



# NSCLC

**National Senior Citizens Law Center**

Protecting the Rights of Low-Income Older Adults

August 28, 2013

# Dual Eligible Demonstration Projects

## Three-Way Contracts, MOUs and CMS Updates

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*The National Senior Citizens Law Center is a non-profit organization whose principal mission is to protect the rights of low-income older adults. Through advocacy, litigation, and the education and counseling of local advocates, we seek to ensure the health and economic security of those with limited income and resources, and access to the courts for all. For more information, visit our Web site at [www.NSCLC.org](http://www.NSCLC.org).*

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# Today we will details recent developments in the duals demo

Update on the status of the dual demo states

Overview of the three way contract and MOUs

CMS guidance

Where do we go from here

# Status Update: Dual Eligible Demonstrations

# Demonstration map continues to change



**Blue:** Memorandum of Understanding (MOU) pending.

**Red:** Proposal withdrawn.

**Yellow:** Signed MOU.

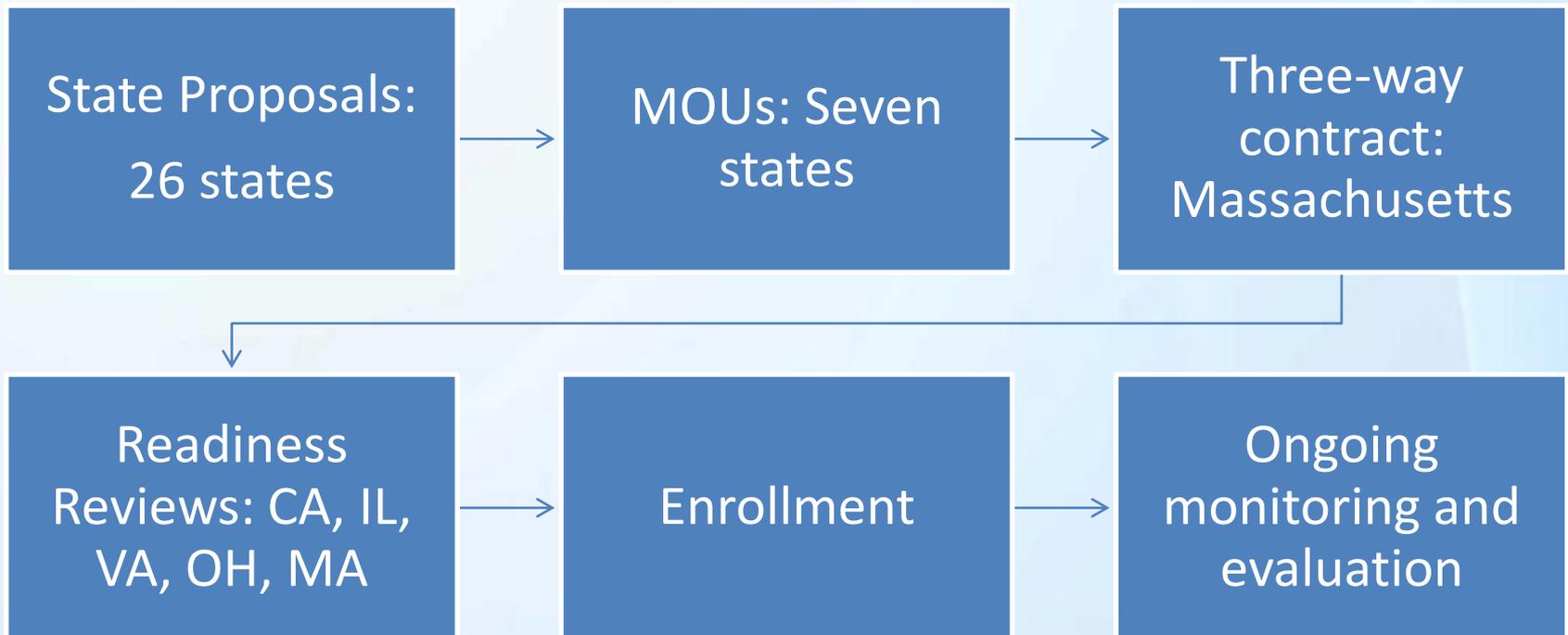
**Gray: Not seeking demonstration.** These states are not seeking to do demonstration projects.

