DUAL ELIGIBLE COALITION

July 14, 2023

U.S. Senator Bill Cassidy, M.D.
U.S. Senator Thomas Carper
U.S. Senator Tim Scott
U.S. Senator Mark Warner
U.S. Senator John Cornyn
U.S. Senator Robert Menendez
United States Senate
Washington, DC

*Sent Via Electronic Transmission*

Dear Senators:

The Dual Eligible Coalition appreciates the opportunity provide feedback on your recent discussion draft containing a comprehensive set of policies designed to support the integration of care for individuals dually eligible for Medicare and Medicaid ("duals"). We applaud the bipartisan process effort taken to understand longstanding issues in duals care fragmentation and misaligned financial incentives between Medicare and Medicaid, and support of the working group's efforts to address a range of important issues impacting the over 12 million individuals who are dually eligible.

Our comments focus primarily on the creation, implementation, and operation of State Integrated Care Models (SICPs) as outlined in Title I of the draft. The Coalition supports the creation of a separate title (Title XXII) within the Social Security Act focused on integrated care for duals, as this approach allows for the creation of program(s) designed to fully integrate care, financing, benefits, and program administration. The Coalition strongly supports another bipartisan piece of legislation, S.4635 *The Comprehensive Care for Dual Eligible Individuals Act* which utilizes this approach, and a number of our comments on the draft legislation are informed by the design of the All-Inclusive, Integrated Medicare-Medicaid (AIM) Program detailed in that legislation. The Coalition's feedback on the design of SICPs includes discussion on the following:

- Program Selection and Implementation
- Eligibility and Enrollment
- Plan Requirements and Benefits
- Financing and State Payment
- Administration and State Considerations
- Beneficiary Protections

## Program Selection and Implementation

**FCHCO Role.** The discussion draft envisions a leading role for the Federal Coordinated Health Care Office (FCHCO) in driving states toward mandatory selection of SICP models which would achieve full integration for both full and partial benefit duals. The Coalition supports FCHCO's role in model design and the timeline and requirements that would move all states toward fully integrated care options for their beneficiaries. Strong leadership from FCHCO – supported by additional statutory responsibilities and authority – is necessary to ensure that models created can be feasibly adopted by states with a range of experience in integrated care models.

**Types of Models.** The Coalition encourages the Senators to provide additional statutory clarification on the types of models that could be included as SICPs, so that states might be better prepared to adopt one or more of the models upon publication. Statutory clarity on the types of models that could be included as SICPs also provides FCHCO with guidance on the types of models most likely to achieve full integration, be adopted by states, and receive stakeholder support. The inclusion of specific model types in statute could function as a "both/and" approach, calling out a limited number of models appropriate to both FFS and managed care delivery systems and giving FCHCO flexibility to explore other innovative options requested by states.

As an example of state interest in concrete options for fully integrated care programs, Massachusetts, in its letter to CMS regarding the future of its Medicare-Medicaid Program (MMP), expressed interest in an alternative option to transitioning to D-SNPs, specifically referencing the previously mentioned "AIM Program," created in S.4635. The State noted that the AIM Program would provide an option to advance integration for duals, whereas moving to a D-SNP platform "would likely entail operational, IT, policy, and federal authority changes that are directionally opposed to changes that moving to AIM or something similar would require."

**Meaningful Choice.** The Coalition recommends that the Senators further consider the choices currently available for duals and the likely impact of that landscape on SICP enrollment and operation. As currently drafted, SICPs adopted by states are yet another option in an already crowded environment that includes Medicare fee-for-service (FFS), Dual Eligible Special Needs Plans (D-SNPs), Chronic condition Special Needs Plans (C-SNPs), Institutional Special Needs Plans (I-SNPs), Medicare Advantage (MA) (including so called "look-alike" options), Accountable Care Organizations (ACOs), CMS Innovation Center models, and varying state delivery models and waiver approaches in Medicaid. In this environment, SICPs risk becoming one option of many in a significantly crowded and confusing market, and one that is largely not integrated or incentive aligned. Such an environment is not only overwhelming for beneficiaries, their caregivers, and their providers as they try to determine the best option to meet their complex care needs but does little to move the needle toward meaningful integration and is ripe for circumvention by plans not interested in or equipped to meet the medical, long-term care, behavioral and social needs

of duals. This could have the unintended effect of undermining the SICP model(s) in a given state.

