# Interim Guidance Regarding MA Special Needs Plans for Dual Eligible and Institutionalized Individuals

Section 231 of the MMA allows MA organizations to offer plans that serve special needs individuals. The legislation designates two specific segments of the Medicare population as special needs individuals. These are institutionalized individuals (as defined by the Secretary) and those entitled to Medical Assistance under a State Plan under Title XIX. Through regulations the Secretary may designate other chronically ill or disabled beneficiaries as "special needs beneficiaries" to allow plans to enroll additional high-risk groups who would benefit from a specialized MA plan.

The following questions and answers are designed to provide interim guidance for organizations that wish to offer MA Special Needs Plans (SNPs) to Medicare beneficiaries who are also entitled to Medicaid and/or those who are institutionalized. MA organizations with an existing MA plan that serves these beneficiaries may apply to CMS to have the plan "redesignated" as an MA SNP. An organization that does not currently have an MA contract and wishes to offer an MA SNP must apply for an MA contract and meet the requirements of an MA plan. An MA SNP may serve either dual eligible or institutionalized beneficiaries, or both. Further information about the submission process is provided below.

At this time, MA organizations may not submit applications for new Special Needs Plans (or for resdesignation of existing plans) to serve other chronically ill or disabled beneficiaries. CMS will provide guidance about these types of plans through rulemaking. CMS also intends to provide guidance for those MA organizations that also have contracts with State Medicaid agencies and offer a combined package of Medicare and Medicaid benefits to their members. These organizations may wish to offer an MA SNP that serves their dual eligible members and be able to coordinate the benefits of the two programs. Because of the various issues surrounding the coordination of these benefits, and also the issue of which rules apply to these benefits, CMS intends to solicit comments through rulemaking and will provide guidance in the future. CMS is committed to working with State agencies and health plans to facilitate more flexibility in coordinating Medicare and Medicaid benefits.

Finally, CMS intends to solicit comments on this provision of the MMA through rulemaking. Therefore, this interim guidance is subject to change in the future.

***Q1:*** *Can MA organizations begin offering MA Special Needs Plans immediately?*

**A1:** MA organizations may immediately begin submitting proposals to CMS for new Special Needs Plans to exclusively enroll:

(1) Institutionalized Medicare beneficiaries.

(2) Dual eligible Medicare beneficiaries. That is, beneficiaries entitled to Medical Assistance under a State Plan under Title XIX, (Medicaid).

CMS will make every effort to review proposals as quickly as possible. Once approved, MA SNPs may begin operating at any time during the year.

***Q2.*** *Can current MA plans be "redesignated" as an MA Special Needs Plan?*

**A2.** Yes, an existing MA plan that has dual eligible or institutionalized enrollment may request redesignation as a special needs plan. Generally, CMS will look at such proposals to determine that it meets access standards for the proposed special needs group and that the plan is of value for special needs beneficiaries. If approved, the plan can market itself as an MA Special Needs Plan. Once "redesignated" the plan must provide appropriate notice and must exclusively enroll the targeted special needs group. Question and Answer 10 address the status of existing members of MA plans that are "redesignated."

***Q3:*** *How does CMS define "institutionalized" for purposes of MA Special Needs Plans?*

**A3:** For purposes of this interim guidance, CMS defines an institutionalized individual as a MA-eligible who resides or is expected to reside continuously for 90 days or longer in a long-term care facility that is either a skilled nursing facility (SNF), nursing facility (NF), or SNF/NF. These individuals are considered long-term institutional residents for purposes of determining who can enroll in a special needs plan.

***Q4:*** *Can an MA organization establish a Special Needs Plan that serves a "subset" of the dual eligible or institutionalized population?*

**A4:** Pending rulemaking, MA Special Needs Plans must serve all dual eligibles, including those entitled to Medicare Part A and Part B and full Medicaid benefits, Qualified Medicare Beneficiaries, Special Low-income Medicare Beneficiaries, QI-1s, etc. We believe requiring MA SNPs to serve all dual eligibles is consistent with CMS payment methodology since CMS pays organizations equally for all dual eligible beneficiaries regardless of whether they are "full benefit dual eligibles" with incomes below the federal poverty level or those with higher incomes. Also, from a policy perspective, we believe that the Conference agreement accompanying the MMA legislation indicates that the basic intent of special needs plans is to provide organizations the flexibility to identify groups of beneficiaries with special health care needs that will benefit from specialized services. Accordingly, we don't believe segmenting the dual eligible population based on relative income status (i.e., full benefit versus higher income duals) is consistent with this Congressional intent. However, we note that, based on industry comments and experience, we may modify this policy in the upcoming regulations.

