



## Department of Health

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**SALLY DRESLIN, M.S., R.N.**  
Executive Deputy Commissioner

September 12, 2018

Ms. Judith Cash  
Acting Director  
State Demonstrations Group  
Center for Medicare and Medicaid Services  
7500 Security Blvd, Mail Stop S2-01-16  
Baltimore, Maryland 21244-1850

Dear Ms. Cash:

The 2018-2019 State Budget enacted a number of changes to the enrollment rules for Managed Long-Term Care Plans (MLTCP) in New York. Pursuant to the terms of New York State's Medicaid Section 1115 Demonstration Medicaid Redesign Team Plan (11-W-00114/2), the State is seeking federal approval to amend the Section 1115 Waiver in accordance with these changes in state law as follows. All amendments apply to the Managed Long Term Care Capitation Plans, also referred to herein as "plans".

### **Lock-In Provisions**

- Effective December 1, 2018, align the lock-in policy of MLTCP with Mainstream Managed Care Plans (MMCP) in the State's 1115 Demonstration Waiver. This means that after this policy goes into effect, mandated enrollees of partially capitated MLTCPs are limited in their ability to transfer to another MLTC partial capitation plan for 12 months from the effective date of enrollment. Enrollees may transfer to another partially capitated plan without cause during the first 90 days of the 12-month period. Regardless of whether they transfer to another plan, after the first 90 days the enrollee may not transfer to another partial capitation plan unless there is good cause to do so.
- Enrollees will receive notice of this change and a list of good cause reasons. These reasons may include moving away from the service area, inability of the plan to provide appropriate and accessible services and/or supports, poor quality care, lack of access to providers experienced in caring for the individual, and a determination that the enrollment was non-consensual.

## **Nursing Home Benefit Three Month Limit in Partial Capitation Long Term Care Plans**

- As of January 1, 2019, limit the nursing home benefit in the partially capitated MLTCP (also referred to in this section as “plan”) to three months for those enrollees who have been designated as permanently placed in a skilled nursing or residential health care facility (nursing home) at which time the individual will be involuntarily disenrolled from the partially capitated MLTCP and coverage for nursing home services in the same facility will be covered by Medicaid fee for service, as long as the individual qualifies for institutional Medicaid coverage. Institutional eligibility is required for individuals in MLTCP or in Medicaid fee for service.

Enrollees who are involuntarily disenrolled from a plan because they have reached the three-month nursing home benefit limit in their plan will have the same due process rights as individuals who are involuntarily disenrolled from the plan for other reasons. The State’s contracted agency (New York Medicaid Choice) will determine if the plan’s involuntary disenrollment request is appropriate and notice the consumer of the prospective disenrollment date if the disenrollment is approved. If the enrollee is dissatisfied with the disenrollment determination, they may challenge the determination through the fair hearing process.

- Nursing home residents will be allowed to re-enroll in an MLTCP and return to the community without requiring a Conflict Free evaluation and enrollment assessment, if such movement is within 6 months of the resident’s disenrollment from the plan.
- As of November 1, 2018, individuals who are dually eligible for both Medicare and Medicaid, who are 21 years of age or older, and permanently placed in a nursing home will be excluded from joining an MLTCP. Eligible individuals will remain in FFS to access the long-term nursing home benefit and other necessary Medicaid funded services.

This change in coverage prevents the duplication of care management services currently provided by both the nursing home where the individual resides and the plan resulting in program savings without negatively impacting the care provided to long stay (permanently placed) nursing home residents.

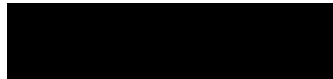
The above changes do not impact the Medicaid Managed Care Plans or the integrated MLTC Plan products (Fully Integrated Duals Advantage – FIDA; Medicaid Advantage Plus – MAP; and Program of All-Inclusive Care for the Elderly – PACE) or their enrollees. Individuals who are involuntarily disenrolled from a partial capitation plan because of the three-month limitation, or who are prevented from enrolling in a partial capitation plan because they are permanent residents of the nursing home, will continue to have the option of enrolling in one of New York’s fully integrated products.

Tribal notices were sent June 19, 2018. Public notice was published in the State Register July 3, 2018 and comments were to be received by August 3, 2018. Tribal comments were due August 20, 2018. Copies of the public and tribal notices are attached. No comments were received from either public or tribal notice.

Also attached to this letter are notices to be provided to plans and affected members, as well as a copy of the budget neutrality summary, which indicates that the neutrality of the waiver is maintained with this amendment. These changes are not anticipated to have an impact on the evaluation design due to their limited nature.

The New York State staff is available to discuss these changes with CMS if necessary. The MLTC program point of contact for questions and comments on this approach is Erin Kate Calicchia, who may be reached at (518) 486-3609 or [ErinKate.Calicchia@health.ny.gov](mailto:ErinKate.Calicchia@health.ny.gov). Please copy Priscilla Smith, Director, Waiver Management Unit, [Priscilla.Smith@health.ny.gov](mailto:Priscilla.Smith@health.ny.gov), on all correspondence. We look forward to working with you on these revisions.

Sincerely,



Donna Frescatore  
Medicaid Director  
Office of Health Insurance Programs

Enclosures

cc: Erin Kate Calicchia  
Priscilla Smith  
Adam Goldman, CMS  
Audrey Cassidy, CMS  
Phil Alotta