DUAL ELIGIBLE COALITION

July 27, 2022

The Honorable Sherrod Brown and the Honorable Rob Portman
United States Senate
Washington, DC 20501

RE: S. 4635, *The Comprehensive Care for Dual Eligible Individuals Act of 2022*

Dear Senators Brown and Portman:

The Dual Eligible Coalition is a multi-sector group of stakeholders including beneficiary advocates, managed care plans, provider systems, state advisors, and behavioral health and social support service organizations dedicated to the development of actionable, long-term policy and programmatic solutions to improve both care delivery and outcomes for individuals eligible for full Medicare and Medicaid benefits (dual eligible beneficiaries). For the past several years, the Coalition has worked to address challenges facing dual eligible beneficiaries and supports legislative actions consistent with our principles.[i]

The Dual Eligible Coalition strongly supports S. 4645, *The Comprehensive Care for Dual Eligible Individuals Act of 2022*. We sincerely thank you for the introduction of this bipartisan legislation that outlines a transformative vision for fully integrating care for dual eligible beneficiaries in communities across the country. This significant legislation will provide all states with the opportunity to offer every full-benefit dual eligible beneficiary in their state the option to get all their needs met through one program that sets a high bar for quality, experience of care and aligned financial incentives.

Beneficiaries Dually Eligible for Medicare and Medicaid

As you know, there are currently more 12 million dual eligible beneficiaries (71 percent of whom are full-benefit duals). Individuals eligible for Medicare and Medicaid are a diverse population. As a population, dual eligible beneficiaries face high rates of chronic illness, significant long-term care needs, and social risk factors. These dynamics have been further complicated and exacerbated by the COVID-19 pandemic – which further highlights the need for integrating care to provide the highest-quality care possible.

According to CMS, about 41 percent of dual eligible beneficiaries have at least one mental health diagnosis, 49 percent receive long-term care services and supports (LTSS), and 60 percent have multiple chronic conditions. Further, more than half of dual eligible beneficiaries have a disability (51 percent) compared to only 15 percent of non-dual Medicare beneficiaries.

As CMS has reported, "dually eligible individuals are more likely to be from racial and ethnic minority groups."[ii] In fact, last year, "48 percent of dually eligible individuals were from a racial or ethnic minority group. Racial and ethnic minorities are more likely to have worse health outcomes, limited access to care, and lower quality of care than non-minorities."[iii]

Current Law Too Often Results in Fragmentation, Inefficiency, Confusion

Today, Medicare and Medicaid are separate programs with distinct rules for eligibility, benefits, and payment. Under current law, the structures of the Medicare and Medicaid programs can result in unnecessary cost-shifting between the two, duplication of services, and limited incentives to improve quality, curb the total cost of care, and improve the beneficiary experience.

This presents special challenges for the growing number of dual eligible beneficiaries who depend on both Medicare and Medicaid for their health care. In a 2021 report to Congress, CMS underscored that "a lack of alignment and cohesiveness between the Medicare and Medicaid programs can lead to fragmented and episodic care for dually eligible individuals and misaligned incentives for both payers and providers, resulting in reduced quality and increased costs to both programs and to enrollees." The agency noted in particular that "state investments in Medicaid services to improve care for dually eligible individuals (e.g., enhanced behavioral health or long-term services and supports (LTSS)) may result in savings that accrue to Medicare from lower acute care utilization."[iv]

Currently, dual eligible beneficiaries too often experience fragmented care and poor health outcomes due to lack of coordination across the two programs. They also must navigate separate processes related to eligibility and enrollment, grievances and appeals, separate provider networks, and differing coverage policies. This can result in duplication and fragmentation, as well as causing confusion – not just for the individual beneficiaries, but for their families and caregivers, and health care providers as well.

Yet, fully integrated care "has the potential to improve the health of these individuals and reduce federal and state spending on their care, but as of 2019, only about 10 percent of dually eligible beneficiaries received care through such integrated models."[v] As CMS reported, "[b]etter alignment of the administrative, regulatory, statutory, and financial aspects of these two programs holds promise for improving the quality and cost of care for this complex population."[vi] CMS concluded "there is an increasing need to align these programs to improve care delivery and the beneficiary experience for dually eligible individuals, while reducing administrative burden for beneficiaries, providers, health plans, and states."[vii]

Federal Policy Trend Towards Increased Integration

Your legislation builds on an underlying trend towards integration of care for full benefit dual eligible beneficiaries that has evolved over the past decade or so, as federal policymakers in Congress and at CMS have taken incremental actions to integrate Medicare and Medicaid. These

actions have been in response to interest by policymakers in the federal and state governments who have shown an interest in improving care and increasing efficiency where possible.

In Congress, in *The Medicare Improvements for Patients and Providers Act* (MIPPA) in 2010, Congress required Medicare Advantage dual-eligible special needs plans (D–SNPs) to contract directly with states in order to coordinate Medicaid benefits. Also in 2010, the Affordable Care Act created the Federal Coordinated Health Care Office, which launched the Financial Alignment Initiative (FAI) demonstrations. More recently, Congress required D-SNPs to take certain steps, including gaining approval from the National Committee for Quality Assurance (NCQA) and having certain contract elements in place with state Medicaid programs. The Bipartisan Budget Act of 2018 required state contracts between D-SNPs and state Medicaid programs to provide for integrated long-term services and supports (LTSS) and/or behavioral health services, with a fallback to minimally share information to improve coordination.

