

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
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**CENTERS FOR MEDICARE & MEDICAID SERVICES**

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**DATE:** July 6, 2023

**TO:** Medicare Advantage Organizations with a Dual Eligible Special Needs Plan

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**SUBJECT:** Medicare Managed Care Manual Chapter 16-B: Special Needs Plans: Updates on Zero-Dollar Cost Sharing D-SNPs

The purpose of this memorandum is to share updates to section 20.2.4.2 (D-SNPs With or Without Medicare Zero-Dollar Cost Sharing) of Chapter 16-B of the Medicare Managed Care Manual regarding which plans qualify as Medicare Zero-Dollar Cost Sharing D-SNPs, as well as three new sections added to Chapter 16-B as follows:

- 20.2.4.2.1 Definition of Medicare Zero-Dollar Cost Sharing Dual Eligible Special Needs Plans;
- 20.2.4.2.2 Special Considerations for PPO D-SNPs; and
- 20.2.4.2.3 Medicare Zero-Dollar Cost Sharing D-SNPs and Enrollee Lapse in Medicaid Eligibility.

This follows our April 11, 2023, HPMS Memo “Medicare Managed Care Manual Chapter 16-B: Special Needs Plans: Potential Updates on Zero-Dollar Cost Sharing D-SNPs” soliciting feedback on potential changes and additions to Chapter 16-B.

Where there are differences between statute or regulations and the manual, the statute or regulations control over the manual (and any other guidance). Therefore, interested parties should consult the applicable statutes, regulations, and final rules.

Chapter 16-B, incorporating the updated section, is available at the following link:  
<https://www.cms.gov/regulations-and-guidance/guidance/manuals/downloads/mc86c16b.pdf>.

The updates for this section are also in Attachment A. Please email MMCO at  
[MMCO\\_DSNPOperations@cms.hhs.gov](mailto:MMCO_DSNPOperations@cms.hhs.gov) and your CMS Account Manager with any questions

## Attachment A – Updates to 20.2.4.2

### 20.2.4.2 - D-SNPs With or Without Medicare Zero-Dollar Cost Sharing

*(Rev. 128; Issued:06-30-23; Effective: 06-30-23; Implementation: 06-30-23)*

*When MA organizations submit bids for the upcoming contract year, each D-SNP must identify whether or not **the D-SNP has** Medicare zero-dollar cost sharing. In HPMS, D-SNPs have the option of one of the following two indicators:*

1. Medicare Zero-Dollar Cost Sharing Plan, or
2. Medicare Non-Zero Dollar Cost Sharing Plan.

These two indicators **are** used in multiple areas within HPMS, and **use of the accurate indicator is** essential to the proper display of benefits in Medicare Plan Finder.

*We strongly encourage states and D-SNPs to finalize D-SNP eligibility criteria in their State Medicaid Agency Contracts well in advance of D-SNP bid submissions. However, if a state changes the Medicaid eligibility criteria it requires the D-SNP to use through the State Medicaid Agency Contract after bid submission and before contract approval, the MA organization will have the ability to change the D-SNP's (or D-SNPs') Medicare Zero-Dollar Cost Sharing D-SNP designation(s) in HPMS.*

#### **20.2.4.2.1 Definition of Medicare Zero-Dollar Cost Sharing Dual Eligible Special Needs Plans**

*(Rev. 128; Issued:06-30-23; Effective: 06-30-23; Implementation: 06-30-23)*

*A Medicare Zero-Dollar Cost Sharing D-SNP is a D-SNP under which all Medicare Part A and B services are provided with no Medicare cost sharing to all enrollees who remain dually enrolled in both Medicare and Medicaid. This term encompasses the following types of plan designs:*

1. *Where cost sharing for enrollees is \$0 as part of the plan design (i.e., cost sharing for all Part A and B benefits has been reduced to \$0 as part of the supplemental benefits provided by the D-SNP); and*
2. *Where there is cost sharing in the plan design, but all individuals who are eligible to enroll in the D-SNP are protected by sections 1848(g)(3)(A) and 1866(a)(1)(A) of the Act from cost sharing, or otherwise qualify for Medicaid coverage of cost sharing (see section 1852(a)(7) of the Act and 42 CFR 422.504(g)(1)(iii) for cost sharing protections afforded non-QMB full-benefit dually eligible individuals).*

