

MEMORANDUM

A.7554 (Paulin)/S.7293 (Ryan)

AN ACT to amend the Public Health Law in relation to managed long term care plan performance standards.

LeadingAge New York, and its not-for-profit and government-sponsored members, support this bill which would enable managed long term care (MLTC) plans that also operate a Medicare Advantage Institutional Special Needs Plan (ISNP) or a PACE program, but not a Medicare Advantage Dual Eligible Special Needs Plan (DSNP), to continue to meet MLTC performance standards. It would also modify MLTC performance standards to remove the offering of products under the Child Health Plus and Basic Health Programs as an element of performance.

This bill would modify MLTC performance standards enacted with the SFY 2023-24 budget, in order enable plans that offer alternative integrated Medicare and Medicaid products to continue to meet standards, while eliminating a standard that is irrelevant to the MLTC program. The budget legislation requires MLTC plans to operate a DSNP by January 1, 2024 in order to meet performance standards, but omits ISNPs and PACE programs from the standard. MLTC plans that operate either of those products, but not a DSNP, would be deemed out of compliance with the standard. In addition, the budget legislation includes offering products under the Child Health Plus and Basic Health (i.e., Essential Plan) programs as a performance standard.

The omission of ISNPs and PACE programs from the performance standards appears to be an oversight. The DSNP performance standard was imposed in order to ensure that MLTC plans are engaged in providing care management and services that integrate Medicare-covered services and Medicaid-covered services. ISNPs and PACE programs, like DSNPs, also serve dual eligibles and integrate Medicare and Medicaid services. In fact, unlike DSNPs, both ISNPs and PACE programs serve individuals who require a long-term care services (although ISNPs are named “institutional,” they may serve individuals who live in the community, as long as they require a nursing home level of care).

Moreover, by defining the performance standard based on the operation of a DSNP only, the current law imposes a condition that is impossible to meet for MLTC plans that are not currently operating one. According to Medicare’s schedule for approving new DSNPs, a plan would have had to submit an application by February 2023 in order to be operational in January 2024. Thus, at the time the current performance standard was enacted, plans that had not already submitted an application for a DSNP would not be able to begin operating a DSNP until January 2025.

The inclusion of Child Health Plus and Basic Health Plan products as a performance standard for MLTC plans similarly appears to be an error. These products are irrelevant to the MLTC program. There is very little, if any, overlap between the populations served by Child Health Plus or the Essential Plan and MLTC plans. MLTC plans are specialized plans that serve individuals who are age 18 or over, eligible for Medicaid, typically eligible for Medicare as well, and require long-term care services for a period of 120 days or more. By contrast, Basic Health Program enrollees must be under age 65 and not eligible for Medicaid. Child Health Plus Program enrollees must be under age 19 and not eligible for Medicaid. Neither the Basic Health Program nor the Child Health Plus Program may enroll the population that would generally be eligible for MLTC.

For these reasons, LeadingAge New York supports this bill and urges its passage.

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