

Template Comments & Instructions: Medicare Part C & Part D Rule

Instructions

The Centers for Medicare & Medicaid Services (CMS) has released a [proposed rule](#) to make significant changes to Medicare Advantage (Part C) and Prescription Drug Plans (Part D) plans. Your comments are needed to create a strong record and ensure that your support or concerns are heard. Justice in Aging created template comments to guide you. We have provided a Glossary below of terms and acronyms. For each area for commenting, we have provided a summary of the proposal and examples of what would be helpful to include in your comments. Please:

- Address as few or as many areas as you wish. Even one or two examples showing the impact of one of the proposed changes would help. Organizations that have the bandwidth to go deeper—please do!
- If you have client stories or personal experiences with the proposal that support your comments, please make sure to include them!
- For instructions on how to submit comments, please see this slide deck [TO ADD]

Proposed Rule Text and to submit comments:

<https://www.federalregister.gov/documents/2024/12/10/2024-27939/medicare-and-medicaid-programs-contract-year-2026-policy-and-technical-changes-to-the-medicare>

Comment Deadline: January 27, 2025 at 5 pm Eastern / 2 pm Pacific. Note that the timing of the deadline is earlier in the day than usual.

Glossary

Debit Cards: Cards used to administer supplemental benefits provided by a Medicare Advantage plan. Also referred to as cash cards and flex cards.

Dual Special Needs Plan (D-SNP): D-SNPs are a subset of Medicare Advantage plans that specifically serve individuals dually enrolled in Medicare and Medicaid. D-SNPs are subject to federal oversight and must comply with Medicare Advantage regulations and guidance. Each D-SNP sponsor must enter into a contract with the state Medicaid agency in which the D-SNP operates. The extent to which D-SNPs coordinate with Medicaid varies. Coordination Only, Highly Integrated, Fully Integrated, and Applicable Integrated plans are all types of D-SNPs with different integration and coordination requirements. Read more in [Dual Eligible Special Needs Plans \(D-SNPs\): What Advocates Need to Know](#).

Special Supplemental Benefits for the Chronically Ill (SSBCI): Items and services that have a reasonable expectation of improving or maintaining the health or overall function of the chronically ill enrollee. SSBCI benefits are developed by Medicare Advantage plans and provided to individuals who have a complex chronic illness, have a high risk of hospitalization or other adverse health outcomes, and requires intensive care coordination.

State Medicaid Agency Contract (SMACs): Contracts, developed by a state, that a D-SNP must agree to in order to operate in the state. According to federal rules, SMACs must include what Medicare and

Medicaid services a D-SNP must cover, what cost-sharing a D-SNP must cover, and who is eligible to enroll in a D-SNP.

Template

January 27, 2024

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-4205-P, Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

Submitted electronically via [regulations.gov](https://www.regulations.gov)

Re: Medicare Program; Contract Year 2025 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program (CMS 4205-P)

[Organization] appreciates the opportunity to provide comments on the above-referenced Notice of Proposed Rule Making. [Describe your organization briefly].

[Organization] supports many of the changes proposed in the above-referenced Notice of Proposed Rulemaking. These comments specifically address elements of those proposals affecting individuals dually eligible for Medicare and Medicaid including older adults and persons with disabilities and the impact the changes would have on the individuals that our organization serves.

Supplemental Benefits

1. Information provided about supplemental benefits and debit cards (NPRM 99384)

Summary: In recent years, Medicare Advantage plans have aggressively advertised debit cards (also called flex cards), without clarifying who is eligible for supplemental benefits and what debit cards can be used for. Advocates have raised concerns that debit cards can entice people into Medicare Advantage plans that are not the right fit for their health care needs.

The current proposal would prohibit Medicare Advantage plans from including the fact that they use debit cards to administer benefits, or the face value of those debit cards, in marketing. The rule would also require Medicare Advantage plans to list eligibility criteria for Special Supplemental Benefits for Chronically Ill (SSBCI) on their websites.

Helpful areas for comment:

- Strong support for clarity provided to potential enrollees about supplemental benefits and debit cards
- Examples of when marketing caused a Medicare enrollee to choose a plan that was not a good fit for their health care needs
- Examples of when a Medicare enrollee was confused about whether they were eligible for supplemental benefits or what they could use a Medicare Advantage debit card for.

2. Debit cards and their effect on eligibility for other public benefits (NPRM 99384)

Summary: Advocates have raised concerns that receiving a debit card may be counted as income for the purposes of eligibility for housing, food, and cash benefits. While there is good federal guidance about not counting Medicare Advantage debit cards as income, there have been scattered reports that some HUD housing sites are restricting eligibility on the basis of these debit cards.

