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## **MEDICARE RIGHTS CENTER TESTIMONY**

### **ON Examining Medicare and Medicaid Coordination for Dual Eligibles**

to the  
United States Senate  
Senate Special Committee on Aging  
Wednesday, July 18, 2012  
Submitted Wednesday, August 1, 2012

SUBMITTED BY:

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AND

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## **Introduction**

The Medicare Rights Center is a national, nonprofit beneficiary service organization that works to ensure access to affordable health care for older adults and people with disabilities through counseling and advocacy, educational programs and public policy initiatives. Through our direct work with Medicare beneficiaries, their caregivers, providers and families we have specific insights into implications of changes to the Medicare program, and the potential such policies have to affect those with Medicare. In this testimony, we will address our concerns regarding state demonstration proposals for beneficiaries dually eligible for Medicare and Medicaid. Additionally, we will highlight three promising practices from the New York proposal that we believe all demonstrations should utilize.

Each year through our consumer helpline we speak with nearly 15,000 people with Medicare as they navigate their health insurance, appeal coverage denials and try to determine which coverage best suits their health needs. We are also an appointed consumer group member of the National Association of Insurance Commissioner's (NAIC) Senior Issues Task Force statutory Patient Protection and Affordable Care Act (ACA) Subgroup. In New York, Medicare Rights is part of a statewide coalition and steering committee comprised of organizations that serve disabled and older consumers, including {LIST} on the implementation of New York's Fully Integrated Duals Advantage (FIDA) demonstration proposal. .

## **Efforts to coordinate care for beneficiaries who are eligible for Medicare and Medicaid**

Dually eligible beneficiaries are among the most vulnerable people served by the Medicare and Medicaid programs. These individuals are more likely to fall below the federal poverty level and are more likely to be in ill health than beneficiaries enrolled into only Medicare or only Medicaid. We believe that the state-based demonstration projects envisioned through the ACA offer a unique opportunity to address the numerous and complex health problems faced by dually eligible Americans; however, we are concerned there are critical issues that must be addressed before many of these projects move forward. More specifically, we are concerned that:

- Demonstrations may save the states and the Federal government money; however, the demonstration savings targets must be transparent and realistic. And most importantly access to services and quality of care cannot be compromised in the name of saving money.
- Inadequate provider buy-in may result in poor quality of care and limited access.
- The move from fee-for-service to insurance-based managed care may compromise care by disrupting provider relationships, destabilizing the current safety net and creating a care system based on networks rather than patient need.

- New regulations governing demonstration plans may undermine, ignore, or circumvent important beneficiary rights and protections grounded in the Medicare and Medicaid laws and in State and Federal Constitutions.
- There are Inadequate requirements to ensure health plan compliance with the Americans with Disabilities Act (ADA) and inadequate penalties for health plans that fail to comply with the law.
- Demonstration plans may not meet the unique needs of subpopulations being served by programs tailored to those needs that currently exist in the Medicaid program.
- Demonstration programs may have the unintended consequence of incentivizing institutionalization, in contradiction to the implementation of the Supreme Court's decision in *Olmstead v L.C.*, 527 U.S. 581 (1999).

These concerns and others are more fully explained in a letter submitted by 33 beneficiary advocacy organizations representing older adults and persons with disabilities, including Medicare Rights Center, to the Medicare and Medicaid Coordination Office (MMCO) on July 18, 2012. We refer the Committee to this letter for a more nuanced articulation of our concerns and recommendations. The letter and supporting documents can be accessed on the Medicare Rights Center [website](#).

Although these concerns require serious attention, so too do the promising practices developed through the state demonstrations. Medicare Rights Center and our partners are leading consumer voices in New York's ongoing dialogue to transition dually eligible beneficiaries to better integrated care. Given this, we wish to highlight three aspects of New York's FIDA demonstration proposal that we believe can and should be replicated in other states.

- **We support allowing existing models of care to coexist alongside new demonstration models.** New York proposes to create a fully capitated managed care plan for dual eligible beneficiaries; it also proposes to create a managed fee-for-service health home. Other existing models, PACE, Accountable Care Organizations (ACOs) and enhanced Primary Care Case Management (PCCM), are preserved. And in fact, PACE and ACO members will not be automatically decanted into a fully capitated plan. Allowing and supporting a number of care integration models will help ensure that states and MMCO can compare multiple models of care and determine which achieved the best outcomes for dual eligible beneficiaries.
- **We support the creation of an independent participant Ombudsman with broad authority to assist consumers.** An unbiased consumer ombudsman is needed given the enormous task of shifting dually eligible beneficiaries to new care models and care delivery systems at the speed at which these changes are proposed to take place. As proposed by New York State, the independent ombudsman must be adequately funded to provide information and counseling to beneficiaries regarding FIDA plan coverage and advocate on behalf of aggrieved beneficiaries with plans and other providers.

- **We support the creation of work groups to assist states in developing these new programs.** New York, like California, created three work groups which will include a variety of stakeholders, including consumer advocates, to address several key areas, including integrated appeals, plan quality, and plan payment methodology. We strongly recommend that other states follow suit and that New York and other states create additional work groups regarding notice to beneficiaries, and monitoring and oversight.

We appreciate the opportunity to provide testimony on this critical issue for Medicare beneficiaries. We look forward to working with Congress and with MMCO as these demonstration proposals evolve and are implemented.