



NSCLC

National Senior Citizens Law Center

Protecting the Rights of Low-Income Older Adults

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Dual Eligible Demonstrations

What Can Other States Learn from NY, VA and SC?

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Housekeeping

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- For substantive questions, please use questions box.
- Problems with getting on to the webinar? email trainings@nsclc.org
- You will be sent copies of the slides after the presentation. Slides and a recording will also be available at www.dualsdemoadvocacy.org in the EVENTS section.



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.

The Medicare Rights Center

- A national, nonprofit consumer service organization working to ensure access to affordable health care for older adults and people with disabilities through:
 - Counseling and advocacy
 - Educational programs
 - Public policy initiatives
- Krystal Knight, New York State Policy Director;
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Today

Overview

State commonalities

Differences across states

Implementation at a more thoughtful pace than proposed

	VA	NY	SC	WA cap
MOU signed	May 21, 2013	August 26, 2013	October 25, 2013	November 25, 2013
Voluntary enrollment start	February, 2014	Community LTSS: July, 2014 Institutional: October, 2014	July, 2014	July, 2014
Passive enrollment start	May, 2014	Community: September, 2014 Institutional: January, 2015	January, 2015	September, 2014
Approved/proposed enrollment	64,415/78,600	170,000/250,462	53,600/68,000	58,000/115,000

Commonalities across recent state MOUs

Consistency in MOUs

- Medicare standards in recent MMCO guidance:
 - Marketing Guidance, Enrollment/Disenrollment Guidance, Encounter Data Reporting, Reporting Requirements
- Consistency in MOUs
 - Initial voluntary enrollment
 - Ombudsman
 - Initial savings reductions

All states include an initial voluntary enrollment period

- VA, NY, SC, and WA include at least 60 day initial voluntary enrollment.
- States will send individuals a notice informing them of their right to “opt-in” to demonstration.

Stay tuned: State variety in passive enrollment

CMS is requiring all states include an independent ombudsman

- VA, NY, SC and WA include similar language:
 - “The ombudsman will support individual advocacy and independent systematic oversight....with a focus on compliance with principles of community integration, independent living, and person-centered care in the home and community-based care context.”

Stay tuned: Critical state difference in this description

All ombudsmen will have access to Contract Management Team

- Data access and reporting responsibilities consistent in all MOUs:
 - Ombudsmen are responsible for gathering and reporting data on activities to State and CMS through the Contract Management Team

All state demonstrations include upfront savings reductions

	VA	NY	SC	WA cap
Year 1	1%	1%	1%	1%
Year 2	2%	1.5%	2%	2%
Year 3	4%	3%	4%	3%

Critical differences in the MOUs

1) ENROLLMENT

Passive enrollment different in each state

	VA	NY	SC	WA cap
Phased passive	Yes; two geographic phases.	Yes; over 4 months.	Yes; phased based on HCBS benchmarks.	Yes; three phases
Intelligent assignment	Yes	Yes	Yes; past providers, history with plan and more.	No; random assignment based on county population.
Opt back into FFS for Medicaid services*	Yes	No; must remain in plan for Medicaid LTSS.	Yes	Yes

*Beneficiaries in every state will be able to opt-out of demonstration and return to FFS Medicare for Medicare services

Monitoring plan capacity in phased passive enrollment

- South Carolina:
 - Three phases with HCBS benchmark standards before plan can assume higher level of responsibility
- Washington:
 - Capacity: ability to manage opt-in enrollments and prior month's passive enrollments
- Illinois:
 - Phase-in capped at 3,000 (Central) and 5,000 (Greater Chicago) beneficiaries/month over 6 month period

Important elements in intelligent assignment

- South Carolina MOU includes detail on intelligent assignment algorithm:
 - Individuals will be pre-assigned with consideration to:
 - Existing provider relationships, including HCBS providers
 - Previous history with another product of the plan
 - Household members currently assigned to a plan
 - Case mix of each plan

Passive enrollment takeaways for future states

- Clarify capacity for phased passive enrollment
- Intelligent assignment process: consider previous history and relationships
- Preserving opt-out potential for Medicaid FFS
- Passively enrolling most challenging populations last

2) Care Continuity

Care continuity differences

	VA	NY	SC	WA cap
Nursing home residents	May stay thru demo	May stay thru demo	N/A	Later of 180 D or completion of individualized care plan
Medicare providers and services	180 D or length of prior service authorization, whichever is sooner*	Later of 90 D or care assessment completed	180 days. * Earlier only if assessment & care plan and enrollee consent	Later of 90 D or completion of individualized care plan*
Rx drugs	Follow Part D	Follow Part D	Follow Part D	Follow Part D
*Earlier only with enrollee consent.				

