



New York Fully Integrated Duals Advantage (FIDA) Demonstration

FAQs on the New York FIDA Demonstration and Medigap

CMS has received a number of questions about how private Medicare Supplement Insurance (Medigap) policies relate to New York's FIDA demonstration. FIDA does not change any existing Medigap rules. This FAQ document clarifies how Medigap rules apply to dually eligible individuals participating in FIDA.

Can someone sell a Medigap policy to a dually eligible individual?

No. Longstanding federal law prohibits the sale of a Medigap policy to someone who has both Medicare and Medicaid.¹ The only exceptions are: 1) if the state Medicaid program opts to pay the cost of the individual's Medigap premiums (which NY typically does not do); or 2) if the beneficiary only has Medicaid to pay for Medicare premiums (i.e. a SLMB or QI beneficiary). Because participants in FIDA have Medicare and Medicaid, no one should sell a Medigap policy to a FIDA participant.

How can I report an inappropriate sale of a Medigap policy to a dually eligible individual?

Inappropriate sales of Medigap policies to dually eligible individuals should be reported to the U.S. HHS Office of Inspector General (<https://forms.oig.hhs.gov/hotlineoperations/>) and the New York Department of Financial Services (www.dfs.ny.gov) for investigation.

Can dually eligible individuals keep a Medigap policy they already purchased before they were Medicaid-eligible?

Yes. There is nothing in federal law that prohibits beneficiaries with Medicare and Medicaid from retaining their Medigap policy that they purchased when they only had Medicare, as long as their premiums are paid. However, it is generally not financially prudent to do so, because Medigap policies only cover Medicare Part A and B cost-sharing, and dually eligible beneficiaries' Medicare Part A and B cost-sharing is already covered by Medicaid.

What happens if a beneficiary with a Medigap policy enrolls in FIDA?

As noted above, there is nothing in federal law that requires a beneficiary to give up a Medigap policy. However, the Medigap policy cannot pay for any FIDA services. This is true for two reasons:

1. Medigap plans cover Medicare Part A and B cost-sharing. There is no Medicare cost-sharing in FIDA (except for Part D co-payments, which are not covered by Medigap). Therefore, there is nothing for the Medigap policy to pay.

¹ 42 U.S.C. §1395ss(d)(3).



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2. Under longstanding CMS policy, Medigap plans cannot cover beneficiary costs incurred under Part C (Medicare Advantage).² Therefore, even if there were any Medicare cost-sharing in FIDA, it would fall under Medicare Part C and not be coverable by a Medigap policy.

Can a FIDA Participant use a Medigap policy to pay for services from an out-of-network provider?

No. Medigap policies can only cover cost-sharing incurred under Medicare Part A or B. If a FIDA Participant sees an out-of-network provider, that provider must bill the FIDA Plan. As noted above, there should not be any beneficiary cost-sharing under FIDA. Even if there were any Medicare beneficiary cost-sharing in this situation, it would be considered Part C cost-sharing and therefore not coverable by a Medigap policy.

Should FIDA Participants drop their Medigap policy if they have one?

This is an individual decision. As noted above, Medigap policies cannot pay for anything while the policyholder is enrolled in FIDA. However, FIDA Participants who drop a Medigap policy and then later decide to leave FIDA for traditional Medicare will not be able to purchase a new Medigap policy if they are still covered by Medicaid. This is because of the prohibition on selling Medigap policies to people with Medicaid discussed above. Beneficiaries who lose Medicaid eligibility and wish to purchase a Medigap policy may be able to do so, depending on their situation under New York state insurance law. More information is available at www.dfs.ny.gov/consumer/caremain.htm. Dually eligible individuals also have an option under federal law to suspend their Medigap policy for up to 24 months, with the policy being reinstated if the beneficiary loses Medicaid eligibility. However, a dually eligible individual who left FIDA to return to traditional Medicare and whose Medicaid eligibility did not change (meaning they still have Medicaid) would not be able to use this reinstatement option.

Because of the complexities of Medigap rules, FIDA Participants with Medigap policies should consider seeking advice from their local HIICAP, which they can find at www.aging.ny.gov/HealthBenefits/Index.cfm.

² See, for example, discussion of National Association of Insurance Commissioners (NAIC) model Medigap regulations at 70 Fed. Reg. 15,396 (March 25, 2005) ("The revised definition clarifies that a Medigap policy does not pay cost-sharing for expenses incurred under Medicare Part D and more clearly states the position of the NAIC and CMS that Medigap policies do not pay costsharing incurred under Part C.").