*CMS uses the designation of a Medicare Zero-Dollar Cost Sharing D-SNP to ensure that information provided to beneficiaries is accurate, clear, and consistent with the requirements on MA organizations at 42 CFR 422.111 and 422.2260-422.2267.*

*For a Medicare Zero-Dollar Cost Sharing D-SNP, information on Medicare Plan Finder on Medicare.gov describe all Part A and B services under the D-SNP, such as inpatient hospital stays and doctor visits, as available at no cost to the enrollee. Plan materials may also describe*

*the D-SNP benefits that way. Such descriptions are accurate – even if the D-SNP plan benefit in the MA organization’s bid to CMS includes cost sharing for Medicare Part A and B services – if all individuals who are eligible to enroll in the D-SNP are protected from cost sharing (see number 2 above). An MA plan, including a D-SNP, that has no cost sharing for services under Medicare Part A and B in its plan bid will also have such benefits described as available with no cost sharing, both in plan materials and on Medicare Plan Finder. This information helps dually eligible enrollees understand what costs they will have when choosing a plan and allows D-SNP materials to clearly show that costs are not a barrier to accessing covered services. When the “Medicare Zero-Dollar Cost Sharing D-SNP” designation is not available, plan materials and Medicare Plan Finder will indicate that cost sharing for Medicare varies depending on the enrollee’s category of Medicaid eligibility. Like all MA plans, both Medicare Zero-Dollar Cost Sharing D-SNPs and other D-SNPs can reduce Medicare Part A and B cost sharing as a supplemental benefit. CMS bid review applies the same standards for all D-SNPs.*

*A D-SNP that includes cost sharing in its plan design may designate itself as a Medicare Zero-Dollar Cost Sharing D-SNP provided that it meets all of the following criteria:*

- 1. The D-SNP plan benefit package limits enrollment, under the terms of its State Medicaid Agency Contract, to dual eligibility categories with Medicare cost sharing protections:*
  - QMB Only;*
  - QMB Plus;*
  - SLMB Plus and;*
  - Other Full Benefit Dual Eligibles (FBDE).*

*If the D-SNP enrolls members of dual eligibility categories that do not have Medicare cost sharing payable by Medicaid (i.e., SLMB-only, QI, or QDWI), the D-SNP cannot (and must not) be designated as a Medicare Zero-Dollar Cost Sharing D-SNP.*

- 2. The D-SNP provider contracts (1) require that providers accept the D-SNP’s payment and any Medicaid payment of Medicare cost sharing (whether paid by the Medicaid agency, the D-SNP itself, or a Medicaid managed care plan) as payment in full and (2) prohibit providers from collecting from a dually eligible enrollee any Medicare cost sharing that is payable under Medicaid (42 CFR 422.504(g)(1)(iii) and 74 FR 1494-1499 (January 12, 2009)).*

*Per 42 CFR 422.504(g)(1)(iii), such D-SNP provider contract provisions must also apply to SLMB Plus and FBDE enrollees for whom Medicare cost sharing protections are more limited, if those groups are eligible to enroll in the D-SNP. SLMB Plus and FBDE enrollees cannot be charged Medicare cost sharing above any Medicaid copay applicable to the same service under the Medicaid state plan or a waiver. In the rare instance that a Part A or B service is not covered under the Medicaid state plan or a Medicaid waiver, the cost sharing for a SLMB Plus or FBDE enrollee is the Medicare cost sharing under the MA plan benefit because of the limits in Medicaid coverage. (This*

*is because 42 CFR 422.504(g)(1)(iii) applies when the State is responsible for coverage or payment of the Medicare cost sharing.)*

