# MA Special Needs Plans Guidance

January 19, 2006

Specialized MA plans for special needs individuals or SNPs are defined as MA coordinated care plans that exclusively or disproportionately serve special needs individuals (see section 1859(b)(6) of the Social Security Act and 42 CFR sections 422.2 (definition of SNP) and 422.52 (SNP eligibility rules)). Three types of special needs individuals are eligible for enrollment in a SNP: (1) institutionalized individuals; (2) individuals entitled to medical assistance under a State plan under Title XIX; and (3) other individuals with severe or disabling chronic conditions that would benefit from enrollment in a SNP.

The following questions and answers are designed to provide guidance for organizations that wish to offer MA Special Needs Plans (SNPs) to Medicare beneficiaries.

This revises the *"Interim Guidance for Special Needs Plans for Dual Eligible and Institutionalized Individuals"* to conform to final MMA regulations, which became final March 22, 2005.

***Q1:*** *What types of MA Special Needs Plans can be offered?*

**A1:** MA organizations may offer SNPs to exclusively enroll or to enroll a disproportionate percentage of special needs individuals, which include:

(1) Institutionalized Medicare beneficiaries;

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

(3) Those individuals with severe or disabling chronic conditions.

***Q2:*** *What is the application process for an MA Special Needs Plan?*

**A2:** Revised on 2/24/2006 for added clarity to the original response.

Organizations that do not have a current contract with CMS must complete the full Coordinated Care Plan (CCP) MA application in order to offer a Special Needs Plan (SNP). The application is posted at: http://www.cms.hhs.gov/MedicareAdvantageApps/.

Any contracting MA organization interested in adding a SNP in its contracting service area must submit the cover page of the MA application, the SNP section of the MA Application, and any corresponding parts of the MA application, such as HSD tables that may be needed for CMS' review. Two copies of this information should be sent to the Director, Division of Special Programs (DSP), Medicare Advantage Group in CMS' Central Office and 2 copies should be sent to the appropriate CMS Regional Office.

When a contracting MA Organization seeks to add a SNP to its current service area it must also offer prescription drug coverage under Part D. If the MA Organization already offers Part D along with its Medicare Advantage product in a current service area, it does not need to file a new Part D application. It must maintain its prescription drug coverage by submitting a formulary and bid, but a new Part D application is not necessary.

If an MA organization is interested in expanding its service area and adding a SNP in the expanded service area, it must complete the MA service area expansion (SAE) application **and** an SAE application for Part D. If the MA Organization does not have Prescription Drug coverage in the service area in which it is seeking to offer a SNP, it must file a Part D application. The Part D application is posted at: http://www.cms.hhs.gov/PrescriptionDrugCovContra/ and click on "Application Guidance".

All applications (including those for special needs plans) are due March 20, 2006.

***Q3:*** *Are administrative variances available to MA Special Needs Plans?*

**A3:** MA SNPs 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.

***Q4****: Is an MA Special Needs Plan paid differently from other MA plans?*

**A4:** 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. Risk adjustment is particularly important for plans like many SNPs, whose enrollees have more chronic conditions and greater health care needs. See 2006 Medicare Advantage Payment Rates at http://www.cms.hhs.gov/MedicareAdvtgSpecRateStats/ and click on "Ratebooks and supporting Data" for further details.

***Q5:*** *Will MA Special Need Plans need to meet any additional requirements beginning in 2006?*

**A5:** Yes. MA SNPs must offer Part D Prescription Drug coverage. Effective January 1, 2006, only MA-PD plans will be allowed to continue or apply for a Medicare contract as a SNP.

Section 423.104(f)(3) of the regulations requires that an MA organization can offer an MA coordinated care plan in a service area only if that plan, or another MA plan offered by the same organization in the same service area, includes prescription drug coverage under Part D. Since SNPs by definition can restrict enrollment to certain subgroups of Medicare beneficiaries, they do not meet the statutory requirement of being offered to

each Part D eligible individual in an area. Thus, if an organization offering a SNP in a given area wants to offer another coordinated care plan in the area, it must be an MA-PD.

SNPs operational on December 31, 2005 will deem their current members enrolled into the MA-PD effective January 1, 2006.

***Q6:*** *Will ESRD beneficiaries be allowed to enroll in MA Special Needs Plans?*

**A6:** CMS will consider requests from MA SNPs to waive restrictions on enrollment of ESRD beneficiaries. This waiver should be requested as part of the MA SNP application. Once a waiver is approved, the SNP must allow all eligible ESRD beneficiaries to enroll. Consistent with regulations for all MA plans, members of MA SNPs who develop ESRD while a member of that plan must be allowed to remain a member of that plan as long as they continue to meet all other eligibility requirements. In addition, MA plans must allow an eligible ESRD beneficiary who meets any of the exceptions in section 20.2.2 of Chapter 2 of the Medicare Managed Care Manual to enroll.

