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YEAR!



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January 3, 2019

CMS RELEASES FINAL PATHWAYS TO SUCCESS RULE — NOIAS DUE JANUARY 18

On December 21, 2018 the Centers for Medicare & Medicaid Services (CMS) released the final rule, *Accountable Care Organizations — Pathways to Success*, containing significant changes to the Medicare Shared Savings Program (MSSP). The rule can be accessed [here](#) along with this CMS [fact sheet](#). In this significant regulation, CMS makes a number of complex changes to overhaul the MSSP to create new Basic and Enhanced Tracks. CMS also made modifications to its prior *Pathways to Success* proposals in this final rule, including additional time in the one-sided track for certain ACOs and an increase in the shared savings rate over what was proposed. Specifically, CMS finalized new policies to allow ACOs two-to-three years in one-sided risk models and a 40-to-50 percent savings rate for ACOs participating in the new Basic Track. In addition to these changes, there are a number of other key program changes finalized in the regulation, including policies to:

- Create a July 1, 2019 start option for the first agreement period under the new participation options;
- Modify the participation options by retiring Track 1 and Track 2 and creating a new Basic Track that includes a gradual shift to risk. The glide path to risk in the Basic Track includes five levels, with a one-sided model available only for the first two-to-three years to eligible ACOs;
- Retain Track 3, which is renamed as the Enhanced Track, to encourage ACOs that are able to accept higher levels of potential risk and reward to drive the most significant systematic change in providers' and suppliers' behavior;
- Modify agreement periods from three years to five years;
- Modify methodologies related to benchmarking, including accelerating the use of factors based on regional fee-for-service expenditures;
- Make changes to risk adjustment allowing for risk score growth of up to positive 3 percent over the length of an agreement period and not finalizing the negative 3 percent limit on risk score decreases;
- Allow greater choice of beneficiary assignment methodologies;
- Implement provisions of the Bipartisan Budget Act (BBA), which allow for certain telehealth waivers and beneficiary incentive programs and broadening access to the current SNF three-day waiver for risk-bearing ACOs;
- Retain the distinction between high revenue and low revenues ACOs, although CMS finalized a higher 35 percent threshold for determining high revenue ACOs;
- Establish policies to deter gaming by limiting more experienced ACOs to higher-risk participation options; and
- More rigorously screen for good standing among ACOs seeking to renew their participation in the program or re-enter the program after termination or expiration of their previous agreement.

The rule comes on the same day the agency released 2017 Next Generation ACO program [results](#), showing \$165 million in savings to CMS from this program. NAACOS staff are currently reviewing the 957-page regulation and will provide a more thorough analysis and webinar for members shortly.

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New and existing ACOs interested in applying to the new Basic or Enhanced Track must complete the non-binding Notice of Intent to Apply (NOIA), which is available from January 2, 2019, through January 18, 2019. The application submission due dates will be posted on the Shared Savings Program website in the coming days. See the [Application Types and Process](#) webpage for eligibility requirements, key timelines, and detailed instructions on the submission process as well as [NOIA Guidance](#). CMS will resume the usual annual application cycle for agreement periods starting on January 1, 2020, and in subsequent years.

**WELCOME NEW
ACO MEMBER**

OhioHealth Venture, LLC
Columbus, OH

Finally, NAACOS held a webinar earlier today, January 3, reviewing the final rule in detail which is now available [on-demand](#).

TOP ISSUES FOR ACOS TO WATCH IN 2019

2018 brought serious change for the ACO industry, and 2019 is poised to bring additional change. The Department of Health and Human Services (HHS) is gearing up to address payment and delivery system changes and implementing the new Pathways to Success regulation. Meanwhile, Capitol Hill will also address the cost of care with Democrats back in control of the House. NAACOS is standing ready to help members learn and adjust to all these pending changes. Below are the top issues for ACOs to watch in 2019.

Final Pathways Rule released — CMS didn't keep ACOs in suspense over their Christmas vacations, updating the MSSP with regulatory changes it's calling "Pathways to Success." With changes in most aspects of the program — including an acceleration to risk in an overhauled program structure, the introduction of risk adjustment, and new benefit enhancements — all ACOs will spend the early part of the year needing to understand what CMS's changes mean to their immediate and long-term plans.

New ACO class in 2019 — CMS has said the Notice of Intent to Apply will be available from January 2 to January 18 for ACOs to complete if they're interested in participating in new MSSP agreements starting July 1. CMS says 90 percent of ACOs with participation agreements ended on December 31 have elected to extend their agreements under a six-month performance period through June 30, 2019. CMS's new Pathways program will start on July 1, leaving no new ACO class starting January 1. Key dates and information will be posted on the [CMS website](#). NAACOS will keep members abreast of important deadlines.

More payment models on their way — If Medicare brass are to be believed, CMS will be busy for much of the year rolling out new alternative payment models. Center for Medicare and Medicaid Innovation head Adam Boehler has publicly stated multiple times that he wants to "kill fee-for-service." Expected to be released is a new [direct provider contracting](#) model, a series of bundled payments, and a third iteration of [Comprehensive Primary Care Plus](#) (CPC+). NAACOS is watching closely on all these fronts, paying careful attention to possible overlap with ACOs' work.

