



MEDICARE DRUG & HEALTH PLAN CONTRACT ADMINISTRATION GROUP

DATE: April 24, 2019

TO: Medicare Advantage Organizations

FROM: Kathryn Coleman
Director

SUBJECT: Implementing Supplemental Benefits for Chronically Ill Enrollees

The Bipartisan Budget Act of 2018 (Public Law No. 115-123) amended section 1852(a) of the Social Security Act to expand the types of supplemental benefits that may be offered by Medicare Advantage (MA) plans to chronically ill enrollees. We refer to these as Special Supplemental Benefits for the Chronically Ill (SSBCI). SSBCI include supplemental benefits that are not primarily health related and may be offered non-uniformly to eligible chronically ill enrollees, as discussed below. We believe the intended purpose of the new category of supplemental benefits is to enable MA plans to better tailor benefit offerings, address gaps in care, and improve health outcomes for the chronically ill population.

Section 1852(a)(3)(D)(ii), as amended, defines a chronically ill enrollee as an individual who:

- 1) has one or more comorbid and medically complex chronic conditions that is life threatening or significantly limits the overall health or function of the enrollee;
- 2) has a high risk of hospitalization or other adverse health outcomes; and
- 3) requires intensive care coordination.

As discussed in the CY 2020 Final Call Letter, for CY 2020, CMS will consider any enrollee with a condition identified as a chronic condition in section 20.1.2 of Chapter 16b of the Medicare Managed Care Manual to meet the statutory criterion of having one or more comorbid and medically complex chronic conditions that is life threatening or significantly limits the overall health or function of the enrollee. MA plans will not submit to CMS the processes used to identify chronically ill enrollees that meet the three pronged definition of chronically ill enrollee. However, all three criteria must be met for an enrollee to be eligible for the SSBCI authorized under section 1852(a)(3)(D) beginning CY 2020. CMS expects MA plans to document their determinations about an enrollee's eligibility for SSBCI based on the statutory definition noted above.

In general, MA organizations have broad discretion in developing items and services they may offer as SSBCI provided that the item or service has a *reasonable* expectation of improving or maintaining the health or overall function of the chronically ill enrollee. MA organizations also have broad discretion in determining what may be considered 'a reasonable expectation' when choosing to offer specific items and services as SSBCI. CMS will provide supporting evidence

or data to an MA organization if CMS determines that an MA plan may not offer a specific item or service as a SSBCI because it does not have a reasonable expectation of improving or maintaining the health or overall function of a chronically ill enrollee. These benefits can be in the form of:

- Reduced cost sharing for Medicare covered benefits (such as to improve utilization),
- Reduced cost sharing for primarily health related supplemental benefits,
- Additional primarily health related supplemental benefits, and/or
- Non-primarily health related supplemental benefits.

The special supplemental benefits available to chronically ill enrollees must be entered as a single SSBCI package in Section B19a and/or B19b of the Plan Benefit Package (PBP). CMS-HCC or ICD-10 codes should not be included in the notes. The MA plan may require enrollees to participate in a care management program or use high value providers as a condition of reduced cost sharing or additional benefits. Plans may process the reduced cost sharing or additional benefits for chronically ill enrollees through retroactive reimbursement.

Examples of Non-Primarily Health Related Special Supplemental Benefits for the Chronically Ill

As noted above, beginning CY 2020, MA plans will have the ability to offer a “non-primarily health related” item or service to chronically ill enrollees if the SSBCI has a reasonable expectation of improving or maintaining the health or overall function of the chronically ill enrollee. This expectation must be met for each item or service; the examples provided below assume that the reasonable expectation has been established that the item or service will improve or maintain the chronically ill enrollee’s health or overall function.

