NSCLC
National Senior Citizens Law Center

PROTECTING THE RIGHTS OF LOW-INCOME OLDER ADULTS

June 11, 2014

Melanie Bella, Director
Medicare-Medicaid Coordination Office
Centers for Medicare and Medicaid Services
Baltimore, Maryland 21244
Via email: Melanie.Bella@cms.hhs.gov

Toby Douglas, Director
California Department of Health Care Services
Sacramento, California 95812
Via email: Toby.Douglas@dhcs.ca.gov

Dear Directors Douglas and Bella,

We write once again to request that the Department of Health Care Services (DHCS) and the Centers for Medicare and Medicaid Services (CMS) take immediate action to ensure that seniors and people with disabilities facing enrollment into the Coordinated Care Initiative (CCI) are appropriately protected and supported through what is proving to be a difficult and complex transition. Specifically, we request that DHCS and CMS suspend passive enrollment and develop a true safety net for individuals impacted by enrollment.

We wrote a letter with several partner organizations calling for similar action on February 21, 2014, warning that enrollment systems and notices were not yet adequately prepared for the transition. Since then, unfortunately, many of our concerns about the capacity and readiness of enrollment systems have been realized.

The attached document lists twenty-seven problems that have been reported to our organization to date. We appreciate that DHCS and CMS have regularly invited us to share these problems and have worked with us over the last several months to address many of them.

The sheer number of problems and the regular and repeated emergence of new problems, however, have led us to believe that a more proactive approach is necessary. New problems are reported to our organization from the field every week and, increasingly, those problems include reports of seniors and people with disabilities failing to receive needed care and/or losing access to their Medicare doctors.

Throughout the development of the CCI, DHCS and CMS repeatedly promised to proceed in a manner that protected beneficiaries through this tremendous and complicated transition. Both agencies promised that enrollment would only proceed as long as systems were proving up to the task. We have reached a point at which the systems have proven incapable of ensuring people's rights. Individuals who are exempt from enrollment have received notices and been enrolled; individuals have been assigned to a plan that is currently ineligible for passive enrollment; individuals who opted out of Cal MediConnect

have also been involuntarily disenrolled from their Medi-Cal managed care plans; individuals who exercised their right to opt-out did not have those opt-outs recorded and were enrolled into Cal MediConnect.

While we appreciate that DHCS and CMS are attempting to solve problems as they arise, this approach is not adequately protecting beneficiaries. It is drawing tremendous resources from stakeholders – resources that would be better deployed ensuring that beneficiaries are getting all the care they need. Nearly all of the problems identified to date have been around the enrollment process. We and other stakeholders have not yet been able to turn attention to how well those who have actually been enrolled are being served by their plans and providers.

We ask DHCS and CMS to take the following steps:

1. **Pause the passive enrollment process for at least three months.** All passive enrollments in counties outside of San Mateo should be stopped until 1) those individuals who have already been impacted by the enrollment process have been safely and appropriately transitioned into the delivery system they chose; 2) enrollment systems can be redesigned and retested as necessary to ensure that, going forward, individuals will get accurate notices and will be able to effectuate their enrollment rights; and 3) new, improved, beneficiary-tested notices are available to replace the currently confusing notices being sent to beneficiaries.
2. **Develop a true safety net for dual eligibles facing enrollment.** Care continuity policies meant to protect beneficiaries are proving inadequate. Providers have been unwilling to cooperate. Health plans have been unable to conduct aggressive outreach to ensure care is continued. A system needs to be put in place that will ensure that for the first months of enrollment beneficiaries will get the care and services they need regardless of any billing issue. Whichever doctor, pharmacist, therapist, hospital, or other health or long term services and supports provider they turn to for assistance, they should get the care they need and the providers should get reimbursed for services provided.

Thank you for your continued willingness to listen and respond to our reports of problems. We hope you will seriously consider taking the steps above to proactively protect the rights of dual eligibles and other seniors and people with disabilities impacted by the Coordinated Care Initiative.

Sincerely,

Kevin Prindiville
Executive Director