In the Executive Branch, in 2020 CMS finalized a regulation limiting D-SNP "look-alike" plans. CMS also more recently finalized a rule to further integrate areas such as the appeals and grievance process in D-SNPs and enrollee materials, as well as increase integrated care requirements for fully integrated D-SNPs (FIDE SNPs) and highly integrated D-SNPs (HIDE SNPs).

The Legislation Represents a Historic Step Forward

Efforts to increase the integration of care for dual eligible beneficiaries have progressed gradually interest in both improving care and increasing efficiency where possible. Much incremental progress has been made through legislative changes, demonstration programs, and targeted regulatory changes.

However, your legislation accomplishes what cannot be effectuated through regulation or a waiver: the creation of a new permanent option for states to integrate program financing, administration, eligibility processes, and benefits to create the fullest, most integrated benefit structure possible. In that sense, your legislation represents the most evolved form of delivery system integration for states to consider and creates a new market in which beneficiaries in participating states will have the option to maintain traditional Medicare or to choose one of multiple high-quality, comprehensive, integrated benefit offerings by administering entities that meet their medical, long-term care, behavioral, and social needs.

The Dual Eligible Coalition deeply appreciates your efforts in introducing this legislation. In our support of this legislation, we highlight here key portions of the bill which will be the most positive for dual eligible beneficiaries.

- **Provides Comprehensive Care.** The legislation prioritizes quality care for dual eligible beneficiaries by providing a comprehensive benefit structure through a single program that would provide for their medical, long-term care, behavioral, and social needs. Under what would be known as the state's All-Inclusive, Integrated Medicare-Medicaid (AIM) Program, each enrollee would participate on a voluntary basis. They would receive an assessment to

inform their unique plan of care. Under an AIM Program, an enrollee (along with their family, caregivers, and providers) would no longer have to navigate separate requirements from both Titles 18 and 19 of the Social Security Act to meet their complex needs.

- **Preserves Beneficiary Choices and Protections.** Importantly, AIM Program enrollees would retain key rights and protections related to their ability to choose to participate in the AIM Program. For example, they would receive notifications about their ability to participate and would be able to file grievances or appeals as needed to address any concerns related to services or care. The legislation also includes continuity of care provisions in order to ensure a smooth transition into, or out of, the Program. The legislation also contains provisions which enhance beneficiary experience, including through requirements for:
    - Participating states to contract with an independent enrollment broker to assist beneficiaries in understanding the AIM Program and making enrollment choices.
    - Participating states to, with federal funding, establish a dedicated Ombudsman Program to coordinate with current state and federal beneficiary protection services and provide three core services: individual assistance, systemic monitoring and reporting, and consumer education and empowerment.
    - Administering entities to establish a Beneficiary Advisory Council to provide regular feedback to the state and the administering entity's governing board on issues of beneficiary care and experience.
    - Each administering entity and each participating state to establish a Consumer Advisory Board comprised of enrollees, family members, and other caregivers that reflect the diversity of the enrollee population, including with respect to race, ethnicity, age, urban and rural populations and individuals with disabilities.

- **Modernizes Financing to Reward Efficiency and Smart Spending.** The AIM Program's structure includes elements which incentivize states and administering entities they contract with to effectively manage care for full-benefit dual eligible beneficiaries. The financing design also removes disincentives for states to invest in dual eligible beneficiary care by giving participating states the ability to both receive and reinvest savings gained through individual care and outcomes.

- **Improves Oversight to Protect Beneficiaries, Ensure High Quality Care.** The AIM Program also ensures strong federal oversight in order to support states and protect beneficiaries. The Secretary of HHS, acting through the Federal Coordinated Health Care Office, will oversee the program, and states that opt to participate will be required to undergo a rigorous federal readiness review as a condition of launch, standards they must maintain as a condition of participation. The AIM Program will be operated under a minimum set of federal standards, including access to care, quality of care, beneficiary protections, marketing and enrollment, grievances and appeals, and procurement, among others. States will also have access to funding to assist with the staff, IT, planning and evaluation, program launch, and monitoring.

We want to again express our gratitude for your leadership on bipartisan policy to improve care for dual eligible beneficiaries through the introduction of *The Comprehensive Care for Dual Eligible Individuals Act.* As the bill moves through the legislative process, we welcome opportunities to work with your office and other members on a bipartisan basis to be a resource and advance this legislation through the process. We share your vision of ensuing final legislation successfully establishes the AIM Program as a new option for states to better care for the dual eligible beneficiaries who are today served by Medicare and Medicaid.

Sincerely,

The Dual Eligible Coalition

- Commonwealth Care Alliance
- Community Catalyst
- Health Plan of San Mateo
- Independent Living Systems
- Justice in Aging
- L.A. Care Health Plan
- Medicare Rights Center
- Molina
- National Alliance on Mental Illness (NAMI)
- UPMC (University of Pittsburgh Medical Center)

[i] https://info.leavittpartners.com/dual-eligible-coalition
[ii] https://www.cms.gov/files/document/reporttocongressmmco.pdf
[iii] https://www.cms.gov/files/document/reporttocongressmmco.pdf
[iv] https://www.cms.gov/files/document/reporttocongressmmco.pdf
[v] https://www.macpac.gov/publication/chapter-2-integrating-care-for-dually-eligible-beneficiaries-policy-issues-and-options/
[vi] https://www.cms.gov/files/document/reporttocongressmmco.pdf
[vii] https://www.cms.gov/files/document/reporttocongressmmco.pdf