# Several states are no longer participating

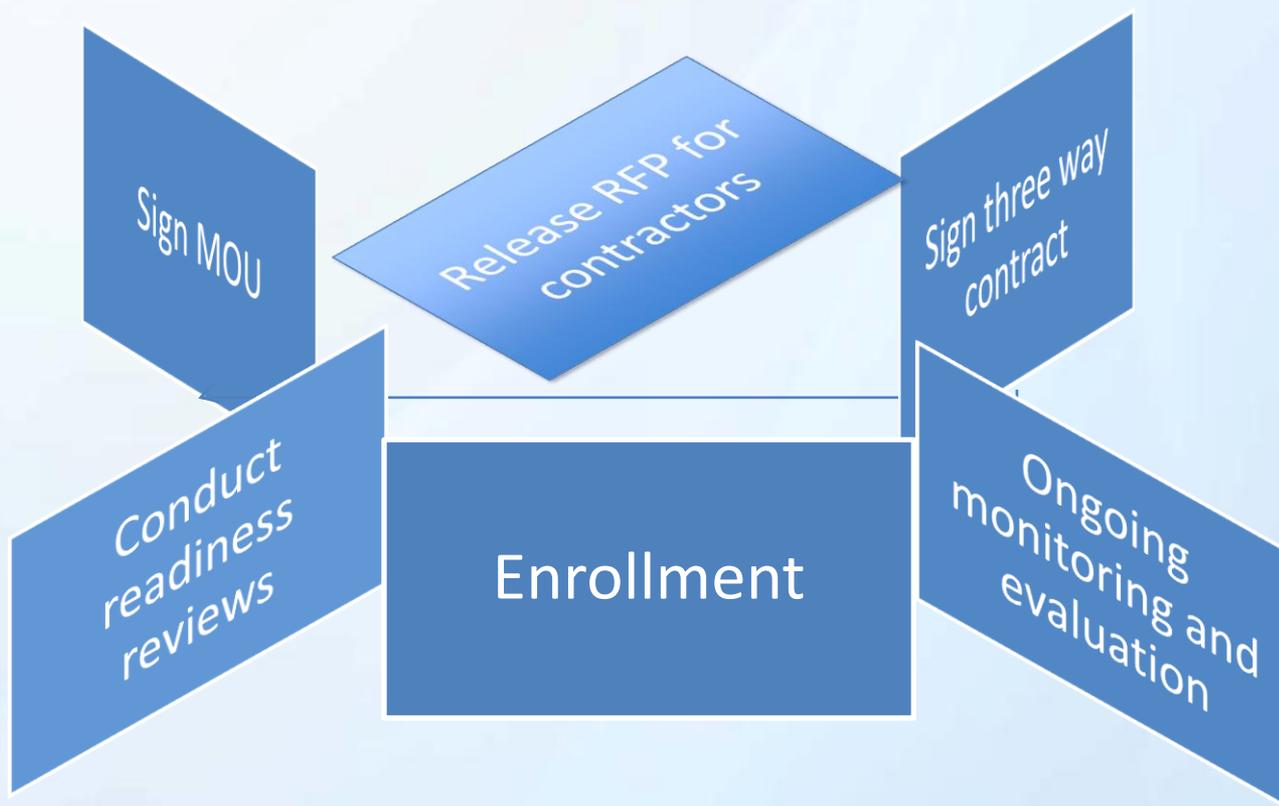
- States dropped out or are no longer pursuing the demonstration at this time
  - Capitated: HI, OR, AZ, NM, TN, MN
  - MFFS: CO, NY (still in for capitated), and NC
- Wisconsin was out, now back in:

*“By March 1<sup>st</sup>, 2014, DHS would expect CMS’s agreement to this MOU along with its assent to provide federal implementation funding. If this cannot be achieved by this date, then DHS will consider its participation in CMS’s integrated initiative concluded.”*

