



Coalition to Protect the Rights of New York's Dual-Eligibles

Testimony of the Coalition to Protect the Rights
of New York's Dual-Eligibles

On

Medicaid Transition to Care Management for Long-Term Care

**PART II – NEXT STEPS CONCERNS REGARDING THE EXPANSION OF MANAGED LONG
TERM CARE TO FULLY INTEGRATED DUAL ADVANTAGE PLANS**

Submitted to:

The Assembly Committee on Health

And

The Assembly Committee on Oversight, Analysis and Investigation

Submitted by

Doug Goggin-Callahan, Esq., 212.204.6275, dgoggin-callahan@medicarerights.org, New York State
Policy Director at the Medicare Rights Center
on behalf of the Coalition

December 7, 2012

Part I of Coalition testimony is separately presented by Valerie Bogart, Esq. and will focus on the current implementation of managed long term care; **Part III of Coalition testimony** is separately presented by Nora Chaves, Community Service Society, and will focus on the need for an ombudsman program for both managed long term care and the fully integrated dual advantage plans.

Introduction

The **Coalition to Protect the Rights of New York's Dual Eligibles** is a coalition of disability rights and senior rights advocates, consumers, community-based organizations, and lawyers representing people with disabilities and older New Yorkers. Many of our organizations directly serve New Yorkers eligible for both Medicare and Medicaid, also known as dual-eligibles or duals. We know that these individuals are some of the most vulnerable people in our communities. They are more likely to fall below the federal poverty level and are more likely to be in ill health than beneficiaries enrolled in only Medicare or only Medicaid. It is critical that any changes in health insurance and care delivery for this population prioritize better care management and address their numerous and complex health problems. We thank the Assembly Committee on Health, and the Assembly Committee on Oversight, Analysis and Investigation for holding this hearing and providing our Coalition with the opportunity to speak directly to ways that New York State can effectively serve dual-eligibles, while simultaneously reducing its health care costs.

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

New York State is currently in the process of changing the way in which 85,000 New York City residents receive their community-based long-term care services. Medicaid beneficiaries, who receive more than 120 days of community-based long-term care supports and services, including dually eligible beneficiaries, must move from a fee-for-service long-term care delivery system to a managed long-term care plan.

While, this change is currently taking place it affects, informs and serves as the building block for a proposed Medicare/Medicaid demonstration project. This demonstration project (the FIDA demonstration) would go a step further and in 2014 auto-enroll many of these same beneficiaries into a fully capitated managed care plan, called fully integrated dual advantage (FIDA) plans for their long-term care, Medicare, Medicaid, and prescription medication needs.

This testimony echoes the recommendations presented in Part I of our Coalition's testimony as many of the recommendations for managed long term care implementation must be applied to the FIDA demonstration. And given that the FIDA demonstration will provide full Medicare and Medicaid benefits in addition to long term care there are additional considerations the State must account for as the FIDA demonstration proposal moves forward.

Dually eligible beneficiaries are among the most vulnerable people served by the Medicare and Medicaid programs. These individuals 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 New York's FIDA demonstration project envisioned through the Affordable Care Act (ACA) offers 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 order to save 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 FIDA 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.
- 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.
- FIDA 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.
- FIDA 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 our written testimony.

Although these concerns require serious attention, so too do the promising practices developed through New York's FIDA demonstration.

- **We support allowing existing models of care to coexist alongside new FIDA demonstration models.** New York has proposed to create a fully capitated managed care plan for dual eligible beneficiaries but has also proposed 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 in the FIDA demonstration. 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 New York State 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 and ask the legislature to stand ready to fund a FIDA ombudsman program.** 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 in its FIDA demonstration, 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. If the Federal government does not provide adequate support, we ask the legislature to support this program.

- **We support the utilization of work groups to assist New York in developing these new programs. We ask the legislature to support the work of these groups and to expand the role of the Medicaid Managed Care Advisory Review Panel (MMCARP) to account for these new plans and populations enrolled in managed care.** As the current experience in MLTC has demonstrated feedback from beneficiaries, providers, and advocates is needed to ensure beneficiaries are able to make informed choices about which health care model and plan meet their needs. To that end, New York created four work groups which 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 these workgroups or other broad-based stakeholder groups continue as New York moves forward with its FIDA implementation.

The Medicaid Managed Care Advisory Review Panel (MMCARP) has played a crucial role in the State's compliance with federal guidelines concerning consumer engagement. This group will continue to play an important role in the implantation and oversight of the FIDA plans. Given that FIDA plans will include Medicare benefits, we ask the legislature to expand the scope of MMCARP membership to include entities and agencies with Medicare experience, we also ask that the term of the chair be limited so that a variety of organizations with varying expertise can help shape MMCARP.

We appreciate the opportunity to provide testimony on this critical issue for dually eligible New Yorkers. We look forward to working with the Assembly and the Department of Health as the FIDA demonstration proposal evolves and is implemented.

Steering Committee of Coalition

Center for Disability Rights
Center for Independence of the Disabled NY
Community Service Society of NY
Empire Justice Center
Legal Aid Society
Medicare Rights Center
New York Association on Independent Living

Other Members of the Coalition (list in formation)

Autistic Self Advocacy Network
Cardozo Bet Tzdek Legal Services
Bronx Jewish Community Council, Inc.
Brooklyn Center for Independence of the Disabled
Cerebral Palsy Associations of NYS
Federation of Protestant Welfare Agencies
Lenox Hill Neighborhood House
Medicaid Matters NY
MFY Legal Services
Morningside Retirement and Health Services (MRHS)
New York Lawyers for the Public Interest
Staten Island Center for Independent Living

United Spinal Association
Wheels of Progress
Women's City Club of New York
Westchester Disabled On the Move Inc.