid and the disadvantages for those who do not have Medicaid to rely on for payment of their medical expenses.

Coordination with the State Medicaid Agency & Other Pertained Requirements

The Medicaid State Agency marketing requirements must be adhered to any time a Medicare + Choice organization conducts a marketing activity that is intended to also sell a Medicaid managed care product to the beneficiary. In cases where the M+C organization mentions Medicaid in its marketing materials for the sole purpose of explaining how the M+C product interfaces with the Medicaid program, M+C marketing rules must be adhered to. We encourage the Medicare+Choice organization to coordinate their activities (including the timing of their marketing activity and who receives the mailing) with the State. In some instances, a beneficiary may already be enrolled in a separate Medicaid Managed Care arrangement and may not be able to disenroll until open enrollment. Therefore, developing a relationship with the State would ensure that the mailing is directed to individuals that would receive the most benefit. It is important for Medicare+Choice organizations to note that even when marketing materials have received appropriate state approval, a Medicaid managed care organization cannot engage in door-to-door, telephone or any other type of cold calling marketing to Medicaid recipients (as cited in Medicaid managed care regulations at 42 CFR 438.104). However this would not prohibit Medicare+Choice organizations from contacting a Medicaid individual who has responded through a mail back card (if such card is permitted by the State) or when the Medicaid individual contacted the Medicare+Choice organization directly.

Questions about this memorandum may be directed to your Regional Office Contact or Marketing Specialist. Thank you.