

**CMS Responses to SNP Alliance Questions Related to Flexible Supplemental
Benefits for Qualified D-SNPs
October 3, 2017**

Below find CMS responses to SNP Alliance questions submitted about the criteria under which highly integrated D-SNPs may provide flexible supplemental benefits. These responses and questions are aggregated from a series of email exchanges between September 12 and 28, 2017. CMS indicated they will be revising Chapter 16b to further clarify guidance on flexible supplemental benefits in the coming months.

1. Are plans limited to the specific list of benefits in the chart in Chapter 16b, or is that a guideline for evaluation of proposed benefits as the reference to “guidance” and the earlier language in 20.2.6.2 implies?

***CMS Response:** Eligible D-SNPs are limited to the benefit categories in Table 3 in section 20.2.6.2 of Chapter 16b of the Medicare Managed Care Manual. D-SNPs have some flexibility in designing their flexible supplemental benefits, but the actual benefits proposed must be within the scope of the five categories outlined in Table 3.*

2. Can plans offer parts of the benefits listed in Table 3, or place limits on them?

***CMS Response:** Yes, eligible D-SNPs may offer parts of the benefits listed in Table 3 and may place limits on them, as long as the benefits fit the scope of the specified categories.*

3. Are plans limited to state Medicaid definitions and criteria for these services?

***CMS Response:** No, eligible D-SNPs are not limited to state Medicaid definitions and criteria for these services. However, D-SNPs should consider that flexible supplemental benefits are intended to augment and/or bridge the gap between Medicare and Medicaid covered services.*

4. Can plans establish additional clinical and/or functional eligibility criteria for access to these benefits?

***CMS Response:** No, eligible D-SNPs cannot establish additional clinical and/or functional eligibility criteria for access to these benefits. Per section 20.2.6.2 of Chapter 16b, flexible supplemental benefits must be uniformly offered and available to all enrollees.*

4. a. On question 4 related to functional criteria, the answer is puzzling because nearly all of the services listed are normally subject to fairly specific ADL/IADL criteria and the instructions in 20.2.6.2 also provide that the services are most appropriate for people who have ADL/IADL impairments so the services listed would not by definition be appropriate for all members. Is there an inherent conflict between this statement and the later statement that the services must be provided to all? It seems there would have to be some criteria applied to determine ADL/IADL status because if these types of services were available to all members regardless of need, it would render the services wasteful and far too expensive to

offer them. Nor would those services normally all be subject to the same ADL and IADL criteria (for example, criteria for need for adult day care are often different from that for a personal care attendant in the home or for respite care which depends on a caregivers availability.) Any further clarification would be very helpful.

CMS Response:

The benefit uniformity requirement for flexible supplemental benefit design aligns with the general benefit uniformity requirement that all MA plan-types must follow. As with other basic and supplemental benefits, flexible supplemental benefits are covered by plans when they are medically necessary and/or appropriate. Therefore, in practice, only members who have a need for the ADL/IADL type benefits will receive them. The requirement is that all enrollees who have or develop a need must get covered without going through any additional qualifying processes or criteria.

4. b. Is it a fair assumption then to say that when the SNP or its associated providers have done an assessment of medical necessity using their or the state's assessment criteria that establishes/determines ADL and IADL needs, that the person would be eligible for those supplemental benefits without application of further criteria specific to the administration of the supplemental benefit, assuming of course they are not receiving or otherwise eligible for those services through Medicaid, because other parts of this policy preclude duplication of available Medicaid services? Would this be a correct interpretation?

CMS Response:

Yes, that is a correct interpretation. However, we would note that when the flexible supplemental benefits overlap with Medicaid HCBS services, and the D-SNP enrolls both partial and full duals, then use of the state's ADL/IADL assessment criteria for flexible supplemental benefits would allow those partial duals without full Medicaid to access these benefits and thereby augment the Medicaid benefits. Full duals who met the state ADL/IADL criteria would, by definition, already be able to access them through Medicaid. In an alternative scenario, when the flexible supplemental benefits overlap with Medicaid HCBS services, and the D-SNP enrolls only full duals, then, in order to augment Medicaid benefits, the D-SNP would have to use more inclusive ADL/IADL criteria in order to provide the flexible supplemental benefits to dual eligibles in the plan who did not already receive these benefits as part of their Medicaid HCBS benefits.

4. c. In the latter scenario where the plan is enrolling only full duals, there may be some full duals who are not eligible for state HCBS services due to waiting lists. As in the first scenario, could the plan use the same state assessment criteria and provide these services to those FBDES on the waiting lists?

CMS Response:

The answer is yes. A qualified DSNP that enrolled only Full Benefit Duals could use the same state assessment criteria and provide services from among those listed in Chapter 16b (and that overlap with the state's Medicaid HCBS services) to those FBDES on the waiting lists. Since wait listed individuals are not eligible to receive Medicaid HCBS, using the state HCBS criteria is consistent with our guidance in Chap 16b that these flexible benefits must

not be duplicative of Medicaid, including the State Medicaid or local benefits for enrollees who are eligible to receive identical Medicaid services.

5. Can plans establish separate rates from Medicaid for access to these benefits? (We recognize that some plans are concerned that state rates in place for such benefits may be too low, but it also might be difficult for plans to pay more than the state Medicaid rate for Medicaid type services without causing market disruptions.)

CMS Response: *Per section 20.2.6.2 of Chapter 16b, flexible supplemental benefits must be provided to the enrollee at zero cost. In terms of the state Medicaid rates, CMS does not get involved in contracting activities between D-SNPs and states. The State Medicaid Agency Contract typically outlines any agreements made.*

Note: (The SNP Alliance further clarified that we understand that these benefits are offered at no cost to beneficiaries and that we were speaking only of using the same Medicaid rates to pay providers for similar services offered as supplemental benefits under Medicare.)

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