

March 17, 2014

Department of Health Care Services

Delivered via email to info@calduals.org

CC: Margaret Tatar, Hilary Haycock

Re: Comments on the Re-released Cal MediConnect Voluntary Enrollment Notice for Los Angeles County

Greetings:

Thank you for re-releasing the Cal Medi-Connect Los Angeles voluntary enrollment notice for stakeholder input. We appreciate the opportunity to comment. We continue to believe that the three-month voluntary enrollment period allows dual eligibles a period of time to inform themselves about Cal MediConnect and to make informed choices about their health care options.

At this juncture, however, we question the utility of a voluntary enrollment notice. Given the influx of other notices being sent to beneficiaries around the same time period as well as the complexity of the Los Angeles County enrollment strategy, we are concerned that this notice would further confuse beneficiaries. In addition, the goals of voluntary enrollment and the promise of choice may be foiled by the fact that beneficiaries can enroll in only two of the five plans during this time period. Therefore, we believe beneficiaries would be better served if this notice were not sent.

If a voluntary enrollment notice must be sent, we believe that such a notice should aim to introduce this new program to beneficiaries in a clear, succinct manner. The notice should introduce Cal MediConnect, encourage beneficiaries to seek advice and learn more about it, and alert them to look out for future changes to the delivery of their health care. To effectuate these goals, we have provided red-line edits to the draft copy, and we have outlined general comments here supporting those edits.

Potential for Confusion

As it is currently drafted, the voluntary enrollment notice has the potential to confuse beneficiaries. It is very similar to the 90-day notice and may invite confusion between the two. The two notices should be clearly distinguishable from one another. With respect to specific language, first, because the sentence about “the additional benefits of Cal MediConnect” in the third paragraph fails to specify what those benefits are, a beneficiary could read the notice and think that those benefits include community-based adult services (“CBAS”), in-home supportive services (“IHSS”), and the other services listed under “1. Enroll in a Cal MediConnect Plan.” This

could lead a beneficiary to erroneously believe that she must enroll in Cal MediConnect in order to continue receiving those benefits.

Second, the language about “3. Take no action at this time” could confuse beneficiaries because the consequences of inaction after the voluntary enrollment notice are vastly different from the consequences of inaction after the 90-, 60-, and 30-day notices. Particularly for dual eligibles in Los Angeles County with birthdays in July, they will receive the voluntary enrollment notice telling them not to take action but then shortly thereafter receive a set of three notices telling them they have to make a choice.

For these reasons, we believe that the voluntary enrollment notice should be simplified to discuss only Cal MediConnect. This will reduce the potential for confusion with respect to a beneficiary’s options, which are limited upon receipt of the voluntary enrollment notice. The notice should encourage beneficiaries to seek advice and learn about Cal MediConnect through various resources and then, only after they have made a decision about enrollment, to contact Health Care Options (“HCO”) if they want to enroll or to not make any changes at this time. Please refer to our red-lined edits for more specific suggestions.

The Inability to Opt-Out

On a related matter, another reason the voluntary enrollment notice should be limited in its scope is because we are under the assumption that HCO cannot process Cal MediConnect opt-outs until beneficiaries receive their 90-day notice. Therefore, the language “You can also choose to stay with regular Medicare and keep your Medi-Cal separate” is misleading because it might lead some beneficiaries to call HCO and attempt to opt-out prior to receipt of the 90-day notice. HCO does not have the capacity to process the opt out at that point, but after making such a call, a beneficiary may mistakenly believe she has opted out of the program, disregarding future notices and only several months later surprisingly discover that she has been passively enrolled into a Cal MediConnect plan. Furthermore, we are concerned whether HCO has appropriate training and scripts in place to handle opt-out attempts from beneficiaries calling after they receive this notice but prior to the 90-day notice. We also assume that HCO does not have the capacity to “hold” opt-out requests until their systems are ready to process them.

Therefore, as we stated above, the voluntary enrollment notice should notify beneficiaries about the availability of Cal MediConnect, encourage them to seek more information about it through various resources, and then direct them to HCO only if they want to enroll or, in the alternative, tell them not to make changes at the moment.

Coding

As we suggested in a letter dated March 14, 2014, containing comments about the 90-, 60-, and 30-day Cal MediConnect and MLTSS notices, we believe that all notices should be coded. We urge DHCS to code this notice so that it can be distinguished from other notices. Coding will allow advocates and others to more easily help beneficiaries when they seek their assistance about these important changes.

Readability, Comprehension, and Accessible Formats

As we articulated in our previous letter dated January 24, 2014, containing comments on the earlier draft of the Los Angeles voluntary enrollment notice, 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 (“LEP”), who are blind and visually impaired, who are deaf, and who have cognitive impairments.

We also continue to 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.

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.

In conclusion, we believe that the notice would cause unnecessary confusion and should not be sent to beneficiaries, but if it must be sent out, we hope our comments outlined above are taken into consideration to lessen the potential confusion they may experience. Thank you for the opportunity to review this notice prior to its finalization.

Sincerely,

Amber Cutler and Denny Chan, Staff Attorneys
National Senior Citizens Law Center

Aileen Harper, Executive Director
Center for Health Care Rights