

Department of Health & Human Services
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop C5-15-12
Baltimore, Maryland 21244-1850



Center for Medicare

August 26th, 2019

Clif Gaus, Sc.D.
President and CEO
National Association of ACOs
601 13th Street, NW
Washington, DC 20005

Dear Dr. Gaus:

Thank you for your letter requesting a delay in the July 1, 2019, applicability date for a new beneficiary notification requirement finalized in the December 2018 Pathways to Success final rule for the Medicare Shared Savings Program (Shared Savings Program). I appreciate the opportunity to address your concerns.

One of the principles of the Centers for Medicare & Medicaid Services (CMS) is to put patients first throughout our policies. As a result, in the Pathways to Success final rule, beginning on July 1, 2019, Accountable Care Organizations (ACOs) are required to start notifying beneficiaries of certain information regarding voluntary alignment, which we believe serves to further empower beneficiaries to participate in their care decisions. Specifically, in the final rule, ACOs or their ACO participants must provide each beneficiary with a standardized written notice prior to or at the first primary care visit of the performance year in the form and manner specified by CMS. This new method of notification applies during performance years beginning on July 1, 2019, and subsequent performance years. The Pathways to Success final rule did not alter the existing requirements that ACO participants furnish notice regarding the required information by displaying signs or posters in their facilities, making the standardized written notices available upon request in settings in which beneficiaries receive primary care services, and allowing beneficiaries to decline data sharing of their claims.

CMS recently posted the 2019 Shared Savings Program beneficiary information notice template and updated poster template in the Shared Savings Program ACO Portal in the 2019 Marketing Toolkit under the *Resources* section. In developing the new beneficiary notification templates, CMS incorporated feedback from prior ACO beneficiary focus groups. We welcome additional feedback on the new notices and processes as ACOs gain experience with the new requirements.

We understand that ACOs may need additional time to fully implement these new requirements. Accordingly, we will not impose remedial action against an ACO for its failure to comply with the new notification requirements before October 1, 2019. In the meantime, ACOs should ensure that, by no later than October 1, 2019, their ACO participants have posted updated signs in their facilities using the new poster template, and in settings where beneficiaries receive primary care services, that the new standardized written notices are available upon request.

ACOs that started a performance year on July 1, 2019, must also ensure that each beneficiary receives the new standardized beneficiary information notice prior to or at the first primary care visit of the performance year. CMS will not impose remedial action against such an ACO for failure to provide the new standardized beneficiary notice before or at a beneficiary's first primary care visit of the performance year if such visit occurred before October 1, 2019. We recommend, however, that the ACO nevertheless furnish notice to such beneficiaries electronically, by regular mail, or at a subsequent primary care visit.

We also note that ACOs that started a 12-month performance year on January 1, 2019, do not need to begin providing each beneficiary with a standardized written notice prior to or at the first primary care visit of the performance year until the start of their next performance year on January 1, 2020.

I appreciate your support of the Medicare Shared Savings Program, as well as your interest in ensuring that CMS continues to strengthen the Medicare program for its beneficiaries.

Sincerely,

A handwritten signature in blue ink, appearing to read "Demetrios L. Kouzoukas". The signature is fluid and cursive, with the first name being the most prominent.

Demetrios L. Kouzoukas
Principal Deputy Administrator and
Director, Center for Medicare