

CMS Takes Steps to Achieve More Cost Savings and Improve Care through ACOs

Currently out for public comment is a proposed rule issued by the Centers for Medicare & Medicaid Services (CMS) that would 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 (ACOs) operate. The redesigned program is called "Pathways to Success."

ACOs are groups of health care providers that agree to take responsibility for the total cost and quality of care for their patients. In return, ACOs receive a portion of the savings they achieve, and CMS provides them with waivers to provide the regulatory relief needed to innovate. Over 10 million beneficiaries in Fee-for-Service Medicare (of the 38 million total Fee-for-Service beneficiaries) are in a Shared Savings Program ACO. Pathways to Success was developed based on a comprehensive analysis of the performance of ACOs to date. According to CMS, "[d]espite the program's intent, the Shared Savings Program has shown increases in net spending for CMS and taxpayers, in part because the majority of ACOs – 460 of the 561 or 82% of all ACOs in the Shared Savings Program in 2018 – are not taking on risk for increases in costs." Data on ACO performance to date has shown that ACOs that are not at risk for cost increases end up increasing Medicare spending in aggregate, so CMS believes it needs to be more aggressive in moving shared savings model participants toward two-sided risk arrangements.

Under the current Shared Savings Program, ACOs have up to six years without taking on downside risk, while being granted waivers from certain federal regulatory requirements, such as anti-kickback laws. These ACOs receive a shared savings payment from CMS when they keep costs below their benchmark, but do not have to pay taxpayers back when costs are higher than their benchmark. Therefore, in order to drive value, CMS proposes reducing the amount of time that an ACO can remain in the program without taking on downside risk down to, at most, two years. CMS will continue to provide technical assistance to ACOs and support the sharing of best practices through collaboratives to help ACOs reach this milestone.

The National Alliance supports this proposal. Shared savings programs are a good example of true value-based purchasing, and CMS is sending a strong message to providers that Medicare intends to move away from fee-for-service care delivery more aggressively. Private sector stakeholders have always known that value-based care is key to achieving lower cost growth trends in the health care market. Employers should look for ways to take advantage of and reinforce these care transformation efforts.

Decisions CMS makes on these topics affect how private sector payers will approach shared savings models. The public comment period on this proposed rule is open until October 16, 2018. Comments can be submitted [here](#).