***Q7:*** *Is the seamless enrollment mechanism, as described in section 40.1.5 of Chapter 2 of the Medicare Managed Care Manual, a valid enrollment vehicle for SNPs?*

A7: Yes, it can be. An SNP would follow the guidance provided in the manual to obtain approval of a seamless enrollment process that meets these requirements.

***Q8:*** *Can MA organizations limit enrollment in new MA Special Needs Plans and plans that were previously redesignated as MA Special Needs Plans to individuals who meet specified eligibility requirements (e.g., are dually eligible, institutionalized, or have a severe or disabling chronic condition)?*

**A8:** Yes. MA organizations offering new or previously redesignated SNPs may limit future enrollment to MA eligible individuals who meet the additional specified eligibility requirements. CMS will allow SNPs to exclusively enroll MA eligible individuals who are also special needs individuals or to enroll a disproportionate percentage (See Q & A 15) of special needs individuals. The MAO should indicate in its SNP application if it will limit enrollment to special needs individuals or operate as a disproportionate percentage SNP.

Existing members of MA plans previously redesignated as SNPs who do not meet special needs criteria must be allowed to remain in those plans. These members were granted a Special Election Period (SEP) beginning when the plan was redesignated and continuing through the end of that calendar or contract year. The SEP enabled the member to enroll in another MA plan (including one within the same MA Organization) or change to Original Medicare. An 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 unless s/he becomes a special needs individual.

Members who were in an MA plan at the time it was redesignated as a "disproportionate percentage" SNP need not be considered when determining whether the SNP enrollment meets the required percentage.

***Q9:*** *Will those who wish to enroll in an MA Special Needs Plan be given a Special Election Period to do so?*

***A9:*** Dual eligibles have a Special Election Period (SEP) from the time they become dually eligible and continuing as long as they remain dually eligible per Medicare Managed Care Manual (MMCM), Chapter 2, Section 30.4.4. Beginning January 2006, the Open Enrollment Period for Institutionalized Individuals (OEPI) is continuous per MMCM, Chapter 2, Section 30.3.4. An institutionalized beneficiary going into, residing in or leaving an institution can make any number of MA elections into a plan that is open for elections. CMS will provide an SEP for those who are no longer eligible for a SNP because they no longer meet special needs status. CMS will also provide an SEP for those individuals with severe or disabling chronic conditions to enroll in a SNP designed to serve individuals with those conditions. This SEP will apply as long as that individual has the qualifying condition and will end once s/he enrolls in a SNP. SNPs may request proof i.e., certification from the individual's physician that s/he has the qualifying condition as a condition of enrollment. Once the SEP ends, that individual may make enrollment changes only during applicable MA election periods.

***Q10:*** *Can members of other MA plans offered by the MA Organization enroll into the SNP?*

**A10:** Yes. Members of the MA Organization's other MA 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.

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

**A11:** A SNP that exclusively enrolls special needs individuals may continue to provide care for up to six months for a member who no longer has special needs status as long as the plan can provide appropriate care. For example, a dual eligible individual who loses Medicaid eligibility can be deemed to continue to be eligible for the plan if that individual would likely regain eligibility within six months. 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. The SNP may choose any length of time from 30 days through 6 months for deeming continued eligibility as long as it applies the criteria consistently among all members and fully informs members of its policy.

If the SNP cannot provide continuity of care to a member who loses eligibility, the plan must involuntarily disenroll the member. For example, when a member of an institutional SNP leaves the long-term care facility, s/he must be disenrolled from that SNP. The plan must 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:*** *How will an MA Special Needs Plan identify special needs beneficiaries in order to do marketing and outreach?*

**A12:** 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. In addition, an institutional SNP must provide the community with reasonable access to marketing information in order that those who may need long term care are made aware of their options (see Q&A 24). Dual Eligible MA SNPs may wish to work with their respective states to identify an acceptable method of targeting dual eligible beneficiaries.

The marketing guidelines for all MA plans can be found at http://new.cms.hhs.gov/ManagedCareMarketing/07_DraftMarketingGuidelines.asp

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

**A13:** MA SNPs must follow the marketing guidelines referenced in A12. CMS will work with SNPs on a case-by-case basis in situations that are not addressed by these guidelines.

A new SNP 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 bid and PBP.