Care continuity takeaways for future states

- Protections for current nursing home residents
- At least 180 day transition, care plan in place
- Specific requirement for enrollee consent to earlier change
- Clarity re inclusion of both providers and services in protections
- Open issues: definitions of current provider and documentation requirement
- Appeal rights and routes re care continuity disputes

3) Savings reductions and rates

WA and SC rate incentives for community living

- South Carolina:
 - 90 days payment bump after NF transition back to community
 - Payment at a lower rate for 90 days where an individual moves from the community or HCBS to a nursing facility.
- Washington:
 - Single rate cell for NFLOC, if in a waiver or institution
 - Two months NFLOC before Community Well rate if need ends

New York and Virginia Rates

- New York:
 - MOU proposes two rate cells, subject to change:
 - Community-non-nursing home certifiable
 - Nursing home certifiable
- Virginia recently shared methodology for its blended rate:
 - Nursing Home Eligible
 - Community Well

http://dmasva.dmas.virginia.gov/Content_atchs/alte/cntct-mmfa_cr1.pdf

Virginia's rates include 1% Y1 savings reduction

Table 8. CY 2014 Dual Demonstration Capitation Rates with PCP Payments and 1% Savings Percentage*

Sub-Population	Age Group	Phase I		Phase II			CY 2014 Average
		Central Virginia	Tidewater	Northern Virginia	Southwest /Roanoke	Western/ Charlottesville	
Nursing Home Eligible**	Age 21-64	\$3,154.44	\$3,250.88	\$4,219.83	\$2,937.73	\$2,816.28	\$3,240.44
	Age 65+	\$3,633.42	\$3,550.45	\$4,260.46	\$3,831.49	\$3,677.29	\$3,763.13
	Average	\$3,531.38	\$3,478.01	\$4,254.21	\$3,641.04	\$3,502.59	\$3,653.68
Community Well	Age 21-64	\$423.03	\$355.16	\$392.91	\$519.70	\$327.92	\$411.82
	Age 65+	\$231.04	\$214.52	\$156.37	\$292.70	\$241.27	\$207.59
	Average	\$338.64	\$293.34	\$205.88	\$436.35	\$289.08	\$307.04
Weighted Average		\$1,423.14	\$1,259.56	\$1,146.84	\$1,499.01	\$1,397.01	\$1,333.16

Note: *Rates may be revised when the PCP adjustment is finalized for February 1, 2014 and for any changes by the Virginia General Assembly for FY15.

**NHE rates will be adjusted by MEMA calculations over the time period of the Demonstration.

3) Ombudsman

Ombuds: significant difference in the role of the office

- Complete the sentence:
 - “Ombudsman will support individual advocacy and independent systematic oversight for...
 - NY: the FIDA Demonstration
 - VA: Participating Plans
 - SC: CICOs (plans)
 - WA: the Demonstration
 - ...with a focus on compliance with principles of community integration, independent living, and person-centered care in the home and community-based care context.”

MOUs envision different layers of independence for ombuds

	VA	NY	SC	WA
MOU explicit assistance with appeals?	No; however, State may contract with legal services	No: responsible for assisting participants in accessing service	No: providing <u>arbitration</u> between state and plans.	No: advocacy assistance through hotline, on-line access and health analysts.
Outside of state office?	Outside of state Medicaid agency	Independent under contract with state	Outside of state Medicaid agency	Consumer Advocacy Program part of Office of Insurance Commissioner
Seeking federal funding?	Yes (received grant)	No	Unclear	Yes (application not yet filed)

Virginia received grant funding for ombudsman

- Department for Aging and Rehabilitative Services (DARS) received \$245,079 for ombudsman.
- Expanded LTCOP model under direction of DARS:
 - Long-Term Care Ombudsman + *new component*: Coordinated Care Advocates for HCBS