# MMCO and states are moving toward enrollment



# However, states are making decisions at different stages



# Enrollment will begin this Fall

State	Latest proposed enrollment date
California	April, 2014 (passive for all counties, except LA) April-July, 2014 (voluntary for LA county)
Illinois	January, 2014 (voluntary) April, 2014 (passive)
Massachusetts	October, 2013 (voluntary) January, 2014 (passive)
New York	Community LTSS: July, 2014 (voluntary), September, 2014 (passive) Institutional LTSS: October, 2014 (voluntary), Jan. 2015 (passive)
Ohio	April, 2014
Virginia	February, 2014 (voluntary) May, 2014 (passive)
Washington	MFFS went live on July 1

# Demonstration will extend later than originally envisioned

- Duals demo authorized by ACA § 2602
- 2011 State Medicaid Director letter established the demo and three year limit
- Hawaii is not happening because of time limit rule
- Virginia and New York extend beyond three years

July 1, 2013:  
Washington  
MFFS begins

Feb. 1, 2014:  
Virginia  
begins

July , 2014:  
New York  
begins

Dec. 31, 2017:  
Virginia and  
New York end

# Passive enrollment will be smaller than expected a year ago

- Anticipated enrollment decreasing:
  - California proposal: Nearly 1 million
  - California MOU: 415,000
- Some MCOs are leaving the demonstration, limiting passive enrollment:
  - Massachusetts: 6 MCOs, 3 still participating
  - Only beneficiaries in Hampshire, Hampden, Suffolk and Worcester county will be passively enrolled.

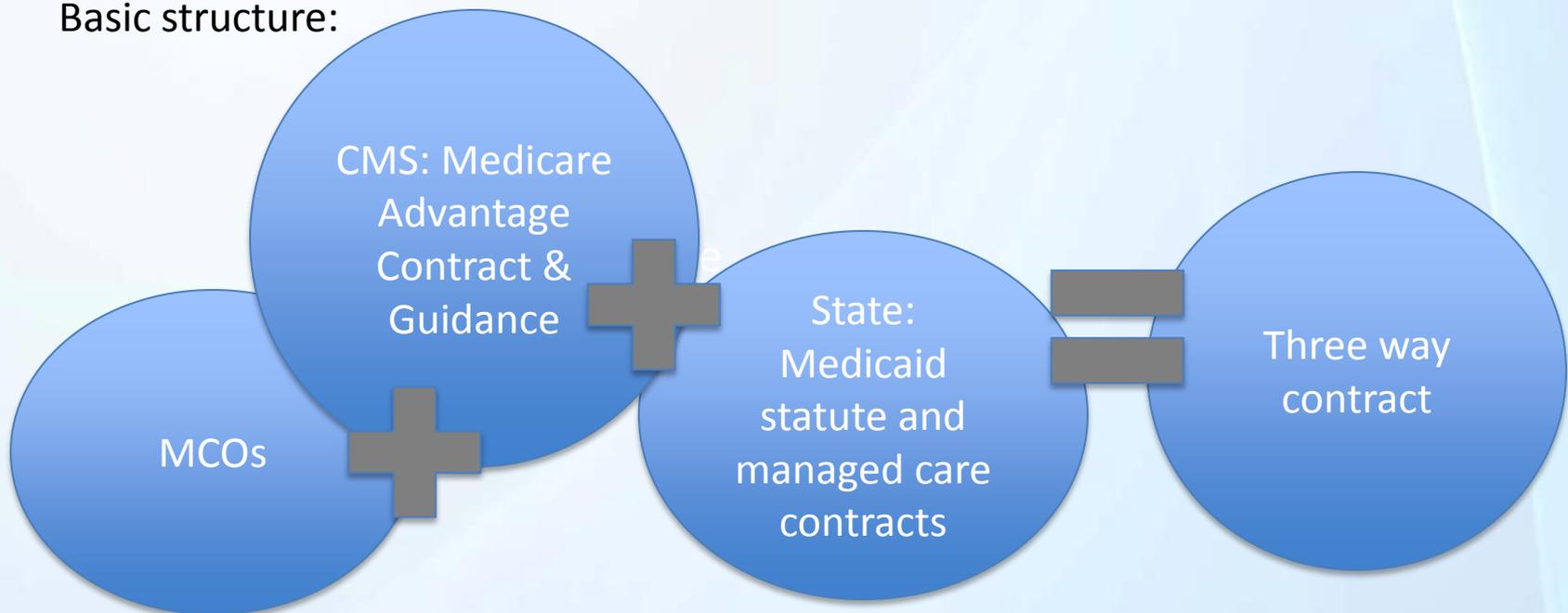
# Several funding opportunities for states