***Q14:*** *Can 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?*

**A14:** No, CMS cannot perform this service.

***Q15:*** *How does CMS define a "disproportionate percentage" of special needs individuals for the purpose of identifying a disproportionate percentage SNP?*

***A15:*** A disproportionate percentage of special needs individuals is defined as a greater proportion of the target group than occur nationally in the Medicare population. This percentage will be based on data acceptable to CMS, including self-reported conditions from the Medicare Current Beneficiary Survey (MCBS) and data used to determine risk adjuster from the 5% sample. Statistical information can also be obtained from published sources, such as the "*Health Care Financing Review"* and National Center for Health Statistics publications.

***Q16:*** *Can an MA Organization establish a Special Needs Plan that serves a "subset" of the dual eligible or institutionalized population?*

**A16:** CMS will consider SNP applications to serve certain subsets of dual eligible or institutionalized individuals on a case-by-case basis. For example, we would allow a SNP to serve only full dual eligibles i.e., those Medicare beneficiaries who also receive Medicaid benefits, in order for the SNP to better coordinate Medicare benefits with the State Medicaid program. We would not, however, allow a SNP to limit its enrollment to certain age groups, for example, those age 65 and older. However, a SNP could propose to serve individuals with certain severe or disabling chronic conditions, such as dementia, that disproportionately affect older beneficiaries, as long as it marketed to and enrolled anyone with that condition, regardless of age. SNPs that serve individuals with severe or disabling chronic conditions may not limit marketing or enrollment to a subset within a disease category, such as only those in the early stages of diabetes, but not those more advanced and with multiple co-morbidities.

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.

***Q17:*** *In the case of dual eligibles, could a dual eligible MA Special Needs Plan submit an enrollment to CMS prior to verification?*

**A17:** No. The individual must meet all SNP eligibility requirements, including MA eligibility and Medicaid eligibility, before the SNP can process an enrollment into an MA Special Needs Plan (See Q & A 18).

***Q18:*** *How can an MA Special Needs Plan verify that an applicant is entitled to Medical Assistance?*

**A18:** As with any MA enrollment, an election isn't considered complete until eligibility is verified. 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 of eligibility for some type of Medical Assistance, even if systems documentation is not available. CMS will also accept systems verifications as proof. Any

one of the aforementioned documents or systems verifications is acceptable proof of Medicaid entitlement for beneficiaries residing in the 50 states and District of Columbia.

For example, a dual eligible SNP can take an enrollment form in the field from a beneficiary who says s/he has both Medicaid and Medicare, but does not have a Medicaid card or letter. S/he can mail this documentation to the SNP and thus complete the election. Or, the plan could later do a query to confirm Medicaid eligibility and complete the election. In cases where a dual SNP only accepts full dual eligible individuals, it may have to rely on a systems query or information obtained directly from the state to confirm that the beneficiary receives medical coverage from Medicaid. For a chronic condition SNP, a note from a provider confirming that s/he has the condition, is acceptable. Or, if evidence is not available at the time the enrollment form is submitted, the enrollee could also provide written permission (separately from the enrollment form) permitting the SNP to contact the MD and obtain verification of the condition.

***Q19:*** *How often must a SNP reconfirm a beneficiary's eligibility?*

**Q19:** Dual eligible SNPs must follow the same schedule as their state's recertification process. Institutional SNPs must confirm eligibility monthly. Chronic condition SNPs must confirm eligibility on a regular basis, not less than yearly.

***Q20:*** *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?*

**A20:** MA SNPs 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 The Medicare Marketing Guidelines.

***Q21:*** *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?*

**A21:** No.

***Q22:*** *How does CMS define "institutionalized" for purposes of MA Special Needs Plans?*

**A22:** 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), SNF/NF, intermediate care facility for the mentally retarded (ICF/MR) or an inpatient psychiatric facility. In order for a SNP to enroll a special needs individual prior to 90 days of continuous residence, a CMS-approved assessment must show that the individual's condition makes it probable that the length of stay will be at least 90 days. It is the SNP's option to enroll those

individuals expected to reside for 90 days or more, but the SNP must apply its policy consistently.

In addition, individuals residing in a community setting but requiring an institutional level-of-care may also be considered long-term institutional residents for purposes of determining who can enroll in a special needs plan, subject to CMS approval.