South Carolina ombuds will serve as an arbiter

- Ombuds will support independent advocacy *and*
- have the necessary capacities to provide arbitration between the state and CICOs as needed during the HCBS transitions

Ombudsman takeaways for future states

- Consider clarifying in MOU and 3-way:
 - Best entity(s) in your state to maintain ombuds independence
 - Providing oversight of the *demonstration* as well as plan
 - Securing funding from CMS grant
 - Explicit assistance with all levels of appeal
 - Client is always the dual eligible; not state or plan

New York's FIDA will have an independent ombuds

- State will contract with independent entity
- State is creating a FIDA Participant Ombudsman outside of CMS funding
- New York advocate letter requests ongoing involvement
- More information here:
<http://www.medicarerights.org/pdf/September-2013-CPRNYDE-newsletter.pdf>

Stakeholder Engagement

New York Advocacy Coalition

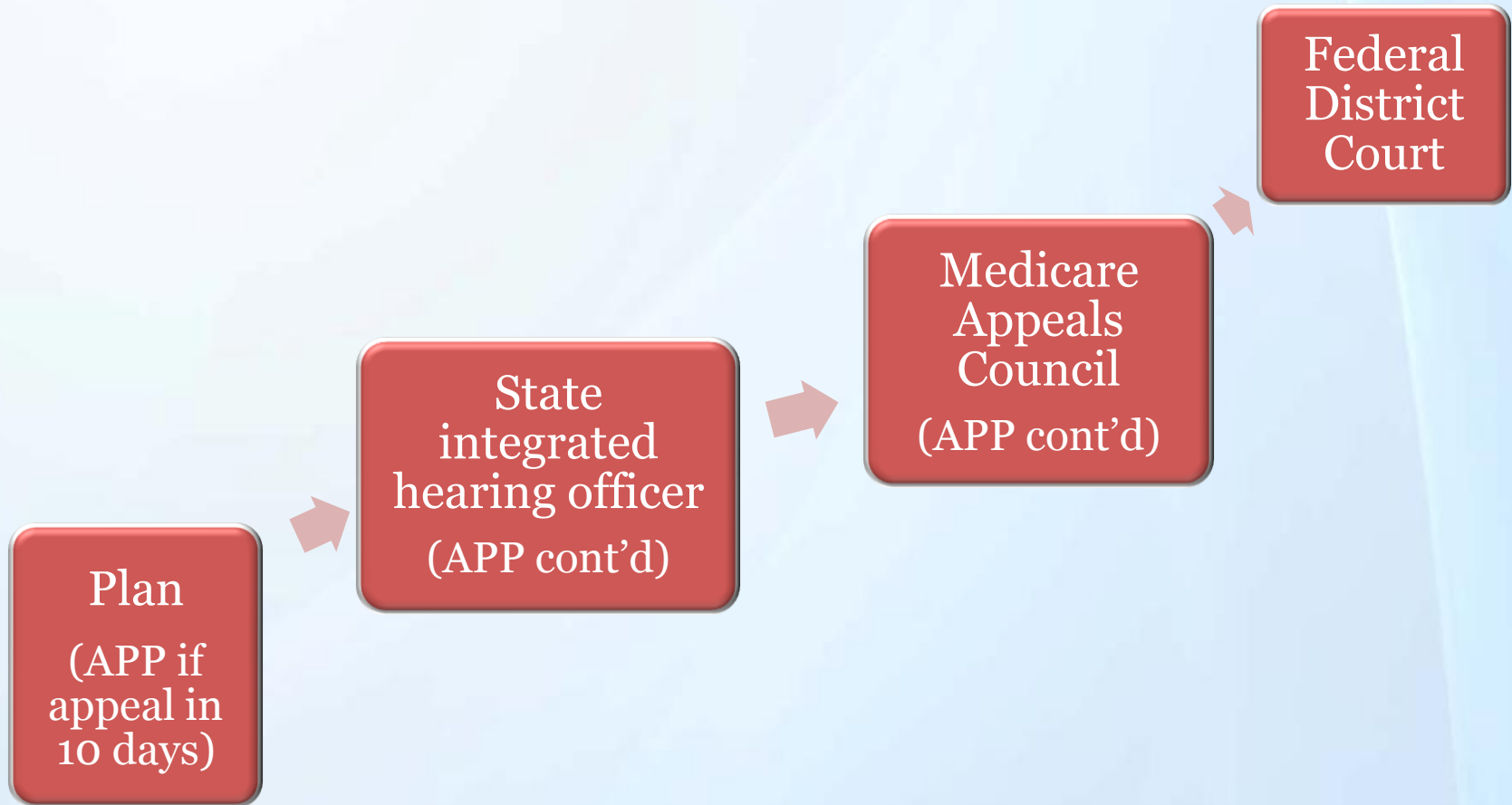
- Coalition to Protect the Rights of New York's Dually Eligible (CPRNYDE)
 - Center for Disability Rights
 - Center for Independence of the Disabled NY
 - Community Service Society of NY
 - Consumer Directed Personal Assistance Association of New York State
 - Empire Justice Center
 - Legal Aid Society
 - Medicare Rights Center
 - New York Association on Independent Living
 - New York Legal Assistance Group

