NSCLC
National Senior Citizens Law Center

Disability Rights California

March 22, 2013

Sarah Arnquist
Harbage Consulting

Delivered via email to: Sarah@harbageconsulting.com

Dear Ms. Arnquist,

The National Senior Citizens Law Center and Disability Rights California jointly submit these comments with regard to the "Notice Summary for Mandatory Medi-Cal ONLY for Managed Care Long-Term Services and Supports (MLTSS)" and the "Medi-Cal Health Plan Guidebook", shared with members of the California Collaborative via email on March 8, 2013.

We appreciate the opportunity to comment on these materials before they are finalized and sent to beneficiaries. We have outlined general comments here and provided more detailed notice-specific comments in the attached comment template as well.

Notice Comments

Accuracy and Consistency
We appreciate that DHCS and Harbage Consulting have tried to address the difficulty of creating accurate notices, but are concerned that some of the language is still misleading. The language is not clear that, with the exception of IHSS, it is the health plan that is now responsible for deciding what care people will receive and that this could very well lead to changes in both Medi-Cal and Medicare (even for those that only enroll for their Medi-Cal benefits) services and provider relationships. This point must be made clearly and more information should be provided about the rights people have to maintain current services and relationships.

We also note that the explanation of what a Medi-Cal health plan is varies from notice to notice. Sometimes it is described as “a group of health care providers,” and other times is described as a “managed care plan that includes a group of doctors, etc.” Neither of these descriptions seems completely accurate. What seems most material is that beneficiaries understand that the plan will now be responsible for paying for their care and deciding what care they receive and from whom.

Readability and Comprehension

Due to the comprehensive and complex changes proposed by these materials, we would like confirmation that all materials have undergone beneficiary testing.[1] The testing should include beneficiaries with limited English proficiency (LEP) and disabilities affecting a beneficiary's ability to read or comprehend the materials, including blind beneficiaries and beneficiaries with cognitive disabilities. We also seek assurance that the materials have been written at a sixth grade level as required by SB 1008.

In general, the notices are confusing because the tense is not consistent throughout. For example, Notice B.1 90-day states, "If you *get* care in a nursing home..." implying that the managed health care plan will only assist you if you already receiving care in a nursing home. On the other hand, Notice A: 60 day notice states, "if you *need* care in a nursing home..." implying that the managed health care plan will only assist you if you need this service in the future but not if you are already receiving it. Each notice should contain both tenses when referencing all services. Proposed language is provided for inclusion in the notices in the attached comment template.

Medical Exemption Request

The notices omit a beneficiary's right to submit a Medical Exemption Request (MER). The notices as currently drafted imply that the enrollment in a managed care plan is strictly mandatory, without exception. While we understand that DHCS’ interpretation of current law is that dual eligibles will not be eligible for a MER, we understood that SPDs would continue to have the right to request a medical exemption as an alternative to enrolling in

[1] There is an indication that the Medi-Cal Health Plan Guidebook was beneficiary tested. We seek assurances that the tested population included beneficiaries with LEP, blindness, and cognitive impairments.

managed care. Accordingly, basic information regarding this right should be included in all notices.

The Medi-Cal Health Plan Guidebook provides a description of the MER process, which the notices should reference. Due to the complexity of the MER process, we recommend that DHCS also develop a separate MER factsheet that should be referenced in the Guidebook and encourage beneficiaries to seek assistance from their providers and/or an advocate when applying for a MER. We have included proposed language for inclusion in the notice in the comment template attached. We also advise that the term MER be added to the Definitions section of the Guidebook.

Independent Consumer Assistance

Given the complexity of the notices and changes therein, beneficiaries will have many questions regarding the enrollment process. The only assistance information provided in the notices directs beneficiaries to Health Care Options. We believe the notices should also contain contact information for independent enrollment counselors such as HICAPs, Center for Independent Living or at the very least, contact information for the Medi-Cal Managed Care Ombudsman as included in the Guidebook. We, of course, are awaiting a proposal from DHCS on a dedicated ombuds or consumer assistance program for CCI enrollees.

Nursing Home Care

The notices explain that if a beneficiary requires nursing home care, the health plan will work with the beneficiary and doctor to obtain this service. To date, there has been no indication that each available managed care plan will have signed contracts with each Medi-Cal certified nursing home. As written, the notices imply that a beneficiary can be admitted to or remain in any nursing home. If plans will not be required to enter into a contract with all certified nursing homes, the notices should indicate that the beneficiary's admission to a nursing home of his or her choice will be limited based on whether the nursing home is covered by a specific plan.