Protecting a dual's right to choose their own plan is essential, but without careful consideration to ensure that the choices available provide the level of care coordination necessary to meet their needs, then the choice of plan becomes meaningless. We encourage the Senators to reconsider the implementation of SICPs to ensure that the models adopted by states become leading choices for fully integrated care, rather than another option among many for duals.

## Eligibility and Enrollment

Given the use of brackets to denote a request for additional comment on these sections, the Coalition has provided more detailed feedback on these provisions, with specific recommendations to strengthen the provisions included on eligibility for and enrollment in SICPs.

**Continuous and Streamlined Enrollment.** The Coalition supports the use of a continuous enrollment requirement for SICPs to ensure that beneficiaries have consistent, predictable coverage. We also encourage incorporation of additional streamlined eligibility verification options to reduce administrative burden for beneficiaries and further promote continuity of care. These processes could include use of electronic data matches to verify initial eligibility applications and renewals, use of pre-populated forms with available information, and required use of multiple submission platforms (online, in person, telephone, fax, mail) for renewal submission.

**Beneficiary Notification and Assistance.** The Coalition is aligned with the provisions which provide for 90 days of notification before initial enrollment and 60 days for any additional time. The Coalition also believes that the role of care coordinators in assisting beneficiaries with transitioning to coverage through an SICP option will be critical in helping beneficiaries to understand their benefits and maintain continuity of care.

**Brokers.** The Coalition appreciates the provision requiring FCHCO and CMS to issue guidance or regulations on the use of independent brokers to assist beneficiaries in enrollment. In particular, it is helpful that the provisions would direct FCHCO to limit independent enrollment brokers to enrollment in integrated care plans, limit commission to initial enrollment, and place additional guardrails on beneficiary notification of loss of benefits if disenrolled from an integrated care plan.

## Plan Requirements and Benefits

**Health Risk Assessment, Comprehensive Care Plan, and Care Coordinators.** The Coalition strongly supports the requirements for use of an annual health risk assessment and assignment of a care coordinator to every beneficiary participating in a SICP. The health risk assessment is a critical piece of assessing a dual's care needs, and yearly re-assessment of

care needs will help to ensure that care coordinators can design comprehensive care plans that are appropriately updated as beneficiary needs evolve.

Effective care coordination is an element sorely lacking across many plan options serving duals today. SICPs' use of a care coordinator that will serve as a single point of contact for the individual dual and navigate plan coverage, help beneficiaries and their caregivers make benefit and service decisions, and connect with and coordinate care across different settings including for long-term services as supports (LTSS) will serve to improve the quality and efficiency of care duals receive. The Coalition is also supportive of requirements for FCHCO to determine appropriate staffing ratios for care coordinators to duals in SICPs, as well as FCHCO's intended role in training care coordinators to serve SICP enrollees. For each of the requirements in this section, the Coalition encourages close coordination with states and plans for effective implementation.

**Benefit Package and Carve Out Exceptions.** The Coalition is aligned with the mandatory benefit categories to be included in SICPs which provide for clinical and behavioral health, as well as LTSS. However, the Coalition has concerns with the carve out approach proposed, which allows for States to separately contract for the provision of services where the level of care provided through the separate contract does not decrease the level of care that would be provided and the dual will not be subject to any "unreasonable administrative requirements to access the services or supports." The Coalition would be supportive of a time-limited exception allowing for carve outs where approved by FCHCO and necessary for a state to transition into an SICP. Such a limited exception would equip states to maintain continuity of care for duals while also increasing the level of integration.

Benefit carve-outs – even ones that meet the requirements for reasonableness outlined in the discussion draft – can lead to further administrative complexity for the state and the dual and bifurcate care in a manner inconsistent with the goals of developing a fully integrated care program. Further, while the legislative text includes a protection against "unreasonable" administrative requirements that hinder access, it remains to be defined what threshold will be considered unreasonable to access care, and whether that standard will vary by state, SICP model type, individual plan, or care setting. The Coalition recommends that the provisions on carve out be reconsidered or clarified to ensure a consistent standard which consistently protects beneficiaries.

