



# Warning Signs:

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## Preliminary Report Highlights Problems with State Implementation of MIPPA Low- Income Reforms

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## **Executive Summary**

This paper is prompted by a widespread concern among advocates for older adults and people with disabilities that the low-income provisions of the Medicare Improvements for Patients and Providers Act (MIPPA) be implemented in a manner that fulfills the legislation's goal to streamline and maximize enrollment in Medicare Savings Programs (MSPs). This paper looks at two important MIPPA provisions—the increase in the MSP asset test to align with asset thresholds under the Part D low-income subsidy (LIS, also known as Extra Help) and the initiation of MSP applications through the transfer by the Social Security Administration (SSA) of income and asset data from Extra Help applicants.

The paper is based on an informal survey of 15 states conducted by the Medicare Rights Center. Our findings suggest that the most recently issued guidance from the Centers for Medicare & Medicaid Services (CMS) represents an important step toward full implementation of MIPPA's low-income provisions, but that additional action is needed from state and federal policymakers to fulfill both the letter and the spirit of the law. The preliminary research indicates that implementation of MIPPA varies greatly from state to state. Based on publicly available documents and communication with Medicaid offices in 15 states, 4 of the 15 states are still citing MSP asset thresholds that are below Extra Help thresholds. States have also taken disparate approaches to processing MSP applications that are initiated by the transfer of data from SSA. It was encouraging to find that a number of states are automatically enrolling LIS applicants in an MSP based on SSA-verified data. But in other states, there remain substantial bureaucratic obstacles to fully processing these applications, undermining the overarching goal of MIPPA to facilitate MSP enrollment through the SSA data transfer. These findings indicate an urgent need for CMS to collect and compile states' plans for implementing MIPPA, including both processes for handling SSA-generated applications and updating the eligibility criteria, so that policymakers can properly assess if the law's requirements and goals are being implemented.

### **The Centers for Medicare & Medicaid Services (CMS) Released Guidance Letter**

January 1, 2010, marked the deadline for state Medicaid programs to implement key provisions of the Medicare Improvements for Patients and Providers Act (MIPPA) of 2008 that are designed to facilitate enrollment in Medicare Savings Programs (MSPs) and to better align eligibility criteria between MSPs and the Medicare Part D Low-Income Subsidy (Extra Help). The three Medicare Savings Programs—Qualified Medicare Beneficiary Program (QMB), Specified Low-Income Medicare Beneficiary Program (SLMB), and Qualified Individual Program (QI)—help pay Medicare premiums and cost-sharing for low-income people with Medicare, and Extra Help pays premiums and cost-sharing under the Medicare drug benefit for low-income people with Medicare.

MIPPA aligned the federal minimum for the MSP asset test with the asset test for full Extra Help, which raised the minimum MSP asset thresholds for the first time in over 20 years. In addition, people with Medicare who apply for Extra Help can opt to have their income and asset data sent by the SSA, which administers Extra Help, to their state Medicaid department to initiate an MSP application. Together, the increase in the MSP asset thresholds and the

coordination of enrollment processes between SSA and state Medicaid departments are designed to increase access to the important benefits of MSPs, which have historically suffered from low enrollment.<sup>1</sup>

On February 18, CMS issued a guidance letter to state Medicaid directors to assist states in implementing these important MIPPA provisions. The guidance reaffirms states' obligation to align the MSP asset test with the asset test for Extra Help. Further, the letter states that receipt of the data generated by SSA from the Extra Help application must trigger a decision about eligibility for MSPs.

This report is not a definitive or comprehensive assessment of MIPPA implementation in all 50 states and the District of Columbia.<sup>2</sup> Such an assessment should be done by CMS and should include collection of information from all states regarding procedures for handling SSA-initiated MSP applications as well as their implementation of the revised MSP asset test. Additional guidance from CMS is also needed to clarify the standards for the processing of SSA-initiated MSP applications. Guidance is also needed to encourage states to adopt best practices to streamline enrollment, and partner with State Health Insurance Assistance Programs (SHIPs), other MIPPA grantees, and community-based organizations to improve outreach and enrollment.

### **State Use of Extra Help Data Transmitted by SSA**

Starting January 1, 2010, SSA began daily transmittals to states of the data LIS applicants provided on their Extra Help applications. The CMS guidance letter notes that states are required to treat this data as initiating an application for an MSP. The letter clarifies that states can, but are not required to, accept asset and income data that has been verified by SSA as verified for the purpose of processing an MSP application, which would allow states in many cases to automatically enroll an LIS applicant in an MSP. Moreover, the letter notes that where the SSA data is incomplete or does not address all the eligibility factors needed to make an MSP determination, the state must reach out to individuals to obtain and verify this missing information.

