



Disability Rights Education & Defense Fund



January 10, 2014

Department of Health Care Services
Delivered via email to info@calduals.org
CC: Jane Ogle, Margaret Tatar

Re: Comments on 90-day MLTSS Duals Notice and 45-day MLTSS Notice

We appreciate the opportunity to comment on the 90-day notice directed to dual eligible beneficiaries who cannot participate in Cal MediConnect, who nonetheless will have to select a Medi-Cal managed care plan. Thank you also for the opportunity to review and comment on the 45-day notice directed to duals and non-duals who are already enrolled in Medi-Cal managed care informing them that their Medi-Cal managed care plan will now be responsible for long-term supports and services (LTSS).

As a preliminary matter, we urge DHCS to also provide the draft notices directed to seniors and persons with disabilities (non-duals) who will have to choose a Medi-Cal managed care plan for the first time for stakeholder review and comment. Most notably, this group includes individuals living in a nursing facility.

We have outlined general comments here and provided more detailed comments on the attached draft notices.

Readability, Comprehension, and Accessible Formats

We seek assurances that this notice has been written at a sixth grade level pursuant to Senate Bill 1008. Again, we ask for confirmation that these notices have undergone beneficiary testing and that testing included beneficiaries with limited English proficiency, who are blind and visually impaired, who are deaf, and who have cognitive impairments.

We urge DHCS to insert a tagline on the notices or include an insert with the notice in the Medi-Cal threshold languages informing LEP beneficiaries how to obtain information in their primary language. While we appreciate that the notice directs beneficiaries to call Health Care Options if they need the notice in another language, it is important that the notices give this information to consumers in their primary languages.

Finally, pursuant to Title II of the ADA, DHCS has the obligation to ensure effective communication to individuals with disabilities and to offer auxiliary aids and services. The notices should, in addition to those listed, include the availability of reader, accessible electronic formats. Also, TTY is infrequently used. The State is required to provide other options, such as video-remote interpreting. See 28 CFR § 35.104. This section of the notice should be written in 18-pt bold font to increase the likelihood that individuals with visual impairments can read this section.

Headings

We urge DHCS to utilize headings that outline the specific change the notice addresses. The use of the generic "Important Information" does little to draw attention to the change. Presumably, every notice mailed out by DHCS to consumers contains "important information." We have provided sample language on the attached draft notices.

Description of Long-Term Services and Supports

Both notices contain a description of the four long-term services and supports (LTSS) programs moving into managed care. These descriptions should be consistent and describe the benefits provided by each program. The explanation should also describe how individuals who currently receive the benefits will be impacted and how the inclusion of LTSS in the benefit package will impact individuals who do not currently receive the benefits.

The notices should explain what continuity of care protections will be afforded with the inclusion of LTSS. Currently, it is not clear how those living in a nursing facility will be impacted with the move of the nursing facility benefit into managed care. Under Cal MediConnect, individuals living in a nursing facility at enrollment will be able to continue residing in an out-of-network facility for the length of the demonstration. We urge DHCS to extend the Cal MediConnect continuity of care protection for nursing facility residents to all populations impacted under the Coordinated Care Initiative. We have also added a sentence to the notices concerning a nursing home resident's right to return to the community with appropriate supports and services since this is an ongoing responsibility for managed care plans assuming LTSS delivery.

Coded Notices

One of the largest challenges of this process is the number and variation of notices being sent to beneficiaries. DHCS has indicated that Cal MediConnect notices will be sent in a blue envelope to draw attention to these notices and make them more identifiable. While hopefully an identifiable envelope color will encourage recipients to open and review the enclosed materials, the envelope is often discarded. We suggest that DHCS also code the notices being sent to beneficiaries with a color, shape, or similar method. That way when a beneficiary calls DHCS, Health Care Options, or community based organizations for assistance, the notices can be easily distinguished from each other and from Cal MediConnect notices.

Thank you for the opportunity to review these materials prior to their finalization.

Sincerely,

Disability Rights California
Disability Rights Education and Defense Fund
National Health Law Program
National Senior Citizens Law Center
Western Center on Law and Poverty