

## Next Generation ACOs: CMMI Doubles Down on the Two-Sided Risk ACO Model

While one part of the Affordable Care Act, exchange subsidies, hangs in the balance with the Supreme Court's upcoming decision in *King v Burwell*, CMS is moving forward aggressively with the evolution of a less controversial ACA-created innovation, the Medicare ACO.

Undaunted by the exodus of roughly a third of the ACOs that started in its mandatory two-sided risk Pioneer ACO model in its first three years, and the fact that the vast majority of ACOs in the Medicare Shared Savings Program (MSSP) have chosen the one-sided, upside-risk only option, on March 10, 2015, CMS's Center for Medicare and Medicaid Innovation (CMMI) announced a new program, the Next Generation ACO Model. The model enables ACOs that "are experienced in coordinating care for a population of patients" to reap potentially higher rewards for creating savings in the Medicare fee-for-service program, "Original Medicare," while incurring greater financial risk if they don't with some additional bells and whistles that have not been available to ACOs or Original Medicare beneficiaries before.

The Next Generation ACO Model is a separate program from the MSSP, which is now in its third year. CMS is expected to publish final regulations for the next three years of the MSSP shortly.

Here are the highlights of the Next Generation ACO Model:

- Start Dates: Jan. 1, 2016 or Jan. 1, 2017.
- Initial Term: Three years for ACOs starting in 2016 and two years for ACOs starting in 2017.
- Extended Term: CMS may offer ACOs participating in the program two additional one year extensions.
- Beneficiaries: Must be Part A and Part B Medicare beneficiaries in the base or performance year.
- Minimum Population: 7,500 for Rural ACOs, 10,000 for all other ACOs.
- Shared Savings/Loss Cap: Up to 15 percent of expenditures below/above a discounted benchmark.
- Risk: ACOs may choose a partial risk option (80 percent years 1-3; 85 percent years 4-5) or full a risk option (100 percent) up to the cap.
- Alignment: Prospective claims based with option for beneficiaries to voluntarily align to the ACO after year one.
- Benchmark Discount: .5 percent - 4.5 percent based on quality performance, and regional and national efficiency measures.
- Payment Mechanisms: Normal FFS; Normal FFS + monthly infrastructure payments; population based payments and capitation.
- Benefit Enhancements: \$50 annual coordination of care reward; three-day SNF Waiver; telehealth expansion; and post-discharge home visits.

CMS says it expects 15-20 ACOs to participate in the program. Those ACOs wishing to begin in 2016 must file CMS's non-binding letter of intent on or before by May 1, 2015 and an application on or before June 1, 2015. Those ACOs wishing to begin in 2017 must file CMS's non-binding letter of intent on or before by May 1, 2016 and an application on or before June 1, 2016. No application will be considered unless it is preceded by the filing of a letter of intent.



R. Christopher Raphaely

Co-Chair,  
Health Law

craphaely@cozen.com  
Phone: (215) 665-2099  
Fax: (215) 665-2013

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If you have any questions about this new ACO model or wish to discuss how it applies to your particular circumstance, please feel free to contact Christopher Raphaely or any member of the Health Law Group.