**S. 704, the Community Based Independence for Seniors Act**

## *Current Law*

Medicare covers a broad range of medical treatments, services, and equipment needed by beneficiaries, but there are limitations to Medicare's coverage. To be covered by Medicare items or services must be considered reasonable and necessary for the diagnosis or treatment of an illness or injury, or to improve the functioning of a body part.[1] Medicare law defines categories of services and items that Medicare routinely covers, but Medicare, unlike Medicaid, does not cover long-term services and supports (LTSS) such as services provided by personal care attendants, homemaker services, home delivered meals, and safety equipment.[2] Medicare Advantage (MA) is an alternative way for Medicare beneficiaries to receive covered benefits. Under MA, private health plans are paid a per-person amount to provide all Medicare covered benefits (except hospice) to beneficiaries who enroll in their plan. Medicare beneficiaries who are eligible for Part A, enrolled in Part B, and do not have end-stage renal disease are eligible to enroll in an MA plan if one is available in their area. In general, MA plans offer additional benefits or require smaller co-payments or deductibles than original Medicare. Sometimes beneficiaries pay for these additional benefits through a higher monthly premium, but sometimes they are financed through plan savings. The extent of extra benefits and reduced cost-sharing varies by plan type and geography.

The Medicare Modernization Act of 2003 (MMA, P.L. 108-273) established a new type of MA plan to coordinate care and to focus on individuals with special needs.[3] Special needs plans (SNPs) are allowed to target enrollment to one or more types of special needs individuals including (1) institutionalized (I-SNPs), (2) dually eligible (D-SNPs), and/or (3) individuals with severe or disabling chronic conditions (C-SNPs) who would benefit from enrollment in a coordinated care plan.

In general, SNPs are required to meet all applicable statutory and regulatory requirements that apply to MA plans, including: state licensure as a risk-bearing entity; MA reporting requirements that are applicable depending on plan size; and Part D prescription drug benefit requirements. SNP payment procedures mirror CMS's procedures for MA plans. SNPs prepare and submit a bid like other MA plans, and are paid in the same manner as other MA plans based on the plan's enrollment and risk adjustment payment methodology. In addition to the MA requirements, SNPs must have evidenced-based models of care (MOC) tailored to the special health needs of the SNP's target population.[4] A National Committee for Quality Assurance approval process that includes eleven clinical and non-clinical elements is used to evaluate SNP MOCs.

In May 2015, there were approximately 541 SNPs – 336 D-SNP plans, 148 C-SNP plans, and 57 I-SNP plans -- that had about 2.1 million enrollees – 1.7 million enrollees in D-SNPs, 317,476 enrollees in C-SNPs and 50,000 enrollees in I-SNPs.

The Patient Protection and Affordable Care Act (ACA, P.L. 111-148) authorized MA senior housing facility plans to continue operating indefinitely if they participated in a demonstration prior to January 1, 2010 and they were offered for at least one year.[5] MA plans generally are required to serve areas no smaller than a county, which prevents plans from targeting smaller areas that might have a disproportionate number of healthier enrollees with lower health costs. MA senior housing facility plans

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[1] Social Security Act (SSA) Sec. 1862(a)(1).

[2] For more information on Medicaid coverage, see CRS Report R43357, *Medicaid: An Overview*, coordinated by Alison Mitchell and CRS Report R43495 and *Long-Term Services and Supports: In Brief*, by Kirsten J. Colello.

[3] SSA Sec. 1859(f) Requirements Regarding Enrollment in Specialized MA Plans for Special Needs Individuals.

[4] SSA Sec. 1859(f)(5), Care Management Requirements.

[5] The MA senior housing facility plan demonstration was established by the Secretary, see the Patient Protection and Affordable Care Act, Section 3208. Making Senior Housing Facility Demonstration Permanent.

may limit their service area to a senior housing facility located in a geographic area.[6] MA senior housing facility plans also must restrict enrollment to residents of a continuing care retirement community.[7] In addition to complying with all MA requirements, MA senior housing facility plans must provide primary care services onsite and have a ratio of accessible physicians to beneficiaries determined appropriate by the Secretary and supply transportation services to beneficiaries to specialty health care providers located outside the facility.

State Health Insurance Counseling and Assistance Programs (SHIPs) and other entities provide outreach activities such as counseling, education, enrollment assistance, health promotion, and other activities to help low-income Medicare beneficiaries understand their health insurance choices so they can make informed decisions. Outreach services, including counseling, are not health services, but are services to help beneficiaries find and make best use of the health programs to which they are entitled. SHIP authority was established with the creation of Medicare Part C, Medicare's competitive health plan option, Medicare Advantage (previously referred to as Medicare Choice, Medicare + Choice).[8]

In addition to providing Medicare beneficiaries with counseling and education about their health insurance choices, outreach activities are intended to help low-income Medicare beneficiaries enroll in the Medicare Savings Program (MSP). MSP helps pay Medicare premiums and deductibles for beneficiaries who, due to their low income and assets are eligible for both Medicare and Medicaid -- dual eligibles. MSP enrollment historically has been low, so outreach activities have been used to identify individuals who qualify for assistance.

### *S. 704, as modified*

S. 704 as modified would require the Secretary to establish a Community-Based Institutional Special Needs Plan (CBI-SNP) demonstration program intended to prevent or delay low-income Medicare beneficiaries from needing institutional services.