In addition, for the third category of MA SNPs (those targeted to select groups of high-risk beneficiaries who would benefit from enrollment in plans that offer targeted geriatric approaches and innovations in chronic illness care), which will be implemented by rulemaking, we may consider SNPs that target selected segments of the dual eligible population based on their particular health care needs.

With respect to institutionalized beneficiaries, CMS recognizes that a SNP might not contract with every SNF or NF within its service area. Therefore, a SNP may serve those beneficiaries in one or more institutions in the service area, subject to CMS' review and approval. In this situation, the plan must be marketed to all Medicare beneficiaries within those institutions that are part of the SNP's network.

***Q5:*** *In the case of dual eligibles, can those individuals not yet confirmed to be entitled to Medicaid be enrolled in an MA Special Needs Plan prior to verification?*

**A5:** No. The individual must meet all eligibility requirements, including entitlement to Medicaid, before enrolling in an MA Special Needs Plan. In other words, the individual must have Medicaid, as evidenced by a Medicaid card, letter, systems verification, including a CMS reply listing, etc. Any one of the aforementioned documents or systems verifications is acceptable proof of Medicaid entitlement. Meanwhile, the beneficiary may wish to join another of the MA organization's plans and then, once entitlement to Medicaid is confirmed, change to the MA SNP by completing an appropriate election (e.g., an enrollment or selection form). Model enrollment and selection forms are shown in the Exhibits section of Chapter 2 of the *Medicare Managed Care Manual*. If the MA plan prefers to use abbreviated forms, such as Exhibits 3 or 3a of Chapter 2, the forms may be modified to elicit information that the beneficiary is eligible to enroll in an MA SNP. Modified forms will be subject to marketing material review. (Also, see Q&A 9.)

***Q6:*** *Will those who wish to enroll in an MA Special Needs Plan be given a Special Election Period to do so?*

***A6:*** Beneficiaries may make an unlimited number of elections during the Open Enrollment Period (OEP), which is continuous through 2005 (see *Medicare Managed Care Manual (MMCM)*, Chapter 2, Section 30.3.1). Dual eligibles have a Special Election Period (SEP) from the time they become dually eligible and continuing as long as they remain dually eligible (MMCM, Chapter 2, Section 30.4.4).
During the Open Enrollment Period for Institutionalized Individuals (OEPI), which is continuous beginning in 2006 (MMCM, Chapter 2, Section 30.3.5), beneficiaries going into, residing in, or leaving an institution can join any open MA plan. CMS is considering the need for a SEP for those who are no longer eligible for a SNP to enable them to enroll in a non-Special Needs Plan.

***Q7:*** *What is the application process for an MA Special Needs Plan?*

**A7:** Any current MA organization interested in offering or being redesignated as a Special Needs Plan must submit its request to CMS Central Office with a copy to the appropriate CMS Regional Office. The Central Office Plan Manager and the Regional Office Plan Manager will review the submitted material and make a determination based on the information submitted as part of this proposal. The Central Office Plan Manager will inform the organization of the decision.

When submitting a formal request, the organization must submit as part of its proposal,

1) a description of the proposed plan; 2) an explanation of how the contracted provider network(s) will meet access and availability standards; 3) an explanation of what types of providers will participate (e.g., Home Health), 4) a description of the benefits, clinical programs, etc. and; 4) the proposed effective date for the new plan.

For organizations that do not have a current contract with CMS, the full MA application must be completed in order to offer a special needs plan. The application is posted at: http://www.cms.hhs.gov/healthplans/applications/m+caps.asp. (Note: we are in the process of modifying the application to conform with the new MMA requirements, but in the meantime, the old application may be used. This application has not been adapted for MA SNPs.) New applicants using this application should also include the information requested in the second paragraph above as a supplement to the application. We anticipate that, once finalized, a new application that includes MA SNP information will be posted on our website.

