



## **MEDICARE DRUG & HEALTH PLAN CONTRACT ADMINISTRATION GROUP**

**DATE:** January 30, 2012

**TO:** All Medicare Advantage Organizations Offering a Dual Eligible Special Needs Plan in Contract Year 2013

**FROM:** Danielle R. Moon, J.D., M.P.A.  
Director

**SUBJECT:** Guidance for Submitting State Medicaid Agency Contracts

The purpose of this memorandum is to provide Medicare Advantage Organizations (MAOs) seeking to offer a Dual Eligible Special Needs Plan (D-SNP) in contract year (CY) 2013 with clarifying guidance on contract requirements and submission deadlines. As required by the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) and the Affordable Care Act, beginning in CY 2013, all D-SNPs are required to have a contract with the state Medicaid agency (ies) in each state they seek to operate in order to continue as D-SNPs. This memorandum also includes new guidance on D-SNP subcontracting arrangement requirements.

### **Dual Eligible SNPs and Medicaid Contracting Requirements**

New, existing, or service area expansion (SAE) D-SNP applicants must complete and upload in HPMS the CY 2013 State Medicaid Agency Contract Upload Document detailing the status of contract negotiations to CMS by February 21, 2012. Any D-SNP that has a signed/executed State Medicaid Agency contract for CY 2013 (i.e., multi-year contract) may upload their contract and the corresponding State Medicaid Agency Contract Matrix also by February 21, 2012. All D-SNPs must submit State Medicaid agency contracts and the corresponding State Medicaid Agency Contract Matrix electronically in HPMS by July 1, 2012.

The contracts must document and meet MIPPA requirements as specified in 42 CFR 422.107 and in Chapter 16 (b) Section 40.5.1 of the *Medicare Managed Care Manual*, available at <http://www.cms.hhs.gov/Manuals/IOM>.

### **Dual Eligible SNPs and Subcontracting Arrangement Requirements**

While CMS expects D-SNPs to contract directly with State Medicaid Agencies, CMS recognizes some states are only able to contract directly with a limited number of D-SNPs due to state statutory requirements, budgetary concerns, and limited staff resources. In the past, in limited circumstances, CMS has considered subcontracting arrangements with State Medicaid Managed Care Organizations (MCOs) to be equivalent to a direct state contract as long as the subcontract contained all of the MIPPA required elements and the arrangement was approved by the state.

CMS acknowledges there may be new and/or existing D-SNPs that may experience difficulty securing a direct State Medicaid Agency contract for CY 2013 because of the same issues. Therefore, CMS will continue to consider such subcontracting arrangements to be equivalent to a direct state contract under the following conditions:

1. The subcontract meets all eight MIPPA element requirements;
2. The D-SNP subcontracts with state approved Medicaid Managed Care Organizations for **all** Medicaid services for which the Medicaid MCOs have contracted with the state; that is, the contract may not be a carve out for a single service; and
3. The D-SNP provides CMS with a letter from the state approving these downstream subcontracting arrangements.

CMS believes that maintaining this policy will allow a great number of existing and prospective D-SNPs to continue to coordinate and/or integrate Medicare and Medicaid benefits for dual eligible beneficiaries. CMS remains committed to assisting D-SNPs and States as they engage in this contracting process. We will provide specific guidance to D-SNPs about the MIPPA State Medicaid Contracting Requirements during a conference call scheduled February 8, 2012.

MAO's will not be permitted to create a new D-SNP without a state contract. CMS will be issuing future guidance to address those instances in which existing D-SNPs fail to secure a direct State Medicaid contract or a subcontracting arrangement that meets the requirements described above.