

March 22, 2022

Elizabeth Fowler

Deputy Administrator for the Centers for Medicare & Medicaid Services
Director of the Center for Medicare & Medicaid Innovation
Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, DC 20201

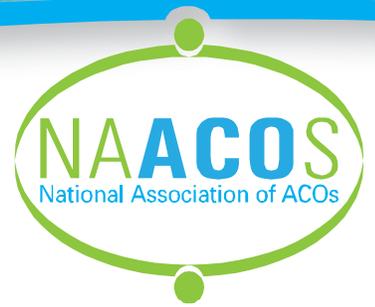
RE: CMS Innovation Center Listening Session on Incorporating Beneficiary Perspectives into Model Testing, Implementation, and Evaluation

Dear Director Fowler:

The National Association of ACOs (NAACOS) applauds the Center for Medicare & Medicaid Innovation (Innovation Center) for the new strategic objectives. These include driving accountable care and advancing health equity, which are also priorities shared by NAACOS and our ACO members. We look forward to working collaboratively with the Centers for Medicare & Medicaid Services (CMS) over the next decade to achieve these goals. NAACOS [applauds](#) the Innovation Center on the recently announced ACO Realizing Equity, Access, and Community Health ([REACH Model](#)), which is an excellent example of how models can be carefully designed to embed efforts to improve equity, and we look forward to working with both the Innovation Center and ACO REACH participants to ensure success of the model.

NAACOS represents nearly 400 ACOs participating in a variety of value-based payment and delivery models in Medicare, Medicaid, and commercial insurers. Serving more than 12 million beneficiaries, our ACOs participate in models such as the Medicare Shared Savings Program (MSSP), the Global and Professional Direct Contracting Model (GPDC), and other alternative payment models (APMs). NAACOS is a member-led and member-owned nonprofit organization that works to improve quality of care, health outcomes, and healthcare cost efficiency.

We appreciate the opportunity to provide our comments in response to the February 9, 2022, listening session focused on incorporating beneficiary perspectives into Innovation Center models. Beneficiary engagement is critical to the long-term success of new models and incorporating diverse beneficiary perspectives in each step of model testing, implementation, and evaluation will be essential in the Innovation Center's efforts to advance health equity. Appropriate and accessible beneficiary education will also be necessary to drive accountable care and achieve the agency's goal of having all traditional Medicare beneficiaries in an accountable care relationship by 2030. In order to improve beneficiaries' understanding of and engagement with value-based care, NAACOS would like to offer our feedback



related to MSSP marketing policies, the MSSP beneficiary notification requirement, and content in the “Medicare & You” handbook for beneficiaries.

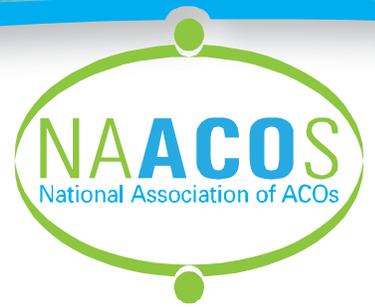
MSSP Marketing Policies

Under the requirements for MSSP ACOs set forth at [§ 425.310](#) and the definition of what constitutes “marketing materials and activities” in the MSSP as defined at [§ 425.20](#), participating ACOs are limited in the content of and manner in which they can communicate with beneficiaries. In published policies and guidance, CMS is vague in describing what types of marketing materials and activities will be approved for use, and the definition of what must be submitted to CMS for review is much more restrictive than similar [requirements for Medicare Advantage \(MA\)](#) plans. In order to be defined as “marketing” under MA, communications materials must meet both intent and content standards, which allows MA plans much more flexibility in providing educational materials or general information about MA without requiring prior review and approval by CMS. In MSSP however, any materials or activities “conducted by or on behalf of the ACO, or by ACO participants, or ACO providers/suppliers participating in the ACO, when used to educate, solicit, notify, or contact Medicare beneficiaries or providers and suppliers regarding the Shared Savings Program,” fall under the definition of “marketing materials and activities,” that must be submitted to CMS for review. While this does not mean that any materials pertaining to the MSSP would be disapproved by CMS, the language used in these policies is intimidating and may deter ACOs from developing beneficiary engagement or educational materials. Many ACOs want to increase awareness and understanding of accountable care models but are hesitant to waste limited time and resources creating materials that could ultimately be disapproved. Therefore, NAACOS requests that CMS provide more detailed guidance to MSSP participants on the types of materials and activities that are likely to be approved for use.

CMS also requires MSSP ACOs to use template language when available, but CMS only provides templates for some materials and the language is not always accessible to beneficiaries. Additionally, this template language is not publicly available and must be accessed by individual ACOs through the Knowledge Library in the ACO Management System (ACO-MS). This inhibits important stakeholder groups’ ability to review template language and provide feedback on how to ensure the documents are easily comprehensible to all beneficiaries. CMS should make these documents publicly available and solicit diverse stakeholder feedback on ways to improve the template language and ensure that beneficiaries and providers can easily understand the information presented. Specifically, we request CMS obtain input from ACOs, NAACOS, and patient advocacy groups on how to meaningfully communicate to beneficiaries about the important role of ACOs in delivering high quality, coordinated care.