Also, it is not clear how the approach laid out – the plan working with the doctor – will work in cases where a dual eligible is enrolled in a plan only for their Medi-Cal benefits. In this case, the plan may not have any contractual or financial relationship with the primary care physician (who is being reimbursed by Medicare). This is first a policy issue and one which raises our concerns about mandatory Medi-Cal managed care enrollment

of dual eligibles. It is, however, also a notice issue as dual eligibles must understand how enrollment in managed care will and will not impact their Medicare benefits and provider relationships.

In sum, we feel that there are many unanswered questions about how beneficiaries will access nursing home care and the notices do not adequately explain how the process will work.

Medicare Advantage

In the Frequently Asked Questions section of Notice C.2, question five (marked nine) discusses Medicare Advantage. The answer explains that only beneficiaries who have a matching Medicare Advantage/Medi-Cal plan will be affected. This creates confusion to a beneficiary who is not in a matching Medicare Advantage/Medi-Cal plan since he will receive a notice stating that he "must" enroll in a Medi-Cal managed care health plan. He will only discover he is not affected by the notice after reading through the entire notice and all FAQs. Accordingly, beneficiaries who are in a Medicare Advantage plan that does not have a matching Medi-Cal plan should **not** receive a notice in the first instance. We have included amended language for inclusion in the notice in the comment template attached.

In addition, beneficiaries who are in a Medicare Advantage plan with a matching Medi-Cal plan should be assigned to the matching plan and told in the notice that this was the primary factor in their assignment. They should be told that they can only enroll in a different Medi-Cal managed care plan if they also change Medicare Advantage plans. We would also note that the chart included is very confusing since, to anyone without extensive background in this topic it does not appear that the plans are in fact matching (i.e. Kaiser and Alameda Health Alliance are two different plans).

Tailored Notices

We believe these notices should be more tailored to the unique situations of the beneficiaries that receive them. In the current draft, the notices provide information about IHSS, MSSP, CBAS and nursing home coverage to individuals that do not receive those services. Including information in the notices that is not directly relevant to the recipients of the notices adds complexity to the notices and increases the opportunity for confusion.

Instead, tailored versions of the notices should be prepared for individuals that receive IHSS or are in nursing facilities, for example.

Coded Notices
One of the challenges of this process is the number and variation of notices that must be delivered to beneficiaries. Medicare faces a similar challenge during each annual enrollment period. To address that problem, Medicare color codes its notices. That way when a beneficiary calls Medicare or a community based organization for assistance understanding a notice they received, they can identify the notice by color. We suggest DHCS adopt a similar approach with this project. Due to the high number of notices contemplated by the implementation of the CCI, DCHS may need to incorporate other coding methods such as using shapes at the top of notices to help distinguish notices.

Medi-Cal Health Plan Guidebook Comments

Medicare
While we understand that this Guidebook is intended for people enrolled in plans for their Medi-Cal only benefits, it fails to include any information for dual eligibles about how enrollment in the plan will impact their Medicare benefits. This is a serious oversight and must be corrected throughout the Guidebook. One of the important lessons learned from the CBAS transition was that notices to dual eligibles, even if discussing Medi-Cal benefits only, must be clear about how Medi-Cal managed care enrollment will impact Medicare benefits and providers.

Readability and Comprehension
See comments above. The handbook also needs to be written at a level that beneficiaries can comprehend. Page 4 is an example of the changing tenses: “if you get IHHS,” “if you need CBAS,” "if you need nursing home care.”

Population Guide
The Guidebook should contain a paragraph on the cover referencing which populations should receive the Guidebook and should be coded to match the coding of the notice it should accompany.

PACE
We are happy to see information include about PACE as an option. Information should be added, however, about how an interested beneficiary would get connected to PACE.

Care Continuity
We are concerned about the lack of detail in the care continuity section of the Guidebook. We are also concerned that these rights are being summarized before we have had an opportunity to review and discuss with DHCS how these rights will be operationalized, especially for LTSS providers.

System and Community Readiness

In addition to the comments on the materials above, we are concerned about the degree of preparation required to disseminate the materials to beneficiaries. Not only does DCHS and its contractors need to be extensively trained on these materials and primed to respond to beneficiary questions, but caregivers, community organizations, county agencies, and many others will require extensive training as well.

We acknowledge that DCHS has drafted a Provider Outreach Plan. The Plan contains a strategy for disseminating information regarding the Duals Demonstration elements of the CCI. We advise that the Provider Outreach Plan also include activities related to the other parts of the CCI.

Coordination of Notices with Duals Demo Notices
Stakeholders have not received draft notices for the Duals Demonstration to date. Presumably, this is because DCHS does not want to move forward with the Duals Demonstration in the absence of a finalized Memorandum of Understanding with CMS. We want to confirm, however, that DHCS still plans to implement and release notices for the Duals Demonstration and the other aspects of the CCI simultaneously. Simultaneous implementation will help minimize confusion and standardize the enrollment process.

