

DEPARTMENT OF HEALTH & HUMAN SERVICES
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CENTERS FOR MEDICARE & MEDICAID SERVICES

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TO: Medicare Advantage Organizations with a Dual Eligible Special Needs Plan

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SUBJECT: Medicare Managed Care Manual Chapter 16-B: Special Needs Plans: Potential Updates on Zero-Dollar Cost Sharing D-SNPs

The purpose of this memorandum is to solicit feedback on potential updates to Chapter 16-B of the Medicare Managed Care Manual regarding which plans qualify as Medicare Zero-Dollar Cost Sharing D-SNPs.

We anticipate updating section 20.2.4.2 (D-SNPs With or Without Medicare Zero-Dollar Cost Sharing) and adding three additional sections, as follows: 20.2.4.2.1 (Definition of Medicare Zero-Dollar Cost Sharing Dual Eligible Special Needs Plans); 20.2.4.2.2 (Special Considerations for PPO D-SNPs); and 20.2.4.2.3 (Medicare Zero-Dollar Cost Sharing D-SNPs and Enrollee Lapse in Medicaid Eligibility). The potential updates for these sections are in Attachment A.

Please submit any questions or comments related to these potential updates by April 25, 2023 to MMCO_DSNPOperations@cms.hhs.gov with the following subject line “Chapter 16-B Zero Dollar Cost Sharing D-SNPs.”

Attachment A – Draft Updates to 20.2.4.2

20.2.4.2 - D-SNPs With or Without Medicare Zero-Dollar Cost Sharing

(Rev. 12#, Issued: XX-XX-XX, Effective: XX-XX-XX, Implementation: XX-XX-XX)

When MA organizations submit bids for the upcoming contract year, each D-SNP must identify whether or not the D-SNP has Medicare zero-dollar cost sharing. In HPMS, D-SNPs will have the option of one of the following two indicators:

1. Medicare Zero-Dollar Cost Sharing Plan, or
2. Medicare Non-Zero Dollar Cost Sharing Plan.

These two indicators will be used in multiple areas in HPMS and use of the accurate indicator is essential to the proper display of benefits in Medicare Plan Finder. If a state changes the Medicaid eligibility criteria it requires the D-SNP to use through the state Medicaid agency contract after bid submission and before contract approval, the MA organization will have the ability to change the D-SNP's (or D-SNPs') Medicare Zero-Dollar Cost Sharing D-SNP designation(s) in HPMS.

20.2.4.2.1 Definition of Medicare Zero-Dollar Cost Sharing Dual Eligible Special Needs Plans

(Rev. 12#, Issued: XX-XX-XX, Effective: XX-XX-XX, Implementation: XX-XX-XX)

A Medicare Zero-Dollar Cost Sharing D-SNP is a D-SNP under which all Medicare Part A and B services are provided with no Medicare cost sharing to all enrollees who remain dually enrolled in both Medicare and Medicaid. This term encompasses the following types of plan designs:

1. Where cost sharing for enrollees is \$0 as part of the plan design (i.e., cost sharing for benefits has been reduced to \$0 as part of the supplemental benefits provided by the D-SNP); and
2. Where there is cost sharing in the plan design, but all individuals who are eligible to enroll in the D-SNP are protected by sections 1848(g)(3)(A) and 1866(a)(1)(A) of the Act from cost sharing, or otherwise qualify for Medicaid coverage of cost sharing (*see also* section 1852(a)(7) of the Act and 42 CFR 422.504(g)(1)(iii)).

CMS uses the designation of a Medicare Zero-Dollar Cost Sharing D-SNP to ensure that information provided to beneficiaries is accurate, clear, and consistent with the requirements on MA organizations at 42 CFR 422.111 and 422.2260-422.2267. With respect to a Medicare Zero-Dollar Cost Sharing D-SNP, plan materials as well as information on Medicare Plan Finder on Medicare.gov describe all Part A and B services under the D-SNP, such as inpatient hospital stays and doctor visits, as available at no cost to the enrollee. Such descriptions are accurate – even if the D-SNP plan benefit in the MA organization's bid to CMS includes cost sharing for Medicare Part A and B services – if all individuals who are eligible to enroll in the D-SNP are protected from cost sharing (see number 2 above). An MA plan, including a D-SNP, that has no cost sharing for services under Medicare Part A and B in its plan bid will also have such benefits

described as available with no cost sharing, both in plan materials and on Medicare Plan Finder. This information helps dually eligible enrollees understand what costs they will have when choosing a plan and allows D-SNP materials to clearly show that costs are not a barrier to accessing covered services. When the “Medicare Zero-Dollar Cost Sharing D-SNP” designation is not available, plan materials and Medicare Plan Finder will indicate that cost sharing for Medicare varies depending on the enrollee’s category of Medicaid eligibility. Like all MA plans, both Medicare Zero-Dollar Cost Sharing D-SNPs and other D-SNPs can reduce Medicare Part A and B cost sharing as a supplemental benefit. CMS bid review applies the same standards for all D-SNPs.