In addition, all organizations, both current and new, will need to submit an adjusted community rate (ACR) proposal, plan benefit package (PBP) and summary of benefits (SB) for any MA Special Needs Plan. Organizations can view the most up-to-date guidance in the annual call letter (see http://www.cms.hhs.gov/healthplans/acr/ under "Information Resources").

***Q8**: Will an MA Special Needs Plan be paid differently from other MA plans?*

**A8:** No, MA Special Needs Plans will be paid the same as other MA plans. The MMA does not give CMS the authority to waive MA payment methodologies. There are no special payment features specific to MA SNPs. However, risk adjustment is being phased in for MA plans. Under risk adjustment, payments are more accurate because they reflect the health status of an organization's enrollees. See 2005 Medicare Advantage Payment Rates at http://www.cms.hhs.gov/healthplans/rates for further details. In addition, CMS is currently conducting research to determine the feasibility of implementing the frailty adjuster for the MA program. If we determine that this is appropriate, the earliest that frailty adjustment would be applied to MA plans would be 2006.

***Q9:** Once a plan is redesignated as an MA Special Needs Plan, can members of other plans within the MA Organization be passively enrolled in the new plan?*

**A9:** No. Members of the MA Organization's other plans who meet the eligibility requirements must complete a new enrollment election, such as an enrollment or selection form, to join the MA Special Needs Plan (see Q&A 5).

***Q10:** Can MA organizations limit enrollment in new MA Special Needs Plans and plans that are "redesignated" as MA Special Needs Plans to individuals who meet specified eligibility requirements (i.e., are dually eligible or institutionalized)?*

**A10:** Yes. Pending rulemaking, MA organizations offering new and redesignated SNPs must limit future enrollment to individuals who meet specified eligibility requirements

(see Q&A 4). However, existing members who do not meet these requirements must be allowed to remain in the redesignated plan. These members will be granted a Special Election Period (SEP) beginning when the plan is redesignated and continuing through the end of the calendar or contract year, or ninety (90) days if redesignation occurs less than ninety days before the end of the calendar or contract year. The SEP will enable the member to enroll in another MA plan (including one within the same MA Organization) or change to Original Medicare. A "redesignated" MA Special Needs Plan cannot involuntarily disenroll an existing member who does not meet the special needs eligibility requirements at the end of her/his SEP. However, once an existing member has disenrolled from the SNP, s/he may not rejoin.

***Q11:*** *What happens if an MA Special Needs Plan member's status changes so that s/he no longer meets the eligibility requirements?*

**A11:** An MA Special Needs Plan may continue to provide care for a specified period for a member who no longer has special needs status as long as the plan can provide appropriate care. For example, a dual eligible who loses Medicaid eligibility can be deemed to continue to be eligible for the plan if, in the absence of continued coverage, the member would be expected to meet the eligibility requirements within the timeframe established by the plan, which must be at least 30 days. If the member does not re-qualify within this time period, s/he must be involuntarily disenrolled with proper notice, from the plan at the end of this period.

If the SNP cannot provide continuity of care to a member who loses eligibility, such as to an institutionalized individual, then the plan must involuntarily disenroll the member. The plan must inform all beneficiaries in writing of its continuous eligibility policy at enrollment, apply it consistently and provide the beneficiary with a minimum of 30 days notice after the plan determines the member is no longer eligible. This notice must provide the member an opportunity to prove that s/he is still eligible to be in the plan. Upon involuntary disenrollment, CMS will grant the beneficiary a Special Election Period (SEP) in order that s/he may enroll in another MA plan or obtain coverage to supplement Original Medicare.

In the case of a retroactive Medicaid disenrollment, an MA SNP may not retroactively disenroll the beneficiary. The plan may disenroll the member only after providing a minimum of 30 days' notice.

***Q12:*** *Will ESRD beneficiaries be allowed to enroll in MA Special Needs Plans?*

**A12:** CMS will consider requests from MA Special Needs Plans to waive restrictions on enrollment of ESRD beneficiaries. However, MA SNPs will not be required to enroll ESRD beneficiaries. Members of MA SNPs who develop ESRD while a member of that plan may remain a member of that plan as long as they continue to meet all other eligibility requirements.

