Appendix A
CMS Response to Public Comments Received for CMS-10565

The Centers for Medicare and Medicaid Services (CMS) received comments from Medicare Advantage (MA) Special Needs Plans (SNPs) and industry advocacy organizations related to CMS-10565. This is the reconciliation of the comments.

Comment:

CMS received a few comments from SNPs suggesting that CMS make the submission, review and approval process for SNP model of care (MOC) submissions consistent across all SNP types and recommended that CMS require all SNP types to submit a MOC on an annual basis, rather than making it a requirement for chronic condition SNPs (C-SNPs) only.

Response:

CMS appreciates the suggestion that CMS make the submission, review and approval process and annual submission requirements consistent across all SNP types. Currently, the process for submission, review and approval is consistent across all SNP types. However, the Bipartisan Budget Act (BBA) of 2018 Section 50311 modified the MOC requirements for C- SNPs only in section 1859 (b)(6)(B) (iii) of the Social Security Act (the Act). Specifically, section (B)(iv) requires that beginning in 2020 and subsequent years, C-SNPs will submit MOCs annually for evaluation and approval. Although the recommendation to require all SNP types to submit a MOC annually is out of scope for this collection, CMS will take this comment under consideration as we address other BBA requirements through future rulemaking.

Comment:

CMS received a comment from a SNP recommending that CMS move the required MOC submission due date to a later timeframe to allow for potential new SNP applicants to receive qualification determinations from CMS and to allow for fully integrated dual eligible SNPs (D-SNPs) to incorporate language required by their state agencies into their MOCs.

Response:

CMS thanks the commenter for the recommendation to move the MOC submission date to a later timeframe in the calendar year. CMS must adhere to the current MA application timeframes to allow for, among other things, National Committee for Quality Assurance (NCQA) review and cure opportunities for those SNPs that fail to achieve a passing score. In addition, to the extent states wish to provide specific

input as part of the MOC, SNPs should work with their state partners to incorporate needed changes. We will take these suggestions into consideration should we make future changes to the MOC submission process.

Comment:

CMS received a comment from a SNP recommending that CMS modify its existing MOC guidance regarding the development of an individualized care plan (ICP) by suggesting that CMS eliminate the ICP requirement when a beneficiary does not complete a health risk assessment (HRA).

Response:

CMS thanks the commenter for the recommendation to eliminate the ICP requirement when a beneficiary does not complete an HRA. However, the ICP is an essential tool for managing care for all SNP beneficiaries regardless of whether they complete an HRA. Additionally, MA regulations at 42 C.F.R. 422.152(g)(v) require that as part of a SNPs' quality improvement program, it must implement an ICP for each beneficiary. Although we recognize that the information collected during an HRA, along with involvement of the beneficiary and/or his/her caregiver/representative, is a valuable part of developing an ICP, we expect when an HRA is not completed, that SNPs formulate an ICP based on information gathered from other available data and information.

Comment:

CMS received a comment from a SNP expressing their belief that annual MOC submissions for C-SNPs will create additional administrative burden and will not improve care because the population demographics will likely remain the same for the duration of the MOC.

Response:

CMS appreciates concerns expressed by this commenter. As stated previously, C-SNPs are required by law to submit a MOC annually. CMS has accounted for the additional hours required for the annual MOC submissions in the burden estimate. Additionally, as a result of the annual C-SNP MOC submission requirement, to reduce burden, CMS is eliminating off-cycle submissions for C-SNPs. We believe that with the annual C-SNP MOC submission requirement, C-SNPs will be updating their MOCs annually and will no longer need to submit their MOC off-cycle.

Comment:

CMS received a comment from a SNP expressing concerns that there may be reviewer bias as a result of the annual C-SNP MOC submission requirement, and recommended

that the same NCQA auditor/individual review the off-cycle changes as well as conduct the annual review to prevent previously approved MOCs from being disapproved for reasons unrelated to required changes.