Opportunity	Timeline	Funding	Status
Ombudsman	Next round due: October 8	Up to \$3 million per state, for three years	First round in, MMCO reviewing. Several states applied. Awards mid-September
SHIPs/ADRC	Last round was due August 15	Up to \$5 million total available, each grant for three years	SHINE and more to come.
Implementation Funding	Due earlier this year	Up to \$85 million available	Unclear if any states received award.

# Understanding the Three-Way Contract and MOUs

# Massachusetts three- way contract

Basic structure:



- Starting point to understand other state contracts

See: [www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/Downloads/MassachusettsContract.pdf](http://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/Downloads/MassachusettsContract.pdf) for more information

# Three-way contract is one of several key demo agreement docs

- Memorandum of Understanding
- RFP for MCOs
- Three way contract
- CMS enrollment, marketing and other guidance
- Additional technical guidance
- Model notices

# Many consumer protections detailed in the three-way contract

Key consumer sections in the three-way contract:

- Section 2 (p. 17-151):
  - Enrollment
  - Care Coordination
  - Assessments
  - Access to Services
  - Interdisciplinary Care Team
  - Long-term services and supports
  - Appeals
  - Enrollee Rights

See NSCLC's summary <http://dualsdemoadvocacy.org/wp-content/uploads/2013/08/Massachusetts-Three-Way-Contract-Summary-of-Beneficiary-Protections-8.23.13.pdf>.

# Enrollment provisions in the MA three-way contract

- Passive enrollment:
  - Only three counties will be eligible for passive enrollment, so passive enrollment will be limited
  - State has extensive flexibility to create an intelligent assignment process
  - CMS and the state may adjust the volume or spacing of passive enrollment
  - Unclear what state enrollment documents must be translated

# Demonstrations may include additional benefits

## Massachusetts Plans Benefits Package

### Expanded services

Personal Care Attendant (PCA) and Durable Medical Equipment (DME)

### Supplemental Services

Day services, home care services, respite care, peer support, care transitions assistance, home modification, community health workers, medication management, and non-medical transportation.

Beneficiaries may appeal denial of these benefits in the same manner as any Medicare or Medicaid benefit.

See: MMCO Letter (August 2013): <http://dualsdemoadvocacy.org/wp-content/uploads/2013/08/MMCO-response-to-advocate-letter.pdf>.