*However, States may elect in their Medicaid State Plan to pay all Medicare cost sharing for all FBDE individuals (including SLMB Plus individuals), even for Medicare services not covered by Medicaid under the State Plan. To comply with § 422.504(g)(1)(iii), Medicare Advantage plans in those states must ensure that their network providers in those states do not charge a SLMB Plus or FBDE enrollee Medicare cost sharing for any Medicare Part A or B service above the Medicaid copay for the same service as covered under the Medicaid State Plan (see 2020 Medicaid Section E of the Coordination of Benefits and Third Party Liability Handbook, Available online at: <https://www.medicaid.gov/medicaid/eligibility/coordination-of-benefits-third-party-liability/index.html>). MA organizations can determine if states have made such an election by checking the Medicaid State Plan. We encourage states and D-SNPs to include this information in their State Medicaid Agency Contracts.*

*Providers can never charge a QMB Only or QMB Plus enrollee Medicare cost sharing for any Medicare Part A or B service above any applicable Medicaid copay per section 1902(p)(3) of the Act.*

3. *The providers contracted with the D-SNP do not charge Medicaid copays, deductibles, or coinsurance for any Medicaid service that is also a Medicare Part A or B service. If a D-SNP operates in a state that imposes Medicaid copays on dually eligible enrollees for specific services, then the D-SNP must list those Medicaid copays in its plan materials for those services and may not be designated as a Medicare Zero-Dollar Cost Sharing D-SNP, unless:*
  - *The D-SNP or Medicaid managed care plan responsible for Medicaid payment of Medicare cost sharing does not impose Medicaid copayments for enrollees (i.e., the plan pays the provider the copay in lieu of payment by the dually eligible enrollee); or*
  - *The state limits its payment of Medicare cost sharing to the Medicaid rate for the service, and the amount the D-SNP pays the provider for the service is equal to or greater than the Medicaid rate, including in any deductible phase of the benefit. (In this circumstance, no Medicaid payment is made so there is no Medicaid copay.)*

#### **20.2.4.2.2 Special Considerations for PPO D-SNPs**

**(Rev. 128; Issued:06-30-23; Effective: 06-30-23; Implementation: 06-30-23)**

*D-SNP PPOs that are designated as a Zero-Dollar Cost Share D-SNP may not describe out-of-network services in plan materials as available at “zero cost” because non-contracted*

*providers that are not enrolled in Medicaid may charge the Medicare cost sharing under the plan benefit to non-QMBs. QMB Plus and QMB Only beneficiaries would pay \$0; other full-benefit dually eligible individuals would pay the plan benefit cost sharing rate (see sections 1848(g)(3) and 1866(a)(1)(A) of the Act for provisions protecting QMBs regardless whether the MA organization has a contract with the provider that prohibits the collection of cost sharing per 42 CFR 422.504(g)(1)(iii)). For example, an out-of-network service with 30 percent coinsurance under the plan benefit would be described as “\$0 or 30 percent.” For D-SNPs designated as Zero-Dollar Cost Share, Medicare Plan Finder will continue to show the cost sharing in the plan benefit for out-of-network services, and in-network cost sharing will show \$0.*

#### ***20.2.4.2.3 Medicare Zero-Dollar Cost Sharing D-SNPs and Enrollee Lapse in Medicaid Eligibility***

***(Rev. 128; Issued:06-30-23; Effective: 06-30-23; Implementation: 06-30-23)***

*D-SNPs can provide up to six months of deemed continued eligibility for enrollees who have lost, but are expected to regain, Medicaid eligibility, per 42 CFR 422.52(d). The Medicare cost sharing protections for enrollees in a Medicare Zero-Dollar Cost Sharing D-SNP lapse if an enrollee no longer has Medicaid eligibility for any of the dual eligibility categories with cost sharing protections.*

*During periods when Medicaid eligibility for Medicaid coverage of cost sharing for Medicare Part A and B benefits has lapsed and the individual remains enrolled in the D-SNP, plan providers may collect Medicare cost sharing under the MA plan benefit for the service. Enrollee materials from Medicare Zero-Dollar Cost Sharing D-SNPs, including any required plan notice related to the loss of Medicaid eligibility, must explain that the enrollee may be billed cost sharing for Medicare Part A and Part B benefits if the enrollee loses Medicaid eligibility. This ensures that the materials are accurate as required by 42 CFR 422.111(b)(2)(iii) and 422.2262(a)(1)).*