

“Next-Generation ACO” Model Is CMS’s Newest Effort to Encourage More ACO Risk

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On March 10, 2015, the Centers for Medicare & Medicaid Services’ (“CMS’s”) Center for Medicare and Medicaid Innovation (“Innovation Center”) announced a demonstration project incorporating new risk models for reimbursement of accountable care organizations (“ACOs”) serving Medicare beneficiaries.

Fresh on the heels of [CMS’s goal of tying 50 percent of Medicare fee-for-service payments to value-based payment methodologies by the end of 2018](#), the Next Generation ACO Model (“NGAM”) joins the Innovation Center’s Pioneer ACO Model and the Medicare Shared Savings Program (“MSSP”) as an additional option for Medicare providers to organize together to provide coordinated, high-quality care at lower cost, with the potential to earn higher compensation.

An ACO “That Looks More Like Medicare Advantage”

In announcing the program, CMS states that the NGAM will allow providers “to assume higher levels of financial risk and reward than are available under the Pioneer Model and [MSSP].”¹ ACOs currently participating in the Pioneer Model or MSSP may apply to participate in the NGAM. Recognizing that there has been very little participation to date in Medicare two-sided risk models, CMS included in NGAM a number of modifications to address what providers have found to be impediments to the assumption of a higher level of risk. CMS anticipates making 15 to 20 three-year NGAM awards incorporating these new features:

- a prospectively set benchmark that will be established prior to the start of each performance year, unlike the end-of-the-year benchmark used under the MSSP and Pioneer Model²

¹ CMS Next Generation ACO Model webpage, available at: <http://innovation.cms.gov/initiatives/Next-Generation-ACO-Model/>.

² CMS is working to develop methods to include Medicare Prescription Drug (“Part D”) spending with fee-for-service spending in the NGAM benchmarks but admits that such implementation will not be ready until

- two risk arrangements that will be offered to participating ACOs, each of which includes a higher sharing rate than the MSSP and Pioneer Model (one arrangement offers an 80 percent sharing rate, moving to 85 percent in the fourth and fifth years, and the second arrangement offers 100 percent full performance risk)
- for each risk arrangement, a 15 percent cap on aggregate savings and losses, offering protection against substantial costs by outliers; to protect against the extreme financial impact of outlier patients, individual beneficiary expenditures will be capped at the 99th percentile of expenditures
- an option for Next Generation ACOs to participate in a capitation payment mechanism in the second performance year of the program
- a new long-term benchmarking methodology that moves payment away from a base in historical expenditures in order to ease the difficulty that ACOs have had in earning savings every year (in the optional fourth and fifth extension years under the program, CMS may use “this alternate methodology, which focus[es] on de-emphasizing historical expenditures and more heavily weighting attainment”)³
- the ability to engage beneficiaries through benefit enhancement, such as greater access to post-discharge home visits, telehealth services, and skilled nursing facilities; incentive payments for receiving ACO services; and a process to voluntarily opt into an ACO
- the option to utilize “Preferred Providers” to deliver some of the benefit enhancements described above (Preferred Providers must be Medicare-enrolled providers/suppliers but need not be ACO participating providers/suppliers)

This model also follows [CMS's December 1, 2014, MSSP proposed rule](#), in which CMS created a new two-sided shared savings and loss model and sought guidance from stakeholders regarding the most appropriate benchmarking methodology. After five years of implementing and overseeing Medicare ACOs, CMS recognizes the need for a new model that “sets more predictable financial targets, enables providers and beneficiaries greater opportunities to coordinate care, and aims to attain the highest quality of care.”⁴ Under existing program parameters, only five of 405 MSSP ACOs have embraced the two-sided risk model. The enhanced flexibility in the Pioneer Model has proved more successful in generating savings and quality, but that program is limited to only 19 participating ACOs.

2017, at the earliest. Until that time, the Part D enrollment timelines, the service areas, and a fragmented market are too complex to integrate with ACO program standards.

³ CMS Next Generation ACO Model FAQs, page 2 (Mar. 11, 2015), available at: <http://innovation.cms.gov/Files/x/nextgenacofaq.pdf>.

⁴ Patrick Conway, *Building on the Success of the ACO Model*, THE CMS BLOG (Mar. 10, 2015), available at: <http://blog.cms.gov/2015/03/10/building-on-the-success-of-the-aco-model/>.

In discussing the NAGM, Dr. Patrick Conway, the CMS Deputy Administrator for Innovation and Quality, said the