# Mass contract identifies enrollee rights and protections

Be treated with dignity

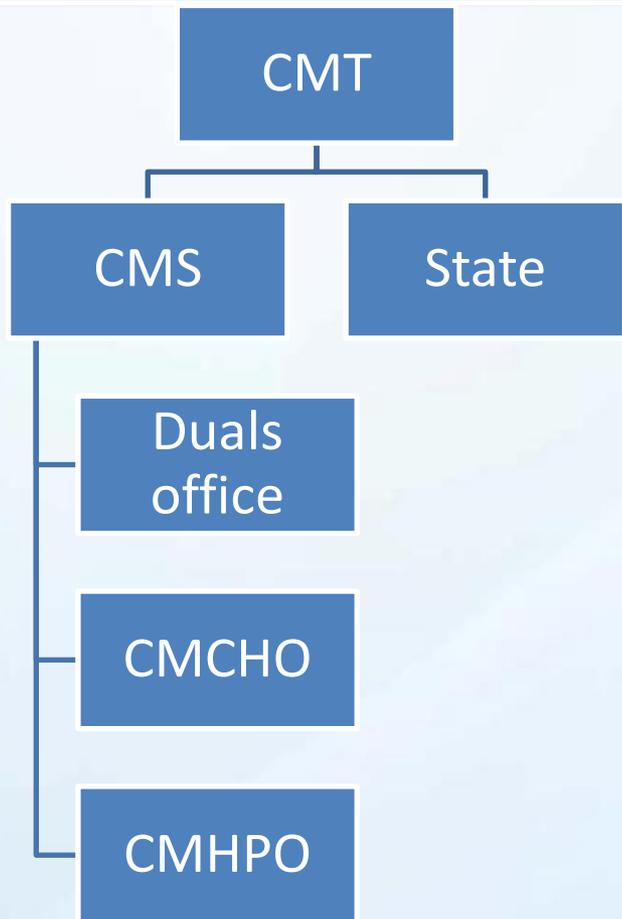
Access to adequate network of providers

Have a voice in demonstration governance and operations

Involve caregivers in treatment discussions and decisions

Receive advance notice of a transfer to another treatment setting

# The Contract Management Team is key for oversight



- Ombudsman will have access to data to help the CMT get a fuller picture of the demonstration.
- Reporting and problems should go to the CMT
- Similar to oversight in the PACE program

# Contract Management Team responsibilities

- Coordinate MCO audits and surveys
- Coordinate review of:
  - Marketing materials and procedures
  - Grievance and appeals data
- Review, approve and monitor the MCO's complaint and appeals procedures
- Conduct site visits
- Coordinate external quality reviews

# Quality evaluation is a work in progress

## MOU

- Each state lists core metrics.
- CMS core measures: (AHRQ/CAHPS/HE DIS).
- State specific, e.g.: LTC rebalancing measure, self-direction participant-level.

## Three Way Contract

- Details the metrics for the quality withhold.
- Does not include information on quality for overall evaluation.
- Specific information in future technical guidance.

## CMS LTSS Measure Development

- Few LTSS measures currently exist.
- LTSS measures in the demo are state specific.
- The National Quality Forum's preliminary findings to CMS included a starter set of 15 measures states should implement for dual eligible programs.

# Care Continuity: variations among states

	CA	IL	MA	NY	OH	VA
Transition period	180/360 M'care/M'caid	180	90	90	Depends on service	180
Can stay in NF?	1 yr	?	?	Yes	Yes	Yes