***Q13:*** *What kind of marketing/outreach will CMS permit for MA Special Needs Plans?*

**A13:** MA Special Needs Plans must follow the marketing guidelines in Chapter 3 of the Medicare Managed Care Manual. Since some Chapter 3 requirements may not be applicable to a particular SNP, CMS will work with SNPs on a case-by-case basis until Chapter 3 is updated to accommodate all SNP marketing requirements. MA SNP for dual eligibles may follow the supplemental CMS guidance; "Marketing to Individuals Entitled to Medicare and Medicaid (Dual Eligibles)" issued October 7, 2003.

A "redesignated" plan may submit to its CMS Regional Office for review new plan marketing materials tailored specifically for the "special needs" population, but must not begin using those approved marketing materials until it receives a letter from CMS that approves its "redesignation." The plan cannot begin exclusively enrolling those who fit the special needs eligibility requirements until it receives the approval letter from CMS.

A new plan may begin using CMS-approved marketing materials tailored specifically for the "special needs" population and accepting only prospective enrollees who fit the special needs eligibility requirements after CMS has approved the new plan and its ACR and PBP.

***Q14:*** *Will MA Special Need Plans need to meet any additional requirements beginning in 2006?*

**A14:** Yes. MA Special Needs Plans should be prepared to offer Part D Prescription Drug coverage. Effective January 2006, CMS anticipates that only MA-PD plans will be allowed to continue or apply for a Medicare contract as a SNP. An MA SNP offering Part D Prescription Drug coverage could not also be the MA organization's required MA-PD plan for that service area because enrollment is limited.

***Q15:*** *How will an MA Special Needs Plan identify special needs beneficiaries in order to do marketing and outreach?*

**A15:** Dual Eligible MA Special Needs Plans may wish to work with their respective states to identify an acceptable method of targeting dual eligible beneficiaries. In the case of all MA SNPs, as with any MA organizations, the MA SNP must market to all individuals eligible for the plan. This means, for example, that if an MA SNP is developed for institutionalized beneficiaries at select SNFs, the MA SNP must market to all Medicare A/B beneficiaries residing in those SNFs.

***Q16:*** *Will administrative variances be available to MA Special Needs Plans?*

**A16:** MA Special Needs Plans are expected to follow existing Medicare program rules, including Medicare Advantage policy and regulations, as modified by this guidance with regard to Medicare-covered services. This includes MA SNPs that serve dual eligibles. MA organizations should assume that if no modification is contained in these guidelines, existing rules apply.

***Q17:*** *Can MA Special Needs Plans take Medical Assistance applications for prospective members or assist current members with eligibility redeterminations, have the member sign them and then deliver them to the State Medicaid agency?*

**A17:** MA Special Needs Plans will need to obtain State Medicaid agencies' permission to do so and make logistical arrangements through the State(s). The Medicare Managed Care Manual discusses outreach to dual eligibles in Chapter 3, Section 40.4.

***Q18:*** *If an MA Special Needs Plan has a premium/copayment, can it waive it for members who have full Medicaid coverage?*

**A18:** MA Special Needs Plans must apply the same premium/copay requirements to all members. However, the State may wish to pay the premium/copays for certain members.

***Q19:*** *Would CMS do a direct mailing to FFS members in an MA Special Needs Plan's service area if the plan provides approved marketing materials and pays postage and mail service?*

**A19:** No, CMS cannot perform this service.

***Q20:*** *Could an MA Special Needs Plan enroll a prospect if he/she signs an attestation of Medicaid eligibility and disenroll the member if the State determines them to not be eligible?*

**A20:** No.

***Q21:*** *How can an MA Special Needs Plan verify that an applicant is entitled to Medical Assistance?*

**A21:** Medical Assistance recipients may have a Medicaid card or a letter from the state agency that confirms entitlement to Medical Assistance. Either of these documents are acceptable proof, even if systems documentation is not available. MA organizations have access to certain CMS systems information (via the Medicaid indicator in the Managed Care Option Information System, known as McCoy) for current plan members. Redesignated MA SNPs may confirm Medicaid entitlement from that information. If this systems confirmation is available, no other documentation is required. New MA SNPs must obtain other proof, such as that mentioned above, during the enrollment process.