Timing of Notices
Under the current schedule, these CCI notices will be sent in the same month that new cuts to IHSS take affect per the recently reached settlement agreement in *Oster*. Telling individuals that their Medi-Cal

services will not be cut at the same time their IHSS is being cut is a confusing message.

State Agency Readiness
We recognize that this is an enormously complicated task and that some of our comments will require more work of DHCS and its contractors. We are also aware of problems that have occurred at Health Care Options with notices and other elements of the enrollment process. It is essential that DHCS establish mechanisms to ensure that the right notices go to the right beneficiaries.

Mistakes and errors, however, are inevitable. DCHS must, therefore, also ensure that state agency employees and contractors are well trained on the different notice types and are able to effectively answer beneficiary questions and recognize if a beneficiary has received the wrong notice. DCHS employees and contractors should receive extensive training on all of the notices and informational packets distributed by DCHS.

Community Readiness
The training and education of beneficiaries, caretakers, providers, and community groups is vital to implementing the CCI. The degree of training required to assure that the community understands and can explain and differentiate between the types of notices will need to be extensive. We are planning outreach and training efforts and we know that DHCS is as well. It will be very important that there is time between the finalization of the notices and the sending of notice to train community groups on the notices so that they are prepared to answer questions from beneficiaries.

Plan Readiness
Finally, it is extremely important that these notices not be delivered until plans have passed all readiness reviews including ensuring that networks are established and adequate to serve this population, call center staff are trained on these changes and notices and computer systems are prepared to accurately display timely enrollment information.

Again, we appreciate that we were given the opportunity to review these materials prior to their finalization. We recognize that this is a challenging process and look forward to continued participation in the development of these materials.

Sincerely,

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National Senior Citizens Law Center

Deborah Doctor
Legislative Advocate
Disability Rights California

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Comment Template for MLTSS Beneficiary Notices and Guidebook

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Page	Section Title	Existing Text	Comment or Suggested Edit
	N/A	N/A	**Medical Exemption Request (MER)** You may not have to join a Medi-Cal health plan if you have certain medical conditions. More information about a MER is in the Health Plan Guidebook. If you have questions about a MER, you should contact Health Care Options.
3	Notice C.2 60-day	Typo on FAQ 1. "different"	"difference"
1; 2; 4	Notice A; Notice B.1; (90-day); B.2 (60-day); C.1 (90-day); C.2 (60-day)	"Nursing home care is nursing care in a facility. If you get care in a nursing home, your health plan will work with your doctor and nursing home. " "If you get care in a nursing home, your Medi-Cal health plan will work with your doctor and nursing home to give you the same services that you get now and to better coordinate your care."	
4	C.2 60-day	"You can only be in a Medicare health plan and Medi-Cal health plan when they are the same plan or work together as partners. Call health Care Options to learn more. If there is no matching Medicare/Medi-Cal plan in your county, then you will stay in traditional, fee for service Medi-Cal.	"Yes. You will be placed in the matching Medicare/Medi-Cal plan in your county. See the chart below. If you received this notice and your Medicare plan is **not** listed in the below chart, you should contact Health Care Options. You are not eligible for a Medi-Cal plan. You will stay in traditional, fee for service Medi-Cal. "
All	All	Both present and future tenses should be used to describe each service listed in all notices.	For example, "If you are receiving nursing home care, your health plan will work with you and your doctor to coordinate your services." If you need nursing home care in the future, your health plan will work with you and your doctor to obtain this care."

Comment Template for MLTSS Beneficiary Notices and Guidebook

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Page	Section Title	Existing Text	Comment or Suggested Edit
2	B.1 90-day;	"In-Home Supportive Services (IHSS) are personal care services for people..."	"in-Home Supportive (IHSS) are personal care and **domestic services** for people..."
1	Notice B.2 60-day	"The way you get Medi-Cal services is changing. To still get your Medi-Cal benefits, you must enroll in a Medi-Cal health plan."	Add: "You have the right to choose between two Medi-Cal plans."
1 1	Notice B.3 30-day; Notice C.3 30-day	"You must get your Medi-Cal services…"	"You will get your Medi-Cal services through this health plan's network of providers unless you choose a different plan."
1	Notice D	"This packet includes a provider director that lists the doctors who work with Inland Empire Health Plan. Look for your doctors' names in the director."	Add: "If you current doctor is not part of the Inland Empire Health Plan, you have two choices: 1. do not join the plan and keep your doctor or 2. join the plan and choose a new doctor."