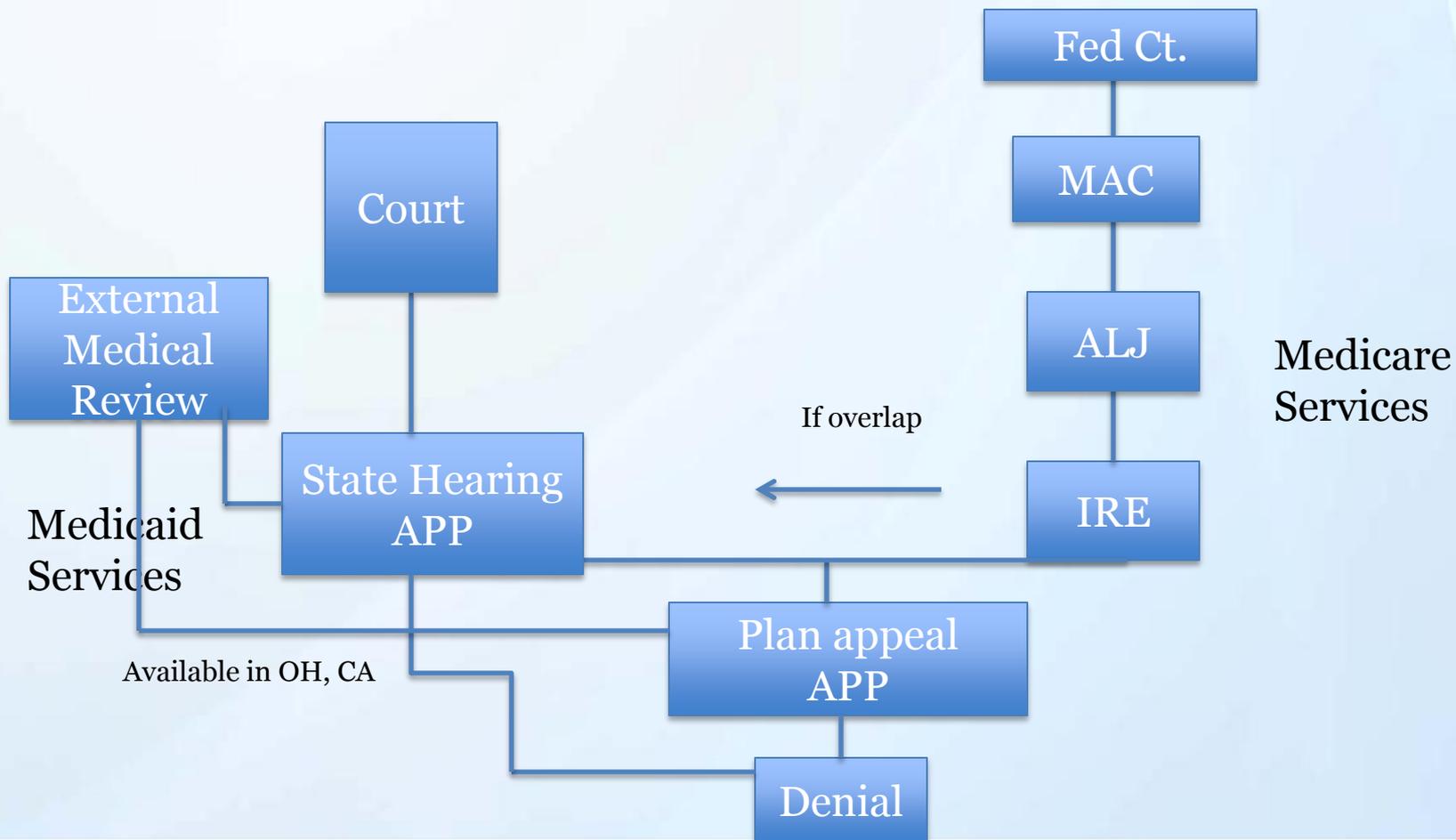
Need for clarity re providers and services

See NSCLC Care Continuity Tool [www.nsclc.org/wp-content/uploads/2013/05/Care-Continuity-Final-052913.pdf](http://www.nsclc.org/wp-content/uploads/2013/05/Care-Continuity-Final-052913.pdf)

