

Issue Brief

FEDERAL ISSUE BRIEF • December 27, 2018

CMS Finalizes ACO Rule; Will Extensively Restructure the Program; Transferring More Risk to Participants

INTRODUCTION

The Centers for Medicare & Medicaid Services issued a final rule that will overhaul the Medicare Shared Savings Program, which is the program established by the *Affordable Care Act* and launched in 2012 under which the vast majority of Medicare's Accountable Care Organizations operate.

CMS says the new direction of the program is to encourage ACOs to transition to performance-based risk more quickly.

However, the rule's overall average projection is to save the program approximately \$2.9 billion over 10 years from 2019 relative to a baseline that assumes the prior program regulations remained in effect through this 10-year period.

CMS notes there are 561 ACOs participating and serving more than 10.5 million Medicare fee-for-service beneficiaries during 2018.

The Shared Savings Program currently includes three financial models. The vast majority of ACOs, 82 percent in 2018, chose to enter under the one-sided, shared savings-only model (Track 1), under which eligible ACOs receive a share of any savings under their benchmark,

but are not required to pay back a share of spending over their benchmark.

CMS notes that from 2012 through 2016, the one-sided model actually increased Medicare spending relative to their benchmarks under the program's financial methodology.

New BASIC and ENHANCED Tracks and Five-Year Agreement Periods

The rule will restructure the participation options by discontinuing Track 1 (the one-sided shared savings-only model) and Track 2 (the two-sided shared savings and shared losses model), while maintaining Track 3 (renamed the ENHANCED track) and offering a new BASIC track.

The BASIC track has a "glide path" that offers an incremental approach to transitioning eligible ACOs to higher levels of risk and potential reward. The glide path includes five levels: a one-sided model available only for the first two years to most eligible ACOs (ACOs identified as having previously participated in the program under Track 1 would be restricted to a single year under the one-sided model, but new and low revenue ACOs that are not identified as re-entering ACOs would be allowed as

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many as three years under the one-sided model) and three levels of progressively higher risk in years three through five of the agreement period.

Under Levels A and B of the glide path, an ACO's maximum shared savings rate under a one-sided model will be 40 percent based on quality performance, applicable to first dollar shared savings after the ACO meets the minimum savings rate. Under Levels C, D and E of the glide path, an ACO can earn up to a maximum 50 percent sharing rate under a two-sided model, based on quality performance.

The ENHANCED track is based on the program's existing Track 3, which provides additional tools and flexibility for ACOs that take on the highest level of risk and potential reward.

July 1, 2019 Start Date

The start date of the revised/new ACO criteria is July 1, 2019.

CMS finalized certain changes to the Shared Savings Program as part of the calendar year 2019 Physician Fee Schedule final rule to ensure continuity of participation, finalize time-sensitive program policy changes for currently participating ACOs, and streamline the ACO core quality measure set to reduce burden and encourage better outcomes.

These final policies included (1) the availability of the optional six-month extension for ACOs whose agreement periods would otherwise expire on Dec. 31, 2018; (2) the methodology for determining financial and quality performance for this six-month performance year from Jan. 1, 2019, through June 30, 2019; (3) a reduction in the Shared Savings Program core quality measure set by eight measures

and a new Certified EHR Technology threshold criterion to determine ACOs' eligibility for program participation to promote interoperability among ACO providers/suppliers; (4) refinements to the voluntary alignment process, to allow beneficiaries greater flexibility as authorized under the ***Bipartisan Budget Act of 2018***, in selecting their primary care clinician, nurse practitioner, physician assistant, clinical nurse specialist and in the use of that selection for purposes of assigning the beneficiary to an ACO if the clinician they align with is participating in an ACO; (5) policies to address the impact of extreme and uncontrollable circumstances on ACOs for performance year 2018 and subsequent years; and (6) revisions to the definition of primary care services used in beneficiary assignment to incorporate advance care planning codes; administration of health risk assessment service codes; and codes for annual depression screening, alcohol misuse screening, and alcohol misuse screening and alcohol misuse counseling.

New and existing ACOs interested in applying to the new BASIC or ENHANCED track must complete a nonbinding Notice of Intent to Apply, which will be available from Wednesday, Jan. 2, 2019, through Friday, Jan. 18, 2019. See the [Application Types & Process](#) web page for eligibility requirements, key timelines and detailed instructions on the submission process. CMS will resume the usual annual application cycle for agreement periods starting on Jan. 1, 2020, and in subsequent years.

This is an abbreviated analysis. View the full analysis [here](#).

*Analysis provided for MHA
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