The Secretary would be required to enter into agreements with up to five eligible MA plans to participate in the CBI-SNP demonstration. The Secretary also would be authorized to permit each participating MA plan to enroll up to 1,000 low-income Medicare beneficiaries. The MA plans participating in the CBI-SNP demonstration would be authorized to use their rebate dollars to provide eligible enrollees with supplemental benefits that could include LTSS the Secretary determines to be appropriate such as the following:

- homemaker services;
- home-delivered meals;
- transportation services;
- respite care;
- adult day care services; and
- non-Medicare-covered safety and other equipment.

[6] SSA Sec. 1859(g)(1), Special Rules for a Senior Housing Facility Plan.

[7] SSA Sec. 1852(l)(4)(B), Continuing Care Retirement Communities are an arrangement under which housing and health-related services are provided (or arranged) through an organization for the enrollee under an agreement that is effective for the life of the enrollee or for a specified period.

[8] SHIPs were authorized under a grant program in the Omnibus Budget Reconciliation Act of 1990 (P.L. 105-508), Sec. 4360. Health Insurance Information, Counseling, and Assistance Grants.

MA SNPs that meet the following conditions would be eligible to participate in the CBI-SNP demonstration:

- has offered SNPs to nursing home-eligible, non-institutionalized Medicare beneficiaries living in the community;
- has worked with low income beneficiaries, including low income beneficiaries eligible for both Medicare and Medicaid (dual-eligibles);
- is located in a state that agrees to make Medicaid data available to conduct an independent evaluation; and
- meets other conditions determined by the Secretary.

Low-income Medicare beneficiaries must meet the following conditions to participate in the CBI-SNP demonstration:

- be eligible for Medicare Advantage;
- meet the income (less than 150% of the federal poverty limit) and asset requirements for a Medicare Part D low-income subsidy (LIS),
- is not eligible for Medicaid;
- has at least two limitations in activities of daily living (ADLs) as defined under the Internal Revenue Code of 1986; and
- is at least age 65.

Under S. 704 as modified, the Secretary would be authorized to permit beneficiaries certain exceptions to the normal annual coordinated election period. Beneficiaries eligible for the CBI-SNP demonstration could dis-enroll at any time from an MA plan that was not participating in the CBI-SNP and then enroll in an MA plan that was participating in the CBI-SNP demonstration as long as the eligible beneficiary resided in the CBI-SNP demonstration plan's service area. In addition, beneficiaries eligible to participate in the CBI-SNP demonstration who were enrolled in original Medicare (fee-for-service) and a Medicare Part D plan could dis-enroll at any time from original Medicare and Part D plans and enroll in a CBI-SNP as long as the eligible beneficiaries resided in the CBI-SNP demonstration plan's service area.

The Secretary would be required to help educate eligible Medicare beneficiaries about the availability of the CBI-SNP demonstration through beneficiary outreach assistance programs such as SHIPs and other organizations that assist Medicare beneficiaries with enrollment and eligibility information.

The Secretary would be required to implement the CBI-SNP demonstration by January 1, 2018. The CBI-SNP demonstration would be conducted for five years. The Secretary will ensure the CBI-SNP demonstration is budget neutral. Taking into account the evaluation described below, the Secretary may expand the duration and scope of the CBI-SNP demonstration if:

- the expansion is expected to improve the quality of care (as defined by the CMS Administrator) without increasing net Medicare and Medicaid expenditures, or reduce spending without reducing the quality of care;
- the Chief Actuary of CMS certifies that the expansion would not increase net program spending; and
- the expansion would not deny or limit the coverage or provision of benefits to applicable individuals.

If the Secretary determined that the CBI-SNP demonstration was expected to reduce Medicare and Medicaid spending without reducing quality of care or improved quality without increasing spending,

then the Secretary would be authorized to expand the duration and scope of the CBI-SNP demonstration, including implementing it nationally and/or permanently expanding it as long as the CMS Chief Actuary certified that the expansion would not increase Medicare and Medicaid spending.

The Secretary would be required to arrange for an independent, third-party evaluation of the CBI-SNP demonstration. Prior to implementation of the CBI-SNP demonstration, the Secretary would be required to clearly articulate the evaluation criteria which would include the following criteria: specific demonstration goals, hypotheses to be tested, and clear data collection and reporting requirements. The Secretary would be required to ensure that the evaluation determined whether or not the CBI-SNP demonstration program met the following conditions:

- improved patient care,
- reduced hospitalizations or rehospitalizations,
- reduced or delayed Medicaid nursing facility admissions and lengths of stay,
- reduced spend down of income and assets for purposes of becoming eligible for Medicaid; and
- improved quality of life for the demonstration population and beneficiary and caregiver satisfaction.

By January 1, 2022, based on at least three years of data, the Secretary would be required to submit a report to Congress documenting the results of the CBI-SNP evaluation and recommendations for legislative or administrative action.

Funding for implementing the CBI-SNP demonstration would be provided by transferring $3 million from the Medicare Trust Funds in a proportion to be determined by the Secretary. In addition, $500,000 would be transferred from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund for the evaluation of the CBI-SNP demonstration. The CBI-SNP implementation and evaluation funding would be available until expended. Paperwork Reduction Act requirements would not apply to the testing and evaluation of the CBI-SNP demonstration.