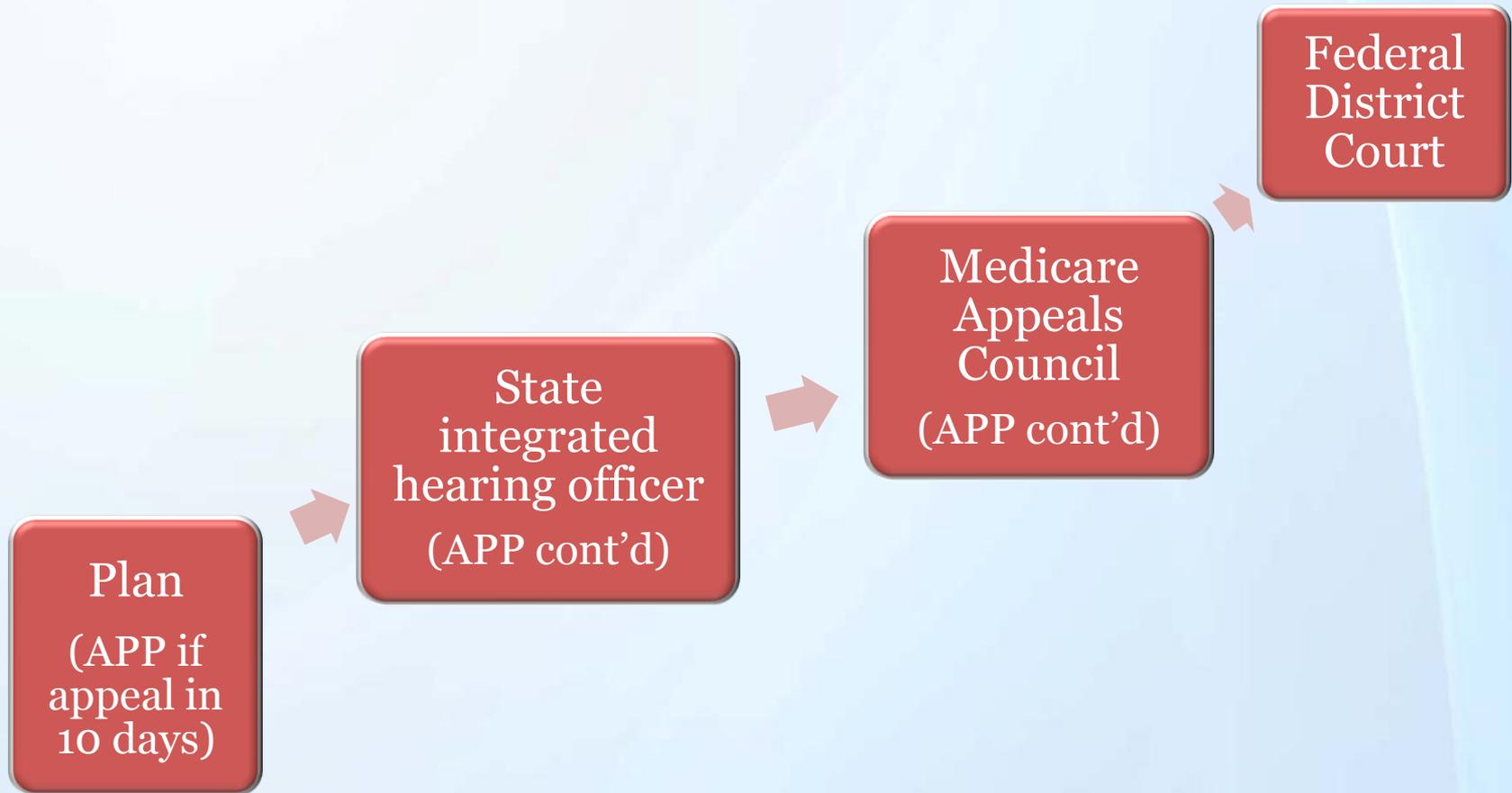
# Appeals: limited progress on integration

- All MOU states:
  - Integration at plan level
  - Aid paid pending at plan level
- Most states:
  - If overlapping M/M services, can pursue parallel tracks
  - Best resolution trumps
- MA Contract says IRE will apply M/M standard

# Appeals- Most states



# Appeals—the NY approach



# Rates- Range of required savings

State	Savings Year 1	Savings Year 2	Savings Year 3
California	1%-1.5%	2%-3.5%	4%-5.5%
Illinois	1%	3%	5%
Massachusetts	1% (0 for 3 mos in 2013)	2%	4%
New York	1%	1.5%	3%
Ohio	1%	2%	4%
Virginia	1%	2%	4% (with conditions)
Washington	N/A		

CMS Rate Setting description: [www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/Downloads/JointRateSettingProcess.pdf](http://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/Downloads/JointRateSettingProcess.pdf)

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# Additional MMCO Guidance

# MMCO guidance

- MMCO information on:
  - Marketing
  - Enrollment
  - Ombudsman
  - Joint Rate Setting

CMS page with links to all guidance and to funding opportunity:

[www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialModelstoSupportStatesEffortsinCareCoordination.html](http://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/FinancialModelstoSupportStatesEffortsinCareCoordination.html)

# Marketing will begin as early as September

- CMS established core marketing guidelines states and plans must adhere to:
  - Medicare Marketing Guidelines
  - Marketing materials must submitted for review
  - No cold calls
- Non-demo plans (MA-PD, PDPs, SNPs) can continue to market to duals throughout the year.

