

- Implement other changes.

This final rule will meet the Administration's priorities to reduce burden across the Medicare program by reducing unnecessary regulatory complexity, and improve the regulatory framework to facilitate development of Part C and Part D products that better meet the individual beneficiary's healthcare needs. Because the Bipartisan Budget Act of 2018 requires the Secretary to establish procedures, to the extent feasible, for integration and unification of the appeals and grievance processes for dual eligible individuals who are enrolled in Medicaid and in MA special needs plans for dual eligible individuals (D-SNPs), this final rule also includes provisions to revise the appeals and grievances requirements for Medicaid managed care and MA D-SNPs. While the Part C and Part D programs have high satisfaction among beneficiaries, we continually evaluate program policies and regulations to remain responsive to current trends and newer technologies, and provide increased flexibility to serve patients. Specifically, this final rule meets the Secretary's priorities to: (1) reform health insurance by increasing access to personalized health care, (2) transform our healthcare system to be value-based and innovative by promoting health information technology, and (3) support boosting transparency around price and quality. These changes being finalized will promote more convenient, cost-effective access to care within Part C and D plans, improve accountability and bolster program integrity, allow plans to innovate in response to patients' needs, and promote coordination within MA D-SNPs.

2. Summary of the Major Provisions

a. Requirements for Medicare Advantage Plans Offering Additional Telehealth Benefits

(§§ 422.100, 422.135, 422.252, 422.254, and 422.264)

Section 50323 of the Bipartisan Budget Act of 2018 (Public Law 115-123) created a new section 1852(m) of the Social Security Act (the Act), which allows MA plans the ability to

provide “additional telehealth benefits” (referred to as “MA additional telehealth benefits” in this rule) to enrollees starting in plan year 2020 and treat them as basic benefits. The statute limits these authorized MA additional telehealth benefits to services for which benefits are available under Medicare Part B, but that are not payable under section 1834(m) of the Act and have been identified for the applicable year as clinically appropriate to furnish through electronic information and telecommunications technology (referred to as “electronic exchange” in this rule). Under this final rule, MA plans will be permitted to offer – as part of the basic benefit package – MA additional telehealth benefits beyond what is currently allowable under the original Medicare telehealth benefit (referred to as “Medicare telehealth services” in this rule). In addition, MA plans will continue to be able to offer MA supplemental benefits (that is, benefits not covered by original Medicare) via remote access technologies and/or telemonitoring (referred to as “MA supplemental telehealth benefits” in this rule) for those services that do not meet the requirements for coverage under original Medicare or the requirements for MA additional telehealth benefits.

Section 1852(m)(4) of the Act mandates that enrollee choice is a priority. If an MA plan covers a Part B service as an MA additional telehealth benefit, then the MA plan must also provide access to such service through an in-person visit and not only through electronic exchange. The enrollee must have the option whether to receive such service through an in-person visit or, if offered by the MA plan, through electronic exchange. In addition, section 1852(m)(2)(A)(ii) of the Act excludes from MA additional telehealth benefits capital and infrastructure costs and investments relating to such benefits. These statutory provisions have guided our rule.

In this final rule, we establish regulatory requirements that will allow MA plans to cover Part B benefits furnished through electronic exchange but not payable under section 1834(m) of the Act as MA additional telehealth benefits – and as part of the basic benefits defined in § 422.101 instead of separate MA supplemental benefits. We believe MA additional telehealth benefits will increase access to patient-centered care by giving enrollees more control to determine when, where, and how they access benefits. We solicited comments from stakeholders on various aspects of our proposal, which informed how we are implementing the MA additional telehealth benefits in this final rule.

b. Dual Eligible Special Needs Plans Provisions (§§ 422.2, 422.60, 422.102, 422.107, 422.111, 422.560 through 422.562, 422.566, 422.629 through 422.634, 422.752, 438.210, 438.400, and 438.402)

Section 50311(b) of the Bipartisan Budget Act of 2018 amends section 1859 of the Act to require integration of the Medicare and Medicaid benefits provided to enrollees in Dual Eligible Special Needs Plans (D-SNPs). In particular, the statute requires: (1) development of unified grievance and appeals processes for D-SNPs; and (2) establishment of new standards for integration of Medicare and Medicaid benefits for D-SNPs.

The statute specifies a number of key elements for unified D-SNP grievance and appeals processes and grants the Secretary discretion to determine the extent to which unification of these processes is feasible. In particular, the unified processes must adopt the provisions from section 1852(f) and (g) of the Act (MA grievances and appeals) and sections 1902(a)(3) and (5), and 1932(b)(4) of the Act (Medicaid grievances and appeals, including managed care) that are most protective to the enrollee, take into account differences in state Medicaid plans to the extent necessary, easily navigable by an enrollee, include a single written notification of all applicable