



## Washington DC Watch

### NAACOS Cites Expenditures, Investment Learning Curve in CMS Letter

Here are excerpts from the late February letter to the Centers for Medicare and Medicaid Services by the National Association of ACOs, the American College of Physicians, the American Medical Association, the Association of American Medical Colleges, the Medical Group Management Association and Premier Healthcare Alliance.

The aim: convince CMS to modify regulations at §425.600(b) to allow certain Accountable Care Organizations to continue in the Medicare Shared Savings Program Track 1 for a third agreement period before having to move to a two-sided model.

- Our key goals for the MSSP include encouraging increased participation, enabling ACOs to continue in the program and creating a successful, long-term ACO model for Medicare. It is in Medicare's interest for ACOs to continue to provide high-quality care for beneficiaries and to reduce the growth rate of Medicare spending.
- MSSP Track 1 remains by far the most popular option for ACOs, representing 82% of MSSP ACOs in 2018.
- Many remain in Track 1 because they are unprepared to assume risk, requiring them to potentially pay millions of dollars to Medicare — which is simply not practical or feasible for most of these organizations.
- Safety-net providers often face even greater challenges when considering taking on risk.
- The financial position and backing of a particular ACO as well as the ability to assume risk depends on a variety of factors, such as local market dynamics, culture, leadership, financial status and the resources required to address social determinants of health that influence care and outcomes for patients with complex needs.
- Third-cycle ACOs have faced a number of challenges, some of which have been addressed by CMS through regulatory changes — but many program modifications are still needed.
- For ACOs to make a thoughtful business decision to assume risk, they need predictability and positive performance results. Without that, many do not feel confident enough to assume risk.
- These ACOs need more time to prepare for two-sided risk. While six years may sound sufficient, given the programmatic changes and considerable learning curve for these ACOs, this is not enough time. Further, when they have to make their decision about 2019 participation, these ACOs will only have performance data available for four performance years.
- Based on evaluation of the four performance years for which data is available, we urge CMS to allow Track 1 ACOs that meet at least one criterion to have the option to continue in Track 1 for a third agreement period.
  - [1] *Generate net savings relative to their benchmark across four performance years.* Many ACOs generate savings, but do not surpass their Minimum Savings Rate, and thus do not qualify for earned shared savings; the MSR in Track 1 can be as high as 3.9%, which is a considerable hurdle. While these ACOs may not earn shared savings, if they are saving Medicare money and delivering high-quality care, CMS has no reason to discourage their continued contributions through MSSP participation.
  - [2] *Score at or above the 50th percentile in quality in two of three pay-for-performance years.* ACOs that demonstrate superior quality performance have invested significantly in data analytics software, clinical improvements, staff training and operational changes. They have demonstrated high quality, and should therefore be given additional opportunities to work on processes focused on lowering costs prior to being forced into a two-sided track.
  - [3] *Improve overall quality score by 10 percentage points over the course of the three pay-for-performance years.* ACOs that do so have made a clear investment in quality and have had a positive impact on the Medicare beneficiaries. They should be provided additional time to give their investments in quality an opportunity to materialize into cost savings.
  - [4] *CMS should also consider ACOs with spending lower than their region overall;* they're saving money, and keeping them in the MSSP incentivizes them to continue focusing on lowering spending and improving quality.

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[5] *ACOs that invested in care transformation prior to participating in the MSSP are often at a disadvantage in their ability to achieve shared savings.* CMS's regional benchmarking methodology aims to address this, but it's not fast enough. CMS should allow ACOs the option to stay in Track 1 during a faster pace to regional benchmarking.

The signers say it bluntly: "It's important to recognize that ACOs that are not ready for risk will not move forward, they will quit the program altogether. The unintended consequences of forcing risk will significantly undermine the MSSP and result in diverting valuable investments in care coordination away from Medicare patients and towards other patients under value-based contracts." The letter concludes: "The MSSP has gained considerable momentum in recent years, and it would be devastating to see a mass exodus of ACOs in the 2019 performance year if regulations are not changed." NAACOS' *2016 ACO Cost and MACRA Implementation Survey* revealed that almost half of ACOs "definitely would not" or "likely would not" participate if they had to share risk, the groups add. "Swift action is needed," the letter ends, "so that a revised policy is in place in time for ACO planning for the 2019 performance year." Visit [www.naacos.com](http://www.naacos.com).