# Enrollment guidance

- State—through enrollment brokers--handle enrollments and opt outs
- 60 day notice for passive enrollments
- Can't passively enroll those reassigned in Part D until Jan. 2015
- Once opt out, can't be passively enrolled for life of the demonstration
- Each state will have a state specific appendix to enrollment guidance

NSCLC summary at <http://dualsdemoadvocacy.org/wp-content/uploads/2012/02/Enrollment-Guidance-Summary-062713.pdf>

# Enrollment guidance includes model notices

Enrollment guidance and model notices are available on MMCO's website:

[www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination/Office/FinancialModelstoSupportStatesEffortsInCareCoordination.html](http://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination/Office/FinancialModelstoSupportStatesEffortsInCareCoordination.html)

## Exhibit 5: State Reminder Notice for Passively Enrolled Individuals

Referenced in § 30.1.4

Keep this notice for your records

<Member's Name>  
<Address>  
<City State Zip>

<Last 4 digits of HICN>  
<Date>

Read this notice carefully and keep it for your records.

### Important reminder: You're being enrolled in a new health & drug plan

You recently got a notice from your state about important changes in your health and drug coverage. <State> will soon enroll you in <Org Name>'s <Plan Name>. This new plan includes your <Medicaid or state-specific Medicaid name> (sometimes called "Medicaid"), Medicare, and prescription drug benefits. This plan is designed to help your Medicare and <Medicaid or state-specific Medicaid name> work better together and includes new benefits and services that aren't available to you now.

### Your new coverage starts <effective date>

You'll be automatically enrolled in <Plan Name>, so you don't have to do anything. If you don't make another choice by <date>, your new coverage will start on <effective date>. <Plan Name> will send you a new health and drug card to use. This new card will replace the cards you use now.

For more information about your new plan, to find out what benefits your new plan covers, or to see if you can still see your current doctors in your new plan, call <State's Customer Service Line> at <State Customer Service number and TTY> during <call center hours>.

### You have other options

If you don't want to be enrolled in <Plan Name>, you have other options, including:

1. **Keep your current Medicare coverage or a similar option.** Call <State's Customer Service Line> at <State Customer Service number> and tell them you don't want to be in <Plan Name> (you want to "opt out"). They can help you find out how to keep your current coverage or talk to you about similar options available to you.
2. **Join a different plan that will include your Medicare, <Medicaid or state-specific Medicaid name>, and prescription drug benefits.** Call <State's Customer Service Line> at <State Customer Service number> and tell them you don't want to be in <Plan Name> and you want to join a different plan. Call by <date> to make sure you get your plan materials in time for the start of your coverage.

# Ombudsman

- Ombudsman Funding Opportunity Announcement (FOA) provides guidance on MMCO expectations for program:
  - Conflict free, culturally competent
  - Confidential, free to beneficiary
  - Role:
    - Education, outreach
    - Consumer assistance program
    - Conflict resolution
    - Identify systemic issues
  - Access to records of plan and service providers to resolve complaint

# Ombudsman: Build on existing resources

CMS offers flexibility to states

- Lead agency
  - LTC ombudsman, MMC ombudsman, P&A, legal services, others?
- Partners
  - CBOs, legal services, P&As, others?

***Next round due October 8. REMEMBER: State does not need a signed MOU to apply.***

# Opportunities for advocates: Policy Input

- Stakeholder process
- Comments
- Notices—design and content

# Opportunities for advocates: Preparing for implementation

- Know what is going on in your state
- Educate consumers and providers
- Plan your resources for the implementation phase.  
Ombuds role?

# Day One of implementation-

## Three concerns

- Information—Getting accurate information out to consumers, providers, advocates. Enough lead time? Adequate outreach?
- Care continuity—will it be robust?
- State organization and capacity for oversight and problem-solving—Staffing levels? Coordination? Systems readiness?

# Two new resources from NSCLC

- California training model
- Consultation with advocates

# Visit our duals demonstration website

[www.dualsdemoadvocacy.org](http://www.dualsdemoadvocacy.org)

- Sign up for updates
- Check out our resources
- Sign up for future webinars

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# Questions?

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