The proposed rule would require MA plans to offer enrollees an alternative to a debit card to receive their benefits. The rule would also require that the plan offer customer service support to individuals using debit cards.

Helpful areas for comment:

- Strong support for these additional flexibilities and customer support offered to Medicare Advantage enrollees.
- Any examples of when possession of a Medicare Advantage debit card caused an individual to lose eligibility for housing, food, health coverage, or other public benefit.

Duals Integration

3. Publishing State Medicaid Agency Contracts (SMACs) (NPRM at 99492)

Summary: Dual Eligible Special Needs Plans (D-SNPs) are a type of Medicare Advantage plan designed to serve individuals who are dually enrolled in Medicare and Medicaid. State Medicaid agencies have a role in determining who is eligible for enrollment in D-SNPs, and what care coordination D-SNPs are required to provide. States must include these policy decisions in the State Medicaid Agency Contracts (SMACs). However, SMACs are not always made publicly available.

The proposed rule asks for input about whether State Medicaid Agency Contracts (SMACs) should be made public.

Helpful areas for comment:

- Strong support for making SMACs public
- Any examples of individuals or advocates being confused about D-SNPs. For example,
 - Understanding whether individual enrolled in a Medicare Savings Program, but not full Medicaid is eligible for D-SNP.
 - Understanding whether an individual in Medicaid spend-down is eligible for a D-SNP
 - Understanding the care coordination and integration requirements for a D-SNP
 - Understanding whether D-SNPs in a state are required to continue access to providers or services after a change in coverage.
- Recommend that CMS require states to solicit meaningful public input from stakeholders in the SMAC development process through written and oral comment opportunities.

4. One ID card for individuals enrolled in Medicare and Medicaid (NPRM 99343)

Summary: Individuals enrolled in both Medicaid and Medicare can face confusing documentation about their coverage. The proposed rule would require Dual Eligible Special Needs Plans (D-SNPs) that are designated as Applicable Integrated Plans to provide enrollees with a single ID card for both their Medicaid and Medicare coverage.

Helpful areas for comment:

- Support for a single ID card
- Any examples of individuals who have benefited from a single ID card
- Suggestions for additional materials which would be helpful to integrate (e.g., materials explaining coverage, provider availability, or appeals)

5. Requirements for Individualized Care Plans (NPRM 99343)

Summary: The proposed rule would require D-SNPs to quickly develop and implement a comprehensive, person-centered individualized care plan. The plan should incorporate the individual's needs and objectives, including, for example, attending a child's graduation, pursuing higher education, or being able to attend religious services each week. Requires D-SNPs to document attempts to include the individual in the ICP.

Helpful areas for comment:

- Examples of how individualized care plans improve health care
- Stories of the barriers faced by dually eligible individuals trying to access good health care, including the individualized care plan

Agents and Brokers

6. Agents, and brokers (NPRM 99427)

Summary: Oftentimes, people who have low-income and resources do not know they are eligible for programs that provide financial assistance with out-of-pocket health care costs. This rule would require Medicare Agents and brokers to discuss Medicare Savings Programs, the Low-Income Subsidy, and Medigap guaranteed issue with potential plan enrollees.

Helpful areas for comment:

- Support for this education and recommendation for clear information for brokers and agents to understand Medicare Savings Programs and the Low Income Subsidy
- Examples of how people are not enrolled in programs they are eligible for
- Examples of how helpful Medicare Savings Program and Low-Income Subsidy help enrollees.

Other Areas for Possible Comment Impacting Dually Eligible Individuals

There are many other areas of the rule to consider commenting on that impact individuals dually eligible, but are not specific to this population, including:

- Improving notice and appeals rights for people facing hospital inpatient service denials (including reassignment to “observation status”) (NPRM at 99461)
- Enhancing prior authorization and other utilization management requirements (NPRM at 99455)
- Enhancing network adequacy requirements (NPRM at 99424)
- Limiting cost sharing for behavioral health services (NPRM at 99401)
- Lowering costs for insulin and vaccines (NPRM at 99349, 99352)
- Covering anti-obesity medications in Medicaid and Medicare (NPRM at 99500)
- Expanding marketing regulations for Medicare Advantage (NPRM at 99433)
- Building a central provider directory across Medicare Advantage plans (NPRM at 99430)
- Requiring a provider directory that includes providers of supplemental benefits like transportation and long-term services and supports (NPRM at 99398)
- Making it easier to know when pharmacies are in-network (NPRM at 99381)
- Combining Medicaid and Medicare health risk assessments (NPRM at 99487)