## Financing and State Payment

**State Payment.** The Coalition appreciates the categories of state payment included in the discussion draft, including payments to integrated care plans contracted with the state, a shared savings component, general administrative expenses, and data collection and specific terms of state payment, such as shared savings. As part of the shared savings specificity, the Coalition also encourages the Senators to consider specifying in statute appropriate uses for shared savings to ensure such funds are used to benefit duals in that state.

**Financing Clarity.** The Coalition appreciates the provisions included in the draft which would develop a new risk adjustment payment model which could be uniformly applied across all platforms for dual eligible individuals, as well as the addition of a frailty adjustment which could be applied in a contract between the state and an integrated care plan.

However, the Coalition believes that additional refinement is needed to develop a financing model which would address the current misalignment of incentives between the states and the federal government that exacerbate silos in care between Medicare and Medicaid, and leads to inefficient use of program dollars and inefficient care to duals. In S.4635, Section 2208, the AIM Program financing fully combines Medicare and Medicaid program funding into Title XXII. This funding model removes the funding restrictions that limit the integration of services for duals and provides the Federal government, States, and entities that deliver services to duals to provide care based on truly integrated services.

Any financing model needs to have protections to ensure the Federal government, State government and entities providing service are appropriately using the funds with applicable penalties and rewards.

## Administration and State Considerations

**FCHCO Leadership.** The Coalition supports the role outlined for FCHCO in development, oversight, and refinement of SICP models. The Coalition believes that a scope allowing for significant authority in areas such as direct hiring, development of a unified appeals process, care coordinator staffing and training, oversight of MLR and network adequacy, development of a new STAR rating system, quality measures, and supplemental benefit reporting will allow FCHCO to design and refine SICPs that will provide states with the best options available to serve their duals populations.

**State Role.** The Coalition encourages the Senators to further consider and refine the state's role in the administration of SICPs. States are important partners for the effective implementation of SICPs in their experience with the administration of LTSS and home- and community-based services (HCBS) as well as their understanding of dual eligible needs from a Medicaid perspective and will be critical partners in ensuring that SICPs are implemented in a manner consistent with FCHCO's goals and objectives. As part of the state's role, the Coalition recommends that clarity be made in the legislative text to address state procurement and coordination with SICP plan options. When developing a new STAR rating system, the Coalition encourages FCHCO to consider the limitations of the current STAR rating system and work with states to improve the rating system to assess plan performance in particular states.

Further, many states are already innovating to provide duals with the most integrated care possible. The Coalition encourages FCHCO to work closely with states to incorporate learnings from the FAI demonstration and other state efforts to better integrate and improve the quality of care for their duals populations.

## Beneficiary Protections

**State Ombudsman.** The Coalition supports the establishment and funding of an ombudsman office responsible for assisting duals and their caregivers, as well as minimum staffing levels for this the ombudsman office. The Coalition encourages additional requirements to ensure that the ombudsman is prepared to serve the duals population in the particular state prior to the launch of an SICP.

**Other Recommended Beneficiary Protections.** The Coalition recommends consideration of other potential beneficiary protections which can be put in place to ensure that the beneficiary voice is understood and prioritized in the administration of SICPs. Two options which can provide additional protection are a Beneficiary Advisory Council which can advise the states on its duals population and SICP operation and/or a Consumer Advisory Board, composed of duals and their caregivers, which provides feedback to FCHCO, the state, and SICP plans about issues impacting duals care.

The Coalition thanks you for your bipartisan collaboration and continued refinement of this discussion draft. We are grateful for the opportunity to provide feedback on the proposals and look forward to continuing to support your efforts to integrate care for duals. If you have any questions on our comments or would like to further discuss the recommendations provided, please feel free to reach out to us by contacting Shannon.Deere@LeavittPartners.com.

Sincerely,

**The Dual Eligible Coalition**