Medicare Rights found that states are interpreting this requirement in different ways. For instance, a number of states have developed systems that automate the process and minimize the need for the consumer to take additional steps. These states include those that have eliminated any asset test for MSPs. Other states require that consumers provide varying levels of additional information before an MSP application can be processed. Some states' MSP eligibility criteria require information that is no longer collected on the Extra Help application, such as the cash value of life insurance policies, and it is necessary for these states to seek additional information. The methods that states use in reaching out to applicants and in collecting the additional information will determine how effective the SSA data transfer process is in increasing MSP enrollment of low-income people with Medicare.

#### Automatically Enrolls Applicant

- In Maine, data received from SSA is summarized in a report and then sent to a regional Medicaid office. At the Medicaid office, the data is entered into Maine's automated client

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<sup>1</sup> Laura Summer, <http://www.commonwealthfund.org/Content/Publications/Fund-Reports/2009/May/Increasing-Participation-in-Benefit-Programs-for-Low-Income-Seniors.aspx>. Last visited February 24, 2010.

<sup>2</sup> We did not survey states regarding use of model MSP applications or the prohibition on estate recovery for MSP, two other important MIPPA provisions.

eligibility system (ACES). If the consumer is eligible for an MSP, the MSP is granted; if additional information is needed, a state worker contacts the consumer.

- In Louisiana, the state's automated eligibility system evaluates the data received from SSA. The system makes a determination to mark an MSP application as pending, reject the MSP application, or approve the MSP application if the consumer's income is below the Louisiana limits. Some applications are being marked pending so Medicaid analysts can investigate if the applicants qualify for MSP.
- In New York, the SSA information is received by the New York State Department of Health. The state will approve the application and send an acceptance notice to those who meet the eligibility criteria. If SSA data is incomplete, the application will be forwarded to the Local Department of Social Services (LDSS), and the LDSS will be responsible for processing these cases and requesting additional information as appropriate.
- In Massachusetts, the data received from SSA is processed by an automatic eligibility determination. If the consumer is deemed eligible, he or she will be enrolled directly in the MSP. Additional research is needed to determine how the state is handling applications that require additional information before adjudication.

#### Requires Additional Information

- North Carolina is not automatically enrolling consumers in MSPs based on SSA data. Instead, the state is contacting consumers to request verification of SSA data and conduct phone interviews.
- In Texas, all data is transferred to an MSP application and then sent to the consumer. The consumer has 13 days to return the application, and if the application is not returned within that timeframe it is denied.

#### Requires Applicant to Initiate New MSP Application

- In Colorado, consumers are sent a letter stating that they may apply for an MSP. The letter instructs the consumer to contact his or her county Department of Health and Human Services to request an application. Consumers are instructed to submit the application, the letter, verification of their income and assets, and their Medicare card to the county office for processing.

CMS guidance requires states to act upon the Extra Help data in the same manner as if the data were in an application submitted directly by the applicant to the state. But the reality is that states are processing Extra Help data in widely varying ways. As states follow the new guidelines to implement processes for adjudicating Extra Help data, it is critical that CMS monitor implementation and develop best practices to disseminate to state Medicaid directors. As CMS develops these recommendations, it should also share information with SHIPs, MIPPA grantees and community-based organizations working on MSP enrollment.

#### **Asset Limits**

Beginning January 1, 2010, states were required to raise the asset limit for MSPs to align with Extra Help: \$6,600 for an individual and \$9,910 for a couple. Most of the 15 state Medicaid offices correctly cite these increased asset limits. In addition, we found that in these states the SHIP offices had been informed of the increased asset limit. However, we found that in four

states, the information available to consumers on state Medicaid web sites or through state Medicaid offices reflected lower asset limits that were not aligned with Extra Help limits.

- Wisconsin’s Medicaid hotline and online Medicaid manual cite the asset limit for MSPs as \$4,000 for an individual and \$6,000 for a couple.<sup>3</sup>
- Washington’s Department of Social and Health Services quotes the asset limit for MSPs as \$4,000 for an individual and \$6,000 for a couple. The department’s web site also cites these lower levels.<sup>4</sup>
- New Hampshire’s Division of Family Assistance cites the asset limit for MSPs as \$4,000 for an individual and \$6,000 for a couple. The state’s Department of Health and Human Services web site confirmed these lower limits.<sup>5</sup>
- Rhode Island’s Department of Health and Human Services web site cites the asset limit for MSPs as \$4,000 for an individual and \$6,000 for a couple. The state SHIP also cites these lower asset limits.<sup>6</sup>