***Q23:*** *For the institutional SNPs, how will the community institutional level-of-care be determined?*

***A23*** Each State establishes a definition of institutional level-of-care. These definitions generally apply both to individuals who become institutionalized as well as those who are able to live in the community but require a level of care equivalent to that of those individuals who are institutionalized. We recommend that SNPs use the appropriate State's definition of level-of-care. For Medicaid purposes, the State Medicaid agency has discretion as to which agency conducts the needs assessment and makes a level-of-care determination. Typically, these functions are completed by each State's Local Area Office of the Aging. In other instances, another State entity, such as the Department of Health, may perform these functions. In either case, we recommend that SNPs use those same agencies to conduct the needs assessment and make the level-of-care determination.

Institutional SNPs proposing to cover individuals residing in a community setting but requiring an institutional level-of-care must indicate what instruments will be used for the needs assessment and level-of-care determination and obtain CMS approval. Evaluations conducted by the SNP are not acceptable.

***Q24:*** *What service area requirements will apply to an institutional SNP?*

**A24:** CMS may allow an institutional SNP to establish a county-based service area as long as it has at least one long term care facility that can accept enrollment and is accessible to the county residents. As with all MA plans, CMS will review the plan's marketing/enrollment practices and long term care facility contracts to confirm that there is not a discriminatory impact in terms of excluding either "sicker", lower-income or minority beneficiaries in its service area.

***Q25:*** *What access requirement applies to an institutional SNP?*

**A25:** As noted above, CMS may allow an institutional SNP to operate as long as it has at least one long term care facility under contract. As an MA plan, an institutional SNP is also responsible for providing or arranging for all medically necessary Medicare covered services.

***Q26:*** *What marketing requirements apply to institutional SNPs?*

**A26:** By definition, institutional SNPs will enroll a limited group of beneficiaries and may also have limited enrollment options (e.g., the plan may have only one contracted

long term care facility in a county with a few open beds.) However, the overall Medicare population, as well as beneficiaries who meet the SNP eligibility requirements, must have reasonable access to information describing all MA plans (including institutional SNPs) that are available in a county. Importantly, information on these plans must be made available on CMS' web site so that interested beneficiaries (or their families) can identify institutional SNPs that are available in a county.

***Q27:*** *Do institutional SNPs have to meet the standard Medicare quality reporting requirements of the MA program?*

**A27:** We have determined that the current versions of the Medicare Health Plan Employer Data and Information Set Measures (HEDIS), the Medicare Consumer Assessment of Health Plans Study (CAHPS) and the Health Outcomes Survey (HOS) measures may not be appropriate for SNP institutional plans. Many of these measures are not applicable to institutional residents and would be very difficult to collect. For example, it may be hard to interview nursing home residents and/or to locate their family members.

For nursing home based institutional plans, we will extract the Minimum Data Set (MDS) measures that are used for nursing homes by the Medicare program, of those institutional SNP enrollees . CMS may compare the institutional plans MDS scores with national MDS scores. We will also require these plans to provide data on hospitalization rates. We have not determined the measures to be used for the community based institutional plans.

We will make a determination on reporting for other types of SNPs, e.g., those proposed to serve chronically ill or disabled beneficiaries, depending upon the type of populations served. We have provided tentative guidance via HPMS that these plans will participate in HEDIS, HOS, and CAHPS. However, we are also examining alternate measures for these plans and will notify them of the final determination as to measures in the near future.

Please note that SNPs that are set up to serve dual eligible populations must meet the standard requirements as to HEDIS, CAHPS, and HOS reporting.

***Q28.****How will CMS review and evaluate applications to cover severe and disabling conditions?*

**A28:** CMS will review and evaluate information provided for those SNPs targeting Medicare eligibles with severe or disabling chronic conditions/diseases. The application should delineate what specific disease management and/or clinical protocols will be used to enhance care and care outcomes to the populations to be served. Specific information should be provided as to how provider/facility/network configuration and intervention strategies are planned to benefit the population. In particular, narrative should indicate exactly how these aspects will differ from what would be appropriate for the MA enrollees in a non-SNP coordinated care plan. In other words, the application should

highlight the unique aspects related to the conditions/diseases to be targeted. CMS will also consider whether the proposal discriminates against "sicker" members of the target population.

**Q29**: *Can CMS provide individually identifiable information, e.g., health information, to a chronic condition SNP for the purpose of that SNP marketing to and/or enrolling that beneficiary?*

**A29**: No. CMS cannot perform this service.

**Q30**: *Can a chronic condition SNP market to patients with the targeted chronic disease with the help of providers?*

**A30**: Providers have been permitted to make available CMS approved marketing materials to **all** the Medicare beneficiaries they serve. Thus, for a chronic condition SNP where a cardiologist may serve more in the role of a primary care physician for patients with coronary artery disease, promotional materials (but **not** the actual enrollment application), could be made available in the provider's office to all beneficiaries.