Response:

CMS appreciates the concerns expressed by this commenter. All reviewers are rigorously trained on the required MOC elements, must use established review criteria, and conduct their MOC reviews in a consistent and unbiased manner. To ensure accuracy and consistency, staff review each MOC evaluation before determining the final MOC score. In addition, as mentioned previously, C-SNPs will no longer submit MOCs off-cycle and, as a result, MOCs will only be evaluated once a year.

Comment:

CMS received a comment from a SNP expressing concerns that the new annual C-SNP MOC submission requirement, while required by statute, is misguided. This commenter expressed that the additional requirement seems wasteful because some SNPs may already submit a MOC annually, and that SNPs will have difficulty in judging MOC effectiveness based on an annual cycle. Further, measuring the success of a MOC in yearly increments leaves inadequate time to realize successes and opportunities for improvement.

Response:

CMS appreciates the concerns expressed by this commenter. However, C-SNPs are required by law to submit a MOC annually.

Comment:

CMS received a comment from an advocacy group recommending that CMS maintain the current MOC approval timeframe and only require a MOC resubmission or renewal when an off-cycle change occurs. In addition, they recommended that CMS exclude C-SNPs from the requirement to notify CMS of an off-cycle change with a full redline MOC submission, and instead require that notification be submitted as a summary only, and that the modified MOC be submitted as part of the annual renewal process.

Response:

CMS appreciates the recommendations from this commenter. As a result of the changes mandated by the BBA, MOC approval timeframes for C-SNPs will change to an annual basis. The timeframes for all other SNP types remains the same. We will take the commenter's suggestions into consideration as we look for ways to improve the off-cycle submission process for the other SNP types.

Comment:

CMS received a comment from a SNP, in response to the new MOC requirements mandated by the BBA, expressing several concerns. These include; the need for additional MOC guidance and a more prescriptive process which will add to the burden on SNPs, untimely MOC submission training from CMS, the nature of the cure process for MOC deficiencies, and how the annual C-SNP submission requirements will intersect with off-cycle submissions. The commenter also recommended that CMS require all SNP types to submit MOCs annually.

Response:

CMS appreciates the comments, however, these comments are outside of the scope of this collection. Aside from the annual MOC submission requirement for C-SNPs, the additional BBA provisions will not take effect until CMS can propose them through rulemaking. As noted in the Health Plan Management System (HPMS) memo titled "Changes to the Model of Care Submission Requirements," issued November 28, 2018, CMS will pursue rulemaking to adopt the new scoring benchmarks in the future, and stakeholders will have an opportunity to provide their concerns to CMS through the notice of proposed rulemaking (NPRM) process.

Comment:

CMS received a comment from an advocacy group regarding their concerns on the limitations of the MOC template and challenges with the review process. The comments suggested that there are current anomalies and constraints within the existing MOC template that complicates the development by a SNP and review by NCQA. Further, these limitations hamper SNPs' ability to effectively describe their tailored care approaches within their unique populations and sub-groups in a "one size" MOC template, and, that it can lead to confusion when NCQA reviewers attempt to trace the MOC elements from a population to the SNP's care management approaches. The commenter recommended that CMS make improvements to the MOC template.

Response:

CMS thanks the commenter for their concerns. We believe that the MOC scoring guidelines provide SNPs with the ability to adequately describe their populations and subpopulations, as well as detail the services, approaches and activities that they provide to address the needs of their population(s). There are no limitations as to what information SNPs may provide. CMS has encouraged SNPs to provide this level of detail during our annual MOC training sessions.

Comment:

CMS received a comment from an advocacy group, in response to the new MOC requirements mandated by the BBA, suggesting the need for greater stakeholder input and attention to the Model of Care to ensure that the approach to the new MOC requirements is sound, reasonable, useful, and does not cause unintended harm to SNPs or the complex, vulnerable populations that they serve.