Appeals

New York is first state with an integrated appeals process

- New York system combines Medicare and Medicaid appeals at every level
- Result of extensive advocacy and state commitment

New York Appeals Approach



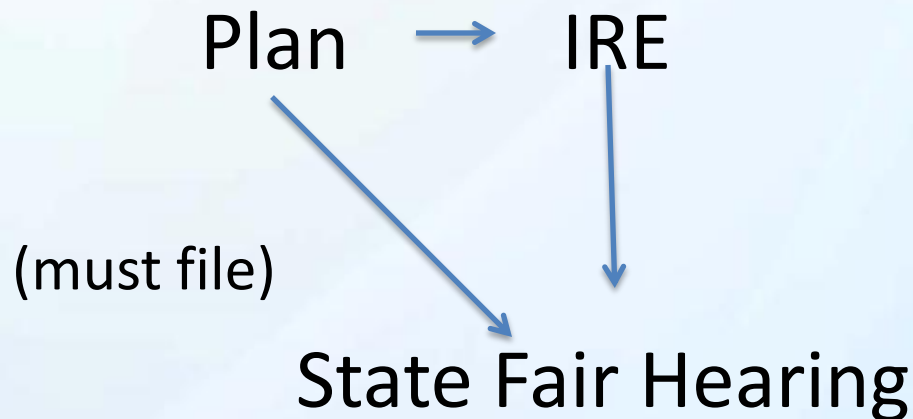
Commonalities in VA, SC and WA appeals process

- Integrated appeal at plan level; APP during plan appeal; integrated notice
- Medicare and overlap services auto-forwarded to IRE
- No change in Part D appeals

