



September 26, 2014

Mark Kissinger  
Director, Division of Long Term Care  
Office of Health Insurance Programs  
NYS Department of Health  
Corning Tower  
Empire State Plaza  
Albany, NY 12237

**Re: Input on Conflict Free Evaluation and Enrollment**

Dear Mr. Kissinger:

LeadingAge New York has conferred with its home care agency, nursing home and managed care plan members and compiled the attached list of questions and recommendations regarding the new Conflict Free Evaluation and Enrollment Center (CFEEC) process. We have also forwarded these comments directly to the Department at [CF.Evaluation.Center@health.ny.gov](mailto:CF.Evaluation.Center@health.ny.gov).

Thank you in advance for taking our comments and questions into consideration as you formulate the final policies, implementation strategies and frequently asked questions guidance related to CFEEC. As always, LeadingAge NY is available to assist your efforts on behalf of our provider and plan members. We would welcome the opportunity to discuss these issues with you and/or your staff at your earliest possible convenience.

Sincerely,

Two handwritten signatures in black ink. The first signature is "Patrick Cucinelli" and the second is "Margaret Willard".

Patrick Cucinelli  
Vice President for Financial Policy

cc: Margaret Willard, Director, Bureau of Managed Long Term Care  
Home and Community Based Services Cabinet  
Nursing Facility Cabinet  
PACE/MLTC Cabinet

Attachment

## **Conflict Free Evaluation and Enrollment Center**

LeadingAge New York appreciates the opportunity to provide suggestions and seek clarifications on the implementation of the Conflict Free Evaluation and Enrollment Center (CFEEC) process. CFEEC would transform the assessment process for individuals seeking access to Medicaid funded long term services and supports (LTSS) for more than 120 days. We understand this would be for newly-eligible Medicaid recipients requesting LTSS to determine whether they meet the eligibility criteria to be enrolled in a managed long term care (MLTC) plan.

Our input reflects the perspective of LeadingAge NY's membership, which is comprised of providers throughout the continuum as well as MLTC plans. Our recommendations and questions are as follows:

### **General**

- Will the CFEEC process be applied to or have any impact on individuals who are:
  - Currently enrolled in Medicaid fee-for-service and have not yet been mandated to enroll in an MLTC plan;
  - Medicaid-eligible and are seeking enrollment in a Medicaid Section 1915 waiver program (e.g., NHTD, TBI) in lieu of mandatory enrollment in an MLTC plan;
  - Paying for their services with private resources, insurance, veteran's benefits or Medicare; and/or
  - Medicaid-only eligible, needing LTSS, and enrolled in a mainstream Medicaid managed care plan?We suggest that it should not apply in any of the first three instances identified above.
- How will CFEEC work in connection with the Fully Integrated Duals Advantage (FIDA) Demonstration?
  - For example, will the 120-day criterion incorporate the provision of community-based services that would have ordinarily been covered as a post-acute care benefit under Medicare?
- Please confirm our understanding that the CFEEC process will not be administered to those individuals who need long-term placement in a nursing home and are required to remain/enroll in an MLTC or mainstream plan under the proposed transition of the nursing home benefit and population.
- If applicable, how would the CFEEC process intersect with the process of obtaining Medicaid eligibility for an individual? When Medicaid eligibility has not been established for long term care, will the CFEEC process occur before or after the Medicaid eligibility has been determined?
- Will the process apply on a one-time basis only to newly eligible Medicaid recipients prior to enrolling in a plan, or will it also be conducted periodically after enrollment?
- Depending on the responses to the following questions, we are concerned about the level of readiness to launch the CFEEC beginning in October 2014:

- When/will the State make available to plans, providers and other stakeholders the specific policies and procedures related to the CFEEC process?
  - Will further education, reference documents (other than the FAQ document) and opportunities for input be offered to these stakeholders prior to implementation?
  - Will the UAS-NY Level I screen – which is intended to incorporate a minimal number of questions to indicate eligibility for Medicaid-funded community-based long term care services – be available for use beginning at the launch of CFEEC? Will this screen adequately capture cognitive impairments, which can have a major bearing on the need for LTSS?
- With the implementation of CFEEC and UAS-NY requirements and mandatory managed care enrollment, there are ongoing concerns related to duplicative assessments, costs and “patient fatigue” (i.e., the effect on patients of having multiple assessments within a short time period, even if there is no major change in condition). How is this issue being addressed in the context of the CFEEC process?
- What is the funding source for the additional CFEEC responsibilities being assumed by Maximus? If it is the Balancing Incentive Program, how will CFEEC be funded subsequent to September 30, 2015? Will managed care plans or providers be asked to assume these costs?
- Once the CFEEC is launched, we recommend that DOH track and post on its website for public information, county-level and statewide metrics for the program on a periodic basis (i.e., monthly or quarterly) including, but not limited to:
  - The number of individuals who undergo a CFEEC evaluation;
  - The setting within which the evaluation was conducted (e.g., individual’s home, ACF/assisted living, nursing home, hospital, etc.);
  - The average timeframe between referral to Maximus and actual completion of the evaluation, identified based on the setting within which it was conducted;
  - The proportions of evaluated individuals who were determined to be eligible/ineligible for LTSS; and
  - For those determined ineligible, how many involved the dispute resolution process and of this number, the proportion of determinations that were reversed.

### **Specific Implementation Issues**

- While the CFEEC will apparently have 5-7 business days to schedule an evaluation, what is the contractual timeframe within which Maximus will actually be required to complete an evaluation and make an eligibility determination following referral of an individual who seeks LTSS? If these timeframes are not adhered to, will affected individuals be temporarily presumed eligible if they require emergent/continuing LTSS?
- While the dispute resolution protocol includes a 3-business day timeframe for the NYS Medical Director to make a final determination, what overall timeframe will apply to the entire dispute resolution process beginning at the point in time a Disagreement Request is submitted?
- In situations when both Maximus and the managed care plan perform an evaluation, which assessment will be used to calculate risk scores for the plan?

- Will managed care plans have timely access to the evaluation conducted by Maximus? Assuming there is no dispute about the results of the evaluation and determination, will a plan be able to rely on the Maximus evaluation as a definitive determination of eligibility for LTSS for purposes of any survey or audit?
- What are the fair hearing rights of an individual seeking LTSS should Maximus determine the person is ineligible? Is there a presumption of eligibility or other safety net mechanism for individuals who may be found ineligible that should have been determined to be eligible, particularly individuals with cognitive impairments?
- Programs for All-Inclusive Care for the Elderly (PACE) plans are concerned that there has been little or no referral activity to PACE from Maximus in its enrollment broker role. With Maximus taking on an expanded role to include CFEEC, and the possibility that CFEEC will also apply under FIDA, what assurances can the State provide that PACE plans will be presented as an integrated service option alongside other managed care options to prospective enrollees?
- What is the impact of assigning the CFEEC role to Maximus on existing Care Management Administrative Services (CMAS) agreements that include patient evaluation responsibilities?
- There is concern about the general application of the CFEEC process in rural areas where the supply of services and evaluators may not be sufficient to allow for timely evaluations and eligibility determinations. We recommend that program flexibility be accorded to rural and other personnel shortage areas. For example, Maximus could sub-contract evaluation responsibilities to an entity that has an existing CMAS agreement.