Response:

CMS appreciates the suggestions for stakeholder input, however they are outside of the scope of this collection. Aside from the annual C-SNP MOC submission requirement, the additional BBA provisions will not take effect until CMS can propose them through rulemaking. As noted in the HPMS memo titled "Changes to the Model of Care Submission Requirements," issued November 28, 2018, CMS will pursue rulemaking to adopt the new scoring benchmarks in the future, and stakeholders will have an opportunity to provide their input to CMS through the NPRM process.

Comment:

CMS received a comment from an advocacy group, in response to the new MOC requirements mandated by the BBA, suggesting that CMS consider an approach that implements this new statutory requirement in a way that achieves the goals of the BBA provision while minimizing administrative burden where possible. They recommend that CMS streamline the process for both MOC renewals and off-cycle submissions by implementing an amendment process whereby limited changes to a MOC would only require a summary and attestation to those changes, rather than a fully revised MOC submission.

Response:

CMS appreciates these suggestions and will consider them as we make improvements to the off-cycle submission process. Suggestions and comments regarding the new MOC requirements mandated by the BBA are outside of the scope for this collection. Aside from the annual MOC submission requirement for C-SNPs, the additional BBA provisions will not take effect until CMS can propose them through rulemaking. As noted in the HPMS memo titled "Changes to the Model of Care Submission Requirements," issued November 28, 2018, CMS will pursue rulemaking to adopt the new scoring benchmarks in the future, and stakeholders will have an opportunity to provide their input to CMS through the NPRM process.

Comment:

CMS received a comment from an advocacy group, in response to the new MOC requirements mandated by the BBA, recommending that CMS require each C-SNP to do an annual check-in with NCQA. However, if a C-SNP MOC receives an exceptional score, a full MOC review would ONLY be conducted if there were substantial and significant changes in their population or their care model. They also recommended that

CMS and NCQA clarify the timetable for quality improvement actions around any of the MOC elements, and if they require more than one year, this should be taken into account during the annual check-in process.

Response:

CMS appreciates the suggestion of requiring high scoring C-SNPs to submit an annual check-in instead of an annual MOC submission. However, all C-SNPs are required by law to submit a MOC.

Comment:

CMS received a comment from a SNP, in response to the new MOC requirements mandated by the BBA, recommending that all SNP types submit a MOC annually and that CMS focus on changes to the MOC review process. They expressed concerns that when NCQA conducts a review of initial and renewal MOCs, they do not perform a comparison from previous MOCs to identify and evaluate changes. The commenter recommended that all SNP types submit a MOC annually using the existing off-cycle submission process for MOCs that previously scored 75% or better, thereby allowing NCQA to only review for changes and improvements. The commenter believes that this will eliminate the need for off-cycle submissions and reduce the burden of reviewing all MOCs annually.

Response:

CMS appreciates the recommendations that all SNP types submit a MOC annually and that CMS change the MOC submission process. These suggestions are outside of the scope of this collection. Aside from the annual MOC submission requirement for C-SNPs, the additional BBA provisions will not take effect until CMS can propose them through rulemaking. As noted in the HPMS memo titled "Changes to the Model of Care Submission Requirements," issued November 28, 2018, CMS will pursue rulemaking to adopt the new scoring benchmarks in the future, and stakeholders will have an opportunity to provide their input to CMS through the NPRM process. Also note that as a result of the annual C-SNP MOC submission requirement, CMS is eliminating off-cycle MOC submissions for C-SNPs.

Comment:

CMS received a comment from an advocacy group**,** in response to the new MOC requirements mandated by the BBA, expressing concerns regarding substantial differences in populations by SNP type, and they do not agree that all SNP populations are the same. They recommended that CMS give greater attention in recognizing the substantial and important differences between SNP types, their populations, care management approaches, tailored care, and the legislative intent in forming the different SNP types in the original legislation.

Response:

CMS appreciates the recommendations that CMS give greater attention to the differences in SNP types and populations, however, these recommendations are outside the scope of this collection.