A D-SNP that includes cost sharing in its plan design may designate itself as a Medicare Zero-Dollar Cost Sharing D-SNP provided that it meets all of the following criteria:

1. The D-SNP plan benefit package limits enrollment, under the terms of its state Medicaid agency contract, to dual eligibility categories with Medicare cost sharing protections:
 - QMB Only;
 - QMB Plus; and
 - additional full-benefit dual eligibility categories for which the state has elected to cover Medicare cost sharing, which may include SLMB Plus, or other Full Benefit Dual Eligibles (FBDE).

If the D-SNP enrolls members of dual eligibility categories that do not have Medicare cost sharing payable by Medicaid (i.e., SLMB-only, QI, or QDWI), the D-SNP cannot (and must not) be designated as a Medicare Zero-Dollar Cost Sharing D-SNP.

2. The D-SNP provider contracts (1) require that providers accept the D-SNP’s payment and any Medicaid payment of Medicare cost sharing (whether paid by the Medicaid agency, the D-SNP itself, or a Medicaid managed care plan) as payment in full and (2) prohibit providers from collecting from a dually eligible enrollee any Medicare cost sharing that is payable under Medicaid (42 CFR 422.504(g)(1)(iii) and 74 FR 1494-1499 (January 12, 2009)). Such D-SNP provider contract provisions must also apply to SLMB Plus and FBDE enrollees for whom Medicare cost sharing protections are more limited if those groups are eligible to enroll in the D-SNP. (SLMB Plus and FBDE enrollees cannot be charged Medicare cost sharing above any applicable Medicaid copay for any service covered under the Medicaid state plan or a waiver. If a Part A or B service is not covered under the Medicaid state plan or a Medicaid waiver, the cost sharing for an SLMB Plus or FBDE enrollee is the Medicare cost sharing under the MA plan benefit because of the limits in Medicaid coverage (42 CFR 422.504(g)(1)(iii).) Providers can never charge a QMB Only or QMB Plus enrollee Medicare cost sharing for any Medicare Part A or B service above any applicable Medicaid copay (per section 1902(p)(3) of the Act).
3. The providers contracted with the D-SNP do not charge Medicaid copays, deductibles, or coinsurance for any Medicare Part A or B service. If a D-SNP operates in a state that imposes Medicaid copays on dually eligible enrollees for specific services, then the D-SNP must list those Medicaid copays in its plan materials for those services and may not be designated as a Medicare Zero-Dollar Cost Sharing D-SNP, unless:

- The D-SNP or Medicaid managed care plan responsible for Medicaid payment of Medicare cost sharing does not impose Medicaid copayments for enrollees (i.e., the plan pays the provider the copay in lieu of the dually eligible enrollee); or
- The state limits its payment of Medicare cost sharing to the Medicaid rate for the service, and the amount the D-SNP pays the provider for the service is equal to or greater than the Medicaid rate, including in any deductible phase of the benefit. (In this circumstance, no Medicaid payment is made so there is no Medicaid copay.)

20.2.4.2.2 Special Considerations for PPO D-SNPs

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D-SNP PPOs that enroll non-QMBs may not describe out-of-network services as available at “zero cost” because non-contracted providers that are not enrolled in Medicaid may charge the Medicare cost sharing under the plan benefit to non-QMBs. QMB Plus and QMB Only Beneficiaries would pay \$0; other full-benefit dually eligible individuals would pay the plan benefit cost sharing rate (See sections 1848(g)(3) and 1866(a)(1)(A) of the Act for provisions protecting QMBs regardless whether the MA organization has a contract with the provider that prohibits the collection of cost sharing per 42 CFR 422.504(g)(1)(iii).) For example, an out-of-network service with 30 percent coinsurance under the plan benefit could be described as “\$0 or 30 percent, depending on your Medicaid eligibility category.”

20.2.4.2.3 Medicare Zero-Dollar Cost Sharing D-SNPs and Enrollee Lapse in Medicaid Eligibility

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D-SNPs can provide up to six months of deemed continued eligibility for enrollees who have lost, but are expected to regain, Medicaid eligibility, as per 42 CFR 422.52(d). The Medicare cost sharing protections for enrollees in a Medicare Zero-Dollar Cost Sharing D-SNP lapse if an enrollee no longer has Medicaid eligibility for *any* of the dual eligibility categories with cost sharing protections. During periods when Medicaid eligibility for Medicaid coverage of cost sharing for Medicare Part A and B benefits has lapsed and the individual remains enrolled in the D-SNP, plan providers may collect Medicare cost sharing under the MA plan benefit for the service. Enrollee materials from Medicare Zero-Dollar Cost Sharing D-SNPs, including any plan notice related to the loss of Medicaid eligibility, must explain that the enrollee may be billed cost sharing for Medicare Part A and Part B benefits if the enrollee loses Medicaid eligibility (42 CFR 422.111(b)(2)(iii) and 422.2262(a)(1)).