

CMS Proposes “Pathways to Success,” an Overhaul of Medicare’s ACO Program

Aug 09, 2018

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Today, the Centers for Medicare & Medicaid Services (CMS) issued a proposed rule 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. 10.5 million beneficiaries in Fee-for-Service Medicare (of the 38 million total Fee-for-Service beneficiaries) are in a Shared Savings Program ACO.

“President Trump has promised the American people better healthcare at a lower cost, and delivering this kind of value is a key priority for HHS,” said HHS Secretary Alex Azar. “One piece of our vision for value-based transformation is pioneering bold new payment models. Having more Accountable Care Organizations take on real risk, while offering them the flexibility they need to generate savings, is an important step forward in how Medicare pays for value.”

“After six years of experience, the time has come to put real ‘accountability’ in Accountable Care Organizations. Medicare cannot afford to support programs with weak incentives that do not deliver value,” said CMS Administrator Seema Verma. “ACOs can be an important component of a system that increases the quality of care while decreasing costs; however, most Medicare ACOs do not currently face any financial consequences when costs go up, and this has to change.”

CMS recognizes the timing issues associated with the implementation of any final policies and the need for organizations to make decisions about participation in an ACO track. To that end, CMS proposes a 6-month extension for current ACOs whose agreements expire at the end of 2018, along with a special one-time July 1, 2019 start date that will have a spring 2019 application period for the new participation options.

Pathways to Success was developed based on a comprehensive analysis of the performance of ACOs to date. Despite 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. Pathways to Success is designed to move in a new direction and advance five goals: Accountability, Competition, Engagement, Integrity, and Quality. The projected financial impact of the proposal would be savings to Medicare of \$2.2 billion over ten years.

Accountability and Competition

Under the current Shared Savings Program, ACOs have up to six years without taking on risk, while being granted waivers from certain federal requirements. These ACOs receive a shared savings payment from CMS when they keep costs down, but they do not have to pay taxpayers back when costs are high.

This opportunity for bonus payments if spending is low without any risk of losses if spending goes up – along with the provision of waivers – may be encouraging market consolidation. Such consolidation reduces choices for patients and can ultimately increase costs. Therefore, in response to President Trump's Executive Order Promoting Healthcare Choice and Competition and in order to drive value, CMS proposes reducing the amount of time that an ACO can remain in the program without taking on 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. But after six years of experience, the program must evolve to deliver value.

Beneficiary Engagement

CMS's proposal puts the patient in the driver's seat and provides them with the information they need to make decisions about their care. In Pathways to Success, CMS proposes to require that beneficiaries receive a notification at their first primary care visit of a performance year informing them that they are in an ACO and explaining what that means for their care. To bolster beneficiary engagement, CMS proposes to allow certain ACOs under performance-based risk to provide incentive payments to patients for taking steps to achieve good health.

Quality

As providers take on increasing accountability, CMS intends to reward them by increasing flexibility. Pathways to Success includes proposed changes which would leverage new CMS authorities under the Bipartisan Budget Act of 2018, such as allowing physicians in ACOs that take on risk to receive payment for telehealth services

provided to patients regardless of the patient's location – including at their place of residence. This new flexibility will expand access to high-quality services in a manner that is convenient for patients.

As part of the Administration's broader MyHealthEData initiative, this proposed rule promotes interoperability and patient control of their medical data by proposing a new requirement around ACO adoption of the 2015 edition of Certified EHR Technology (CEHRT). And as part of the Administration's broader Meaningful Measures initiative to reduce burden, the proposal aims to streamline the measures that ACOs are required to report, to ensure that all measures have a meaningful impact on patient care.

Integrity

CMS intends to ensure that ACO spending targets accurately reflect spending levels and growth rates in their local market. Therefore, Pathways to Success proposes incorporating regional spending into ACO targets earlier, starting during an ACO's first agreement period. In addition, the proposal would authorize termination of ACOs with multiple years of poor financial performance.

For more information regarding Medicare Shared Savings Program Notice of Proposed Rulemaking (CMS-1701-P), "Accountable Care Organizations--Pathways to Success," please visit <https://www.federalregister.gov/public-inspection/> and <https://www.cms.gov/newsroom/fact-sheets/>.