MSSP Beneficiary Notification Requirement

All MSSP ACOs are required to annually notify each Medicare fee for service beneficiary that each ACO participant and its ACO providers/suppliers are participating in the MSSP, that the beneficiary has the opportunity to deny claims data sharing, and that the beneficiary may identify or change their primary care provider for voluntary alignment. MSSP ACOs must use CMS template language for these

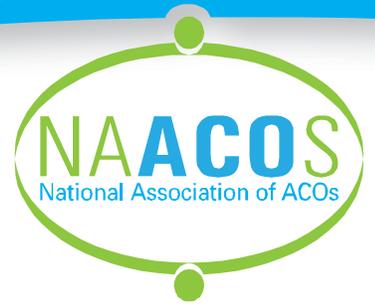


notifications, and this language has been found to be confusing to both beneficiaries and ACO providers. Beneficiary notifications were required as part of the MSSP in the early years of the program, but the requirement was later removed due to the administrative burdens, beneficiary confusion, and operational complexity caused by the notifications. Since then, CMS reintroduced the requirement with new specifications per the [Pathways to Success Rule](#). As a result of the notifications, some beneficiaries choose to opt-out of data sharing without understanding what the data sharing process entails or how opting out impedes ACOs' ability to coordinate and manage patients' care effectively.

We urge CMS to seek broad stakeholder feedback, with a particular emphasis on beneficiaries and patient advocates, to revise the language used in these notifications such that all patients can understand the work of ACOs. Explaining the work of ACOs to those unfamiliar can be complicated, and the section in the notification letters on "how ACOs work" is merely a few sentences. There could be, for example, more detail on care coordination efforts ACOs deliver. Instead of requiring ACOs to furnish these notifications, [NAACOS feels](#) it is more appropriate for CMS to issue them, which would eliminate the issue of patients receiving notifications from multiple ACOs and reduce the cost and burden currently placed on ACOs. Another option is to allow physician offices to give a form to patients using their own language instead of a template provided by CMS. Nonetheless, given the important role patients play in our health system, the MSSP beneficiary notification process needs to be rethought. As discussed throughout the listening session, there is a great need to help providers explain concepts of value-based care and the functions of ACOs in plain language. CMS should provide clear guidance and education on the MSSP, at both the beneficiary and the provider level, in order to build trust and buy-in for accountable care.

Content in the "Medicare & You" Handbook

The ["Medicare & You" handbook](#) is provided annually to each Medicare household as a reference guide for beneficiaries and includes a summary of Medicare benefits, rights, protections, lists of available health and drug plans, and answers to frequently asked questions about the Medicare program. Despite the [stated goal](#) of having all traditional Medicare beneficiaries in an accountable care relationship by 2030, CMS provides almost no information on MSSP ACOs or on the benefits of the shift to value-based care in this important handbook. Those working in health care policy understand the critical importance of the value transformation for the future of our health care system, but this transformation will not be successful without patient engagement. Upon review of the 2022 handbook, it contains no direct mention of the MSSP. While it does include some information on ACOs, the description provided is brief, and it does not connect ACOs to the MSSP, which may cause confusion for beneficiaries when hearing about the program in different terms. Information about ACOs cannot be navigated to through the table of contents, as it exists under a small subsection of the "Get more information" section towards the end of the handbook. Conversely, MA can be found twice in the table of contents alone and has an entire section of the handbook dedicated to detailing various plans and options available under MA and how to enroll. In order to engage beneficiaries in accountable care, the first step is to educate them about the existence of the program and what it means for their care. Not including comprehensive information in



plain language about the MSSP in the “Medicare & You” handbook is a missed opportunity to open the conversation about accountable care with beneficiaries.

Conclusion

NAACOS strongly supports the Innovation Center’s overall [strategy refresh](#), and we believe meaningful beneficiary engagement will be essential to achieving the goals to have all traditional Medicare beneficiaries in an accountable care relationship and to advance health equity by 2030. Thoughtful and intentional outreach to groups that have not historically engaged with the Innovation Center is an important first step in designing models that will help achieve these goals.

Thank you for your engagement on these important issues and for your consideration of our feedback. NAACOS looks forward to engaging with CMS further on these issues to improve and design models that account for health equity and incentivize participation in order to increase provider engagement and expand access to accountable care for beneficiaries.

Sincerely,

A handwritten signature in black ink that reads "Allison Brennan". The signature is written in a cursive, flowing style.

Allison Brennan,
SVP, Government Affairs
NAACOS