HHS's care coordination work — Last year, HHS issued requests for information on how different sets of regulations — specifically Health Insurance Portability and Accountability Act (HIPAA), the Physician Self-Referral or Stark Law, and the federal Anti-Kickback Statute — affect care coordination. NAACOS responded to those around [Stark](#) and [anti-kickback](#), and HIPAA comments are due February 11. We await the result of that work, which is being headed by HHS Deputy Secretary Eric Hargan.

Privacy of substance abuse records — Aligning substance abuse and addiction treatment records with HIPAA unfortunately wasn't included in October legislation addressing the opioids crisis, a summary of which can be found [here](#). But NAACOS continues to work with a broad coalition of stakeholders pressing Congress to make the change. Political officials with HHS including the Substance Abuse and Mental Health Services Administration signal they are open to making some changes through regulation.

Interoperability poised to be top issue — Making it easier for patients to access and share records continues to be a priority for the administration. The White House is reviewing rules that outline the definition of "information blocking" by providers. CMS also continues to work on making the sharing of admission, discharge and transfer feeds a condition of participation in the Medicare and Medicaid programs.

ACO Improvement Act — Reps. Peter Welch (D-VT) and Diane Black (R-TN) were the lead congressional sponsors of the ACO Improvement Act in the last Congress. NAACOS is currently working closely with Rep. Welch's staff and the ACO stakeholder community to draft a new bill that strengthens the ACO program and reflects changes made to the MSSP in the

administration's final Pathways to Success Rule. Additionally, with Rep. Black's retirement, we will be working closely with Republican members of the House Committees on Ways and Means and Energy and Commerce to identify a new champion.

NAACOS ramps up Capitol Hill education — With roughly 90 new members of Congress, NAACOS is planning work to educate these members and their staff on important issues around ACOs and value-based care. While the general topic of lowering the cost of health care is agreed upon as important, the policy mechanics of how to realize that goal, including where ACOs fit in, need more explanation for those not already familiar.

Texas ACA case fallout and pre-existing conditions — While a federal judge ruled in December that the entire Affordable Care Act (ACA) was unconstitutional, the law will remain fully in effect while the case is appealed to the U.S. Court of Appeals for the Fifth Circuit. NAACOS will be closely following this case that could eventually be considered by the U.S. Supreme Court. This ruling could put the law's pre-existing condition protections and other reforms at risk of being discontinued. House Democratic leaders are expected to quickly move legislation to help protect coverage of pre-existing conditions, but these attempts will likely be opposed by Senate Republicans. NAACOS will also be working with congressional leaders to ensure that if the law is eventually found unconstitutional, important bipartisan payment and delivery reforms like the MSSP are continued.

Senate committee to address healthcare cost — The Senate Health, Education, Labor and Pensions Committee in 2018 held five hearings on lowering health costs. After announcing his retirement at the end of 2020, Chairman Lamar Alexander has vowed to make lowering healthcare costs a priority for his committee's work over the next two years. While the HELP Committee doesn't have jurisdiction over Medicare, the committee still has a powerful pulpit.

Drug pricing — The call to lower prescription drug prices was widespread on the campaign trail during the 2018 mid-term election and represents an early opportunity for bipartisan reform. The Trump administration has issued a number of regulations and proposals to lower drug prices in the last year, and Democratic leaders are also developing a plan that would establish new enforcement to prevent drug price gouging, allow Medicare to negotiate drug prices, and increase transparency of excessive drug prices. Although not all proposals will enjoy broad bipartisan support, NAACOS will be working closely with lawmakers to ensure that drug pricing reforms are consistent with the value-based care that ACOs deliver.

NAACOS member education continues — NAACOS continues to grow in membership, and the collective expertise of our members and staff allows us to deliver high quality, ACO-specific programming. Learn [more](#) about our February 11–12 boot camp course, Preparing Your ACO to Accept Downside Risk, and mark your calendar for our spring [conference](#) in Baltimore, April 24–26.

NAACOS ANNOUNCES 2019 BOARD OF DIRECTORS

The 2019 Board of Directors was announced today via press release. As you know, the Board helps set our advocacy and member services for our more than 330 ACO members. The 2019 Board consists of 10 seats for single ACOs, five seats for organizations with multiple ACOs, one private payer ACO seat, and the CEO, Clif Gaus. An election was held in the fall for the open seats with the following results:

Single-ACO Representatives:

- **Stephen Nuckolls**, Coastal Carolina Quality Care
- **Katherine Schneider**, Delaware Valley ACO
- **Sandra Van Trease**, BJC HealthCare

Multi-ACO Representatives:

- **Gary Albers**, Imperium Health
- **Travis Broome**, Aledade
- **Emily Brower**, Trinity Health
- **Lorri Havlovitz**, Wellcare Health System

Commercial ACO Representative:

- **Jamie Reedy**, Summit Medical Group – New Jersey

Continuing board members include: Rob Fields, Mount Sinai Health System; Kimberly Kauffman, Summit Medical Group – Tennessee; Thomas Kloos, Atlantic ACO and Optimus Healthcare Partners; Jen Moore, MaineHealth ACO; Tony Reed, Geisinger Health System; Michael Rossi, Lehigh Valley Health Network; Devdutta Sangvai, Duke Connected Care; Debbie Welle-Powell, Essentia Health; and Clif Gaus, NAACOS President and CEO. For a complete list of the NAACOS Board of Directors as well as biographies for board members, please visit www.naacos.com/board.htm.