Differences in VA, SC and WA appeals for overlap services

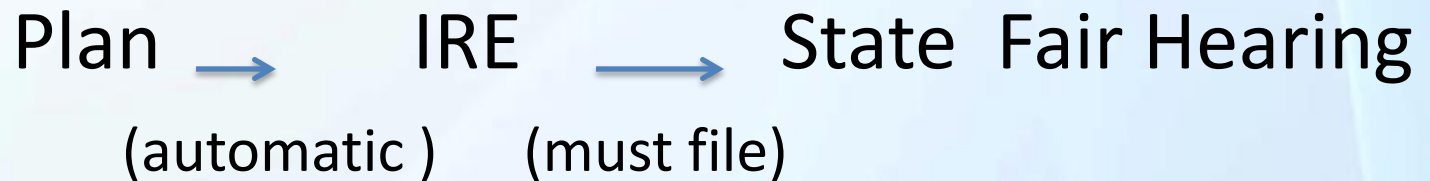
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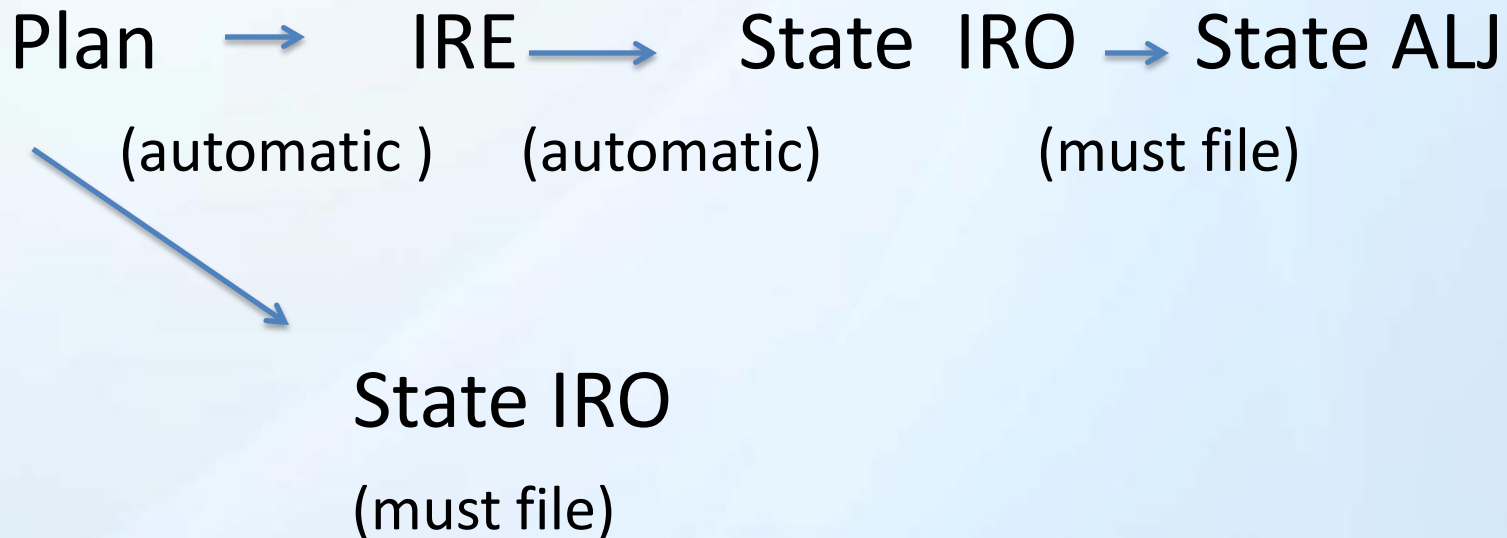
Differences in VA, SC and WA appeals for overlap services

SOUTH CAROLINA



Differences in VA, SC and WA appeals for overlap services

WASHINGTON



Comparing VA, SC and WA

	VA	SC	WA Cap
10 day rule for appealing Medicaid?	Not explicit	Yes; complexity with overlap	Not explicit
Aid paid pending after plan denial for overlap service	Only if ask for fair hearing w/in 10 days	Yes—through IRE decisions, then ask for fair hearing w/in 10 days	Only if ask for fair hearing w/in 10 days
Prohibition against recoupment for aid paid pending	No	No	No

Comparing VA, SC and WA

	VA	SC	WA Cap
Deadline for plan resolution of appeal	30 D/72 H	15 D/72 H	14 D/72 H
Deadline for filing plan appeal	60 D	60 D	90 D
Deadline for decision at state fair hearing	90 D/Yr 1 75 D/ Yr 2 30 D/ Yr 3	90 D/ 72 H	14 D/72 H (State IRO)

Takeaways on appeals for future states

- Consider the following issues for MOU:
 - Aid paid pending
 - Clarify 10 day rule for Medicaid
 - Clarify how to preserve APP for appeal of overlap service
 - Allow sequential appeal w/out losing APP
 - Prohibit recoupment for aid paid pending
 - Test for reasonableness of appeals route: can it be described in an intelligible consumer notice?

Takeaways on appeals for future states – cont'd

- Shorten fair hearing decision deadlines
- Harmonize filing deadlines
- Lay groundwork for fuller integration, including Part D

Broad takeaways

- Some, but limited, standardization is appearing in the MOUs around enrollment, savings, and ombuds.
- No straight line progression in consumer protections. State protections vary widely among recent MOUs. Most are the result of vigorous advocacy and state initiatives.
- CMS is open to state innovation if carefully thought out.

Duals Demo:

www.dualsdemoadvocacy.org

- Enrollment timelines
- MOU Summaries
- Informational webinars

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Questions?