The CMS guidance letter calls upon states to update their publications and eligibility systems to reflect the increased asset levels. Now that state Medicaid directors have received instructive CMS guidance, CMS should follow up and ensure that states are taking appropriate steps to amend their Medicaid plans, manuals, publications and online materials. Further, state Medicaid directors could disseminate information on the new MSP asset levels and procedures for handling the SSA-generated applications to state Medicaid hotlines and organizations that received funding to educate consumers and increase enrollment in MSPs.<sup>7</sup>

#### Asset Limits Considering the Burial Expense Disregard

Although the CMS guidance letter instructs states to adjust their asset limits to \$6,600 and \$9,910, it is silent on procedures for handling the \$1,500 burial expense disregard that is derived from eligibility criteria used for Supplemental Security Income. Federal law requires states<sup>8</sup> to disregard \$1,500 per consumer for burial expenses, provided the money is specifically designated for that purpose in a burial fund or designated bank account. The Medicaid statute, however, allows states to employ the more flexible methodology used in Extra Help applications by SSA: automatically exclude \$1,500 for burial expenses from assets, effectively raising the Extra Help asset limit to \$8,100 for an individual and \$12,910 for a couple.

Hawaii’s Medicaid office provides an example of a proactive approach to the burial expense disregard; it automatically excludes from listed assets \$1,500 each for the consumer and his or her spouse. Other states, however, are requiring proof from applicants before allowing the

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<sup>3</sup> Wisconsin’s state Medicaid hotline contractor is Forward Health and the online manual is found at <http://www.emhandbooks.wi.gov/meh-ebd/> (Section 32.6 lists the asset level as “twice the Medicaid asset limit” and then enumerates the asset levels as \$4,000 and \$6,000). Last visited February 11, 2010.

<sup>4</sup> <http://hrsa.dshs.wa.gov/eligibility/OVERVIEW/MedicalOverviewMedicareSavings.htm#QMB>. Last visited February 11, 2010.

<sup>5</sup> <http://www.dhhs.state.nh.us/DHHS/QMBSLMB/ELIGIBILITY/default.htm>. Last visited February 11, 2010.

<sup>6</sup> <http://www.dhs.ri.gov/Elders/HealthMedicalServices/MedicarePremiumPaymentProgram/tabid/892/Default.aspx>. Last visited February 11, 2010.

<sup>7</sup> Organizations such as State Health Insurance Assistance Programs (SHIP), State Agencies on Aging, and Area Agencies on Aging (AAA).

<sup>8</sup> The 11 209(b) states can employ stricter methodology than applies under SSI.

burial expense disregard. Future CMS guidance should encourage states to adopt the SSA methodology for the burial expenses in order to facilitate the processing of MSP applications generated by SSA.

## **Conclusion**

The CMS guidance letter is an important first step in ensuring that states implement the law, but additional CMS action is required to guarantee state-level compliance and ensure that as many eligible older adults as possible are enrolled in MSPs. As a next step, CMS should issue additional guidance that sets forth standards for compliance. For example, the existing guidance affirms that a state's receipt of Extra Help data initiates an MSP application. It further states that if the information from SSA is not sufficient to complete the MSP application, states must request additional information from the applicant. But existing guidance does not outline the steps a state must take when following up with the applicant. Based on the informal survey conducted for this paper, it appears at least one state is merely using the SSA data to alert consumers that they can initiate a new MSP application when they have already done so through their Extra Help application. By systematically collecting states' MIPPA implementation plans, CMS can ensure that all states are complying with the MIPPA requirements.

In addition to outlining the standards for compliance with MIPPA, CMS should encourage states to adopt best practices for processing MSP applications. The recent guidance letter outlines options available to states, but additional guidance should outline best practices, based on effective methods adopted in model states.

Future guidance should clarify the optimal process by which a consumer's Extra Help data from SSA is processed by the state as an MSP application. States should specifically be encouraged to:

- **Accept** SSA-verified Extra Help data, without independently verifying a consumer's income and assets or requiring "wet" signatures or phone interviews.
- **Assess** MSP eligibility based on Extra Help data and request additional information for the MSP application only as needed—for instance if the Extra Help data is insufficient for a state to determine MSP eligibility.
- **Follow up** with the consumer shortly after s/he is enrolled in an MSP to assess eligibility for other public benefits, and particularly those administered by the state Medicaid program.
- **Comply** with all mandated timelines, such that an MSP is processed on behalf of a consumer within 45 days of the state's receipt of Extra Help data from SSA.

To develop future guidance, CMS should collect implementation plans from all states and the District of Columbia. These plans will also provide CMS with an opportunity to monitor state implementation and begin discussions with states whose plans fall short of the standards and best practices established by CMS.