SENIOR CARE PHARMACY COALITION

1700 Pennsylvania Avenue, NW
Suite 200 | Washington, DC 20006

202.827.9987

June 30, 2023

Via Electronic Submission (dualeligibles@cassidy.senate.gov)

Honorable Bill Cassidy, M.D.
United States Senate
520 Hart Senate Office Building
Washington, DC 20510

Honorable Tim Scott
United States Senate
104 Hart Senate Office Building
Washington, DC 20510

Honorable Robert Menendez
United States Senate
528 Hart Senate Office Building
Washington, DC 20510

Honorable John Cornyn
United States Senate
517 Hart Senate Office Building
Washington, DC 20510

Honorable Mark Warner
United States Senate
703 Hart Senate Office Building
Washington, DC 20510

Honorable Tom Carper
United States Senate
513 Hart Senate Office Building
Washington, DC 20510

RE: Comments on Discussion Draft -- Improving Care for Dually Eligible Enrollees

Dear Senators Cassidy, Scott, Menendez, Cornyn, Warner, and Carper:

The Senior Care Pharmacy Coalition (SCPC) appreciates the opportunity to respond to your May 2023 Discussion Draft of legislation to improve care for enrollees dually eligible for the Medicare and Medicaid programs (the dual eligibles). We are grateful to you for your focus on this issue.

On January 13, 2023, SCPC provided a detailed response to your RFI dated November 22, 2022. We predicated our responses to the questions posed and our broader recommendations on four key conclusions drawn from publicly available data and analyses:

- Dual eligibles who require long-term services and supports (LTSS)[1] represent a small percentage of dual eligibles but account for a disproportionate percentage of Medicare and Medicaid expenditures.[2]
- Dual eligibles who require LTSS rely disproportionately on prescription drugs, which are essential to quality of care and quality of life.[3]
- The clinical and specialized services LTC pharmacies provide significantly improve patient adherence, dramatically reduce medication errors, and contribute to more effective care management and coordination.[4]
- Current federal policy significantly inhibits patient access to LTC pharmacy services for dual eligibles who need LTSS but who live outside federally defined LTC facilities, largely because Medicare Part D does not require payment for LTC pharmacy services in such settings and Medicaid home and community-based waiver services do not require access to LTC pharmacy services.[5]
- Appropriate access to LTC pharmacy services for Medicare beneficiaries who require an institutional level of care – especially those who are dual eligibles – would improve patient

[1] Although "long term services and supports (LTSS)" increasingly is a term used to describe the care and services that might be available to an individual who requires long-term care, LTSS is not formally defined in federal statute or regulation. At its inception, the Medicaid program provided eligible enrollees who needed the type of services not characterized as LTSS only if they resided in "institutions" which included hospitals, nursing facilities (NFs), and intermediate care facilities (ICFs). Subsequently, the Medicaid statute allowed state Medicaid programs to offer LTSS outside institutions pursuant to home and community-based services (HCBS) waiver programs. However, federal law nonetheless required that only those Medicaid enrollees who required an institutional level of care would be eligible for waiver programs. Each state's Medicaid program establishes its own detailed eligibility criteria, but a common proxy for such eligibility is that an enrollee has "an institutional level of care" if s/he has impairments in two or more activities of daily living (ADLs). The Medicare program incorporates institutional level of care need into eligibility criteria for Institutional Special Needs Plans under Part C and for enhanced dispensing fees for enrollees living in the community under Part D. For purposes of this discussion, LTSS is used in the narrative, but proposed legislative text relies on the institutional level of care requirement because it more accurately reflects current Medicare and Medicaid statutory, regulatory, and sub-regulatory eligibility criteria applicable to dual eligibles who require LTSS.

[2] SCPC's response to the RFI demonstrates that the 1.25 million full-benefit dual eligibles who require LTSS or LTC – roughly 10% of all dual eligibles - accounted for 19% of combined Medicare and Medicaid spending on dual eligibles (12% of Medicare spending exclusive of Medicare Part D spending and 37% of Medicaid spending. See SCPC Response to RFI dated January 13, 2023 (the SCPC RFI Response) and references cited therein.

[3] In 2019, 94% of dual eligibles utilized Medicare Part D to pay for prescription drugs, accounting for $47 billion in Part D expenditures. Remarkably, this total exceeded Medicare fee-for-service expenditures for inpatient hospital care ($38.0 billion), skilled nursing facility care ($19.7 billion), home health care ($4.3 billion) or other outpatient services ($46.4 billion), underscoring the need to address prescription drugs as part of any initiative to improve care coordination and reduce Medicare and Medicaid expenditures for dual eligibles. See SCPC Response to RFI and references cited therein.