2017 NEXT GEN ACO RESULTS ARE PROMISING

In correlation to the publication of the final Pathways to Success rule, CMS released the long-awaited 2017 performance data for Next Generation (Next Gen) Model ACOs. Results were extremely positive, showing 44 ACOs generated \$337 million in gross savings including discounts to Medicare last year. After accounting for shared savings payments and shared losses, the Next Generation program netted at least \$165 million to Medicare in 2017. In a [press release](#), NAACOS urged the Center for Medicare and Medicaid Innovation (CMMI) to move forward with developing and releasing more details on an advanced ACO model that will replace the Next Gen Model and build on its success. The Next Gen program is slated to run through 2020. NAACOS urged the agency to solicit stakeholder feedback as part of its process to develop and finalize key program elements. NAACOS is also developing a deeper analysis of the 2017 results and is proud of the work of all these ACOs.

RESPONSE TO PROPOSED MEDICARE DRUG PAYMENT MODEL FILED

NAACOS recently submitted comments in response to a proposal from CMS to change the way Medicare pays for Part B drugs. Some ACOs struggle with the costs of Part B drugs, for which there are often no good, less expensive alternatives. The proposal, called the International Pricing Index Model, would tie what Medicare pays to what other industrialized nations pay, create a new add-on payment to replace the current system of paying the average sales price plus 6 percent, and allow providers to buy drugs from third party vendors. NAACOS advocated that ACOs work in addressing drug costs take precedence over the proposed model, requested more information on how providers would be held harmless to changes in revenue, and opposed the mandatory nature of the program, among other feedback. The full comment letter is [here](#). CMS plans to release another round of rulemaking on the model later this year with a goal to execute the plan in 2020.

PATIENT-CENTERED TRANSFORMATION STRATEGIES IDENTIFIED

ACOs lack a practical guide on how best to become more patient-centered, which is well established as necessary for success. Health services researchers used a grant from the Robert Wood Johnson Foundation to perform a case study on four ACO innovators in patient-centered care to identify seven realistic strategies ACOs can employ. The results were published recently in *Healthcare: The Journal of Delivery Science and Innovation*.

Strategies include transforming primary care practices into patient-centered medical homes; move upstream to address social and economic issues; use both high-tech and high-touch to identify and engage high-risk patients; practice a whole-person orientation; optimize patient-reported measures; treat patients like valued customers; and incorporate patient voices into governance and operations. The study, "Patient-centered care innovations by accountable care organizations: Lessons from leaders", can be found [here](#).

SEEKING NAACOS MEMBERS FOR A NEW INITIATIVE TO IMPROVE CARE FOR HNHG PATIENTS

The Institute for Accountable Care is launching a demonstration project to improve care for high-need, high-cost (HNHC) individuals. The Institute is seeking ACO partners interested in developing and implementing: (1) Home visit programs to address unmet medical and social needs using community health workers, paramedics or nurses; and (2) Extensivist programs to manage care for patients with complex needs. The need to develop effective programs in these areas is growing as ACOs are pushed to take on more risk. Participating ACOs will receive technical assistance to help them launch programs efficiently and target patients effectively. The Institute will sponsor two learning collaboratives (for home visit and extensivist models) with experienced facilitators and expert faculty. We are seeking non-binding applications by January 25, 2019. Program details and application materials are available [here](#). If you have questions, please contact Teresa Litton at tlitton@institute4ac.org.

AGENDA FOR SPRING CONFERENCE NOW AVAILABLE

The NAACOS Spring 2019 conference will be our biggest event to date with more than 700 leaders in accountable care. Join us on April 24–26 at the Hilton Baltimore for presentations by ACO experts, insight into the new rule from CMS officials, and peer-to-peer sharing of best practices. The [conference program](#) — featuring four plenaries, 14 breakouts, peer exchanges, and lots of networking — is now available. Register today and save \$300!

BOOT CAMP FOR RISK-TAKERS: FEBRUARY 11-12, ORLANDO

CMS's final rule on the MSSP will move many ACOs to greater downside risk. Attend our next [boot camp](#) on February 11–12 in Orlando to learn how your ACO can adapt to these changes and succeed with risk. The boot camp will feature presentations by technical experts, case studies from successful ACOs, and one-on-one assistance from faculty. Space is limited, so register today!