Eligibility for SSBCI must be determined based on identifying the enrollee as a chronically ill enrollee, using the statutory definition, and if the item or service has a reasonable expectation of improving or maintaining the health or overall function of the enrollee. MA plans can provide non-primarily health related supplemental benefits that address chronically ill enrollees’ social determinants of health so long as the benefits maintain or improve the health or function of that chronically ill enrollee. MA plans may consider social determinants of health as a factor to help identify chronically ill enrollees whose health could be improved or maintained with SSBCI and they may use social determinants to further limit SSBCI eligibility. However, they may not use social determinants of health as the sole basis for determining eligibility for SSBCI.

The list below provides examples of non-primarily health related supplemental benefits for the chronically ill. All non-primarily health related supplemental benefits must be entered and briefly described as part of a SSBCI package in PBP Section B19b/13i. This list is not exhaustive:

- **Meals (beyond limited basis):** Existing guidance in Chapter 4 of the Medicare Managed Care Manual provides that meals are a primarily health related benefit (PBP category B13c) in

limited situations: when provided to enrollees for a limited period immediately following surgery, or an inpatient hospitalization, or for a limited period due to a chronic illness. In those situations, a meals supplemental benefit is permissible if the meals are: 1) needed due to an illness; 2) consistent with established medical treatment of the illness; and 3) offered for a short duration. Meals may be offered beyond a limited basis as a non-primarily health related benefit (PBP category B19b/13i) to chronically ill enrollees. Meals may be home-delivered and/or offered in a congregate setting.

- **Food and Produce:** Food and produce to assist chronically ill enrollees in meeting nutritional needs may be covered as SSBCI. Plans may include items such as (but not limited to) produce, frozen foods, and canned goods. Tobacco and alcohol are not permitted.
- **Transportation for Non-Medical Needs:** Transportation to obtain non-medical items and services, such as for grocery shopping, banking, and transportation related to any other SSBCI, is a non-primarily health related benefit. Such transportation may be reimbursed, arranged, or directly provided by an MA plan as a SSBCI.
- **Pest Control:** Pest eradication services that are necessary to ensure the health, welfare, and safety of the chronically ill enrollee. Services may include pest control treatment(s) or products that may assist the enrollee in the pest eradication (e.g., traps, pest control sprays, cleaning supplies).
- **Indoor Air Quality Equipment and Services:** Equipment and services to improve indoor air quality, such as temporary or portable air conditioning units, humidifiers, dehumidifiers, High Efficiency Particulate Air filters, and carpet cleaning may be covered as SSBCI. Plans may also include installation and servicing of equipment as part of the benefit.
- **Social Needs Benefits:** Access to community or plan-sponsored programs and events to address enrollee social needs, such as non-fitness club memberships, community or social clubs, park passes, and access to companion care, marital counseling, family counseling, classes for enrollees with primary caregiving responsibilities for a child, or programs or events to address enrollee isolation and improve emotional and/or cognitive function, are non-primarily health related benefits that may be covered as SSBCI.
- **Complementary Therapies:** Complementary therapies offered alongside traditional medical treatment may be offered as non-primarily health related SSBCI. Complementary therapies must be provided by practitioners who are licensed or certified, as applicable, in the state in which they practice and are furnishing services within the scope of practice defined by their licensing or certifying state. Alternative therapies that are considered primarily health related may be offered by an MA plan as a supplemental benefit in PBP category B14c.
- **Services Supporting Self-Direction:** Services supporting self-direction allow enrollees to have the responsibility for managing all aspects of healthcare delivery in a person-centered planning process; while such services are a non-primarily health related benefit, they may have a reasonable expectation of improving or maintaining the health or overall function of

the chronically ill enrollee. Plans may provide services to assist in the establishment of decision-making authority for healthcare needs (e.g., power of attorney for health services) and/or may provide education such as financial literacy classes, technology education, and language classes. Interpreter services may also be provided to enrollees to facilitate encounters with healthcare providers. Plans may not include expenses for funerals as a covered benefit. Primarily health related education (e.g., Health Education, Medical Nutrition Therapy) that is consistent with existing guidance (see Chapter 4, section 30.3) for primarily health related supplemental benefits may be offered by an MA Plan as a supplemental benefit in PBP category B14c.