[4] See, e.g., Shetty, Chen, Rose, & Liu, "Effect of the ExactCare medication care management model on adherence, health care utilization, and costs," 27 J Manag Care Spec Pharm. 574-585 (2021)(Shetty, et al).

[5] See, e.g., ATI Advisory & SCPC, "Expanding Long-Term Care Pharmacy in Home and Community-Based Settings: Understanding and Addressing the Barriers," (November 2021).

outcomes and reduce Medicare health costs net of reasonable payments for LTC pharmacy services across settings.[6]

Based on these conclusions, we recommended that legislation designed to improve care coordination and reduce Medicare and Medicaid expenditures for dual eligibles: (1) include prescription drugs and related LTC pharmacy services; (2) define LTC pharmacy in statute; (3) afford dual eligibles who need LTSS access to LTC pharmacy services across all settings; and (4) assure that pharmacies providing LTC pharmacy services to dual eligibles who need LTSS receive adequate payment for those services.

While we were disappointed not to see any of our specific recommendations in the discussion draft, we were pleased that the draft contemplated creating a new Title in the Social Security Act to improve care coordination for dual eligibles, and that this program would be funded by a mix of dollars from the Parts A, B and D of the Medicare program. We support that effort, and particularly the recognition that prescription drugs are a key part of care for dual eligibles. However, we urge you to add access to LTC pharmacy clinical, consultative, and specialized services as part of the care coordination function. We recommend that dual eligibles who require LTSS have access to LTC pharmacy services, that LTC pharmacy services be delineated in the legislation, and that LTC pharmacies receive separate payment for these services in a manner similar to the ways in which care coordinators would be compensated for their services.

More specifically, we offer the following changes to the draft legislation consistent with our recommendations:

<u>Section 101</u>

- Section 2201, Page 4, line 21 (definitions): add new subsection (6) incorporating the definition of "long-term care pharmacy" from the Long-Term Care Pharmacy Definition Act. SCPC recommends using the text of the bill to which CMS and CBO agreed in December 2022, a copy of which is attached.

[6] It should be noted that paying pharmacies for LTC pharmacy services has been proven to reduce health care expenditures annually, strongly suggesting that modest investments to pay for these services will reap substantial savings over the 10-year federal budget scoring window. For example, Shetty et al found that LTC pharmacy services reduced per patient annual health care costs by roughly $2,000 at an annual per patient cost of $240 to compensate the LTC pharmacy for its services. While not a precise calculation, a net savings of $1,700 per patient per year in health care costs – which primarily would be Medicare expenditures for dual eligibles – if relevant to the 1.25 million full-benefit dual eligibles, would result in lower Medicare FFS health care expenditures of $21.25 billion over 10 years (1.25 million beneficiaries x $1,700/year x 10 years = $21.25 billion). While not a precise calculation, this certainly is directionally correct and may understate savings because it does not consider partial benefit dual eligibles who need LTSS.

- Section 2204, Page 13, line 22 (definition of benefits in the integrated care plan): Add new subsection (d)(1)(D) to include within the required benefits: "(D) for dual eligibles who require an institutional level of care access to LTC pharmacy services;"
- Section 2204, Page 15, line 23 (case coordinator requirements): Add new subsection (e)(5) to include within care coordinator requirements: "(5) coordinate pharmacy access, including for beneficiaries with an institutional level of care need access to long-term care pharmacy services;"
- Section 2204, Page 16, line 5 (comprehensive care plan requirements): Add the phrase "medication and medication management" to the list of comprehensive care plan requirements."

Section 102

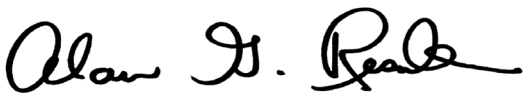
- Page 23, line 11 (integrated care program models): At the end of proposed new section 1315b(d)(9)(B), add the phrase: "including access to long-term care pharmacy services for beneficiaries with an institutional level of care need."

****

Affording dual eligibles who need LTSS unfettered access to LTC pharmacy services regardless of the setting in which they live will improve their health care outcomes and quality of life and will reduce Medicare and Medicaid expenditures substantially. We urge you and your colleagues to incorporate our proposed changes into the next iteration of this important legislation.

Thank you for considering our recommendations. We look forward to a continuing dialogue as you refine these policy proposals to improve care for the dually eligible population. We would be pleased to answer any questions you may have or provide any additional information you may require. Please feel free to contact me at arosenbloom@seniorcarepharmacies.org or (717) 503-0516.

Respectfully submitted,



Alan G. Rosenbloom
President & CEO
Senior Care Pharmacy Coalition

Attachment