



*For people with intellectual
and developmental disabilities*

The Arc
1825 K Street NW, Suite 1200
Washington, DC 20006

T 202 534-3700
F 202 534-3731
www.thearc.org

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Mr. Edo Branch
Medicare-Medicaid Coordination Office
Centers for Medicare and Medicaid Services

Submitted via email Edo.Banach@cms.hhs.gov

Dear Edo:

Thank you for your continuing willingness to meet with advocates about the proposals to integrate Medicare and Medicaid for individuals who are dually eligible. We would like to offer feedback to you about the Massachusetts MOU in the spirit of informing the process from this point forward.

Strong statements concerning 1) compliance with Section 504, the ADA, and the Supreme Court's Olmstead decision and 2) person-centered planning and service delivery (which are included in the MA MOU under Beneficiary Protections, Participation, and Customer Service) should be infused throughout the MOUs. MCOs likely will not be familiar with providing services to individuals with intellectual and developmental disabilities and other types of disabilities who require long term services and supports. The importance of person-centered plans, self-directed services and supports, accessibility, reasonable accommodation, and provision of services in the most integrated setting appropriate cannot be emphasized too frequently.

Assessment instruments that address long term services and supports (LTSS) and that are appropriate for the targeted population should be included in MOUs. The initial assessment instrument included in the MA MOU, for example, is not designed for use with younger individuals who are dually eligible and does not address their LTSS needs. The assessment will be used for rate setting according to the MOU. If the LTSS needs of beneficiaries are not captured by the initial assessment, there could be a potential for underestimating costs. As you know, the LTSS (Medicaid) services and costs far surpass the acute (Medicare) services and costs for most individuals with intellectual and developmental disabilities that are dually eligible.

MOUs should contain a great deal of specificity, especially concerning LTSS. Much was left to the third-party contracting process in the MA MOU, especially in the area of long term services and supports. Some of the subpopulations among dually eligible individuals and their need for LTSS will be very new to MCOs. MOUs should address the critically important LTSS in greater

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detail.

1. MOUs should address how risk corridors will account for high users of LTSS in order to prevent unintended consequences such as cutting back on LTSS or adverse risk selection by MCOs.
2. There should be *at a minimum* one or two quality withhold metrics specified in MOUs that address LTSS outcomes (versus process measures, for example whether or not a beneficiary has an LTSS coordinator assigned). For individuals with intellectual and developmental disabilities who are dually eligible, LTSS are critical. MOUs should include plans with strict timeframes for the development of LTSS quality measures. The validity and usefulness of these measures should be part of the evaluation CMS will conduct of all of the projects. The participating states could be a great laboratory for development of standard LTSS quality measures.
3. The MA MOU includes an impressive array of supplemental benefits. However, the standards by which the supplemental benefits will be determined necessary are absent. The definition of medical necessity in MOUs should be broad enough to reflect the LTSS that people with disabilities need. The definition should include a focus on those services and supports individuals need to function as independently as possible in the community in keeping with the Supreme Court's *Olmstead* decision. Michigan's definition of medical necessity includes language that could be added to medical necessity definitions in order to safeguard the provision of LTSS: "Services and supports designed to assist the beneficiary attain or maintain a sufficient level of functioning in order to achieve his/her goals of community inclusion and participations, independence, recovery, or productivity."

We would like to reiterate our suggestion that all demonstration states be required to provide independent ombudsman services to beneficiaries.

Sincerely,

Maureen Fitzgerald
Director, Disability Rights