- **Structural Home Modifications:** Structural modifications to the home that may assist in the chronically ill enrollee’s overall function, health, or mobility are permitted if those items and services have a reasonable expectation of improving or maintaining the health or overall function of the chronically ill enrollee (e.g., widening of hallways or doorways, permanent mobility ramps, easy use doorknobs and faucets).
- **General Supports for Living:** General supports for living such as housing may be provided to chronically ill enrollees if the benefit has a reasonable expectation of improving or maintaining the health or overall function of the enrollee. General supports for living may be provided for a limited or extended duration as determined by the plan. The benefit may include plan-sponsored housing consultations and/or subsidies for rent or assisted living communities. Plans may also include subsidies for utilities such as gas, electric, and water as part of the benefit. These benefits should be entered in Section B19b/13i of the PBP under “Transitional Supports.”

Maximum Plan Benefit Coverage Amount for Supplemental Benefits

Consistent with other supplemental benefits, plans have the flexibility to establish a maximum plan benefit coverage amount for each SSBCI or a combined amount that includes multiple SSBCIs. For example, a plan could establish a combined maximum plan benefit coverage amount that applies to transportation for non-medical needs and social needs benefits; a chronically ill enrollee for whom both of these types of benefits have a reasonable expectation of improvement or maintenance of the health or overall function could use both benefits during the coverage period up to the combined maximum amount. To establish coverage of multiple supplemental benefits (i.e., benefits in different categories) subject to a combined maximum plan benefit coverage amount, the MA organization should enter the appropriate data in PBP Section B and include a note in each applicable section that it is a combined maximum plan benefit amount. With the exception of supplemental benefit offerings in PBP Section B19, plans providing a combined maximum plan benefit coverage amount for multiple benefit categories also enter the combined amount in PBP Section D. As noted above, plans may offer SSBCI to chronically ill enrollees through retroactive reimbursement.

Waiver of Uniformity Requirements for SSBCI

The Act also allows CMS to waive the uniformity requirements with respect to SSBCI, effective in CY 2020. As discussed in the CY 2019 Final Rule (83 FR 16440, 16481-82), the waiver authorized under section 1852(a)(3)(D)(ii) of the Act gives CMS the authority to allow MA plans to offer chronically ill enrollees supplemental benefits that are not uniform. Thus, beginning CY 2020, CMS will use this waiver authority to allow MA plans to vary, or target, SSBCI as they relate to the individual enrollee's specific medical condition and needs. In other words, SSBCI under this waiver may not be provided to a chronically ill enrollee if that benefit does not have a reasonable likelihood of improving or maintaining that specific enrollee's health or overall function. We expect MA plans to develop objective criteria (e.g., health risk assessments, review of claims data, etc.) in determining SSBCI eligibility. The objective criteria may be helpful to address potential beneficiary appeals, complaints, and/or general oversight activities performed by CMS.

We remind MA plans that coverage requests from enrollees or providers, including requests for any supplemental benefits, should be treated similar to requests for other benefits furnished by an MA plan. If a request concerning coverage of a discrete item or service submitted to a plan fits within one of the actions defined as an organization determination under 42 C.F.R. § 422.566(b), then the coverage decision is subject to the Subpart M appeals process. Furthermore, MA plans are responsible for clearly identifying in the plan's Evidence of Coverage (EOC) what will and will not be covered. Any limitations on coverage should be clearly noted in the EOC, including the process and/or criteria for determining eligibility to receive a SSBCI under the new authority beginning CY 2020. Plans may also inform beneficiaries of SSBCI, including through marketing and communication materials. When marketing SSBCI, MA plans must not mislead or misrepresent these benefits to enrollees and must not state that they are guaranteed.

Policy questions related to the information in this memorandum, may be submitted at: <https://dpap.lmi.org/dpapmailbox/>. If you have any operational and/or PBP related questions about the information outlined in this memorandum, please submit your question to <https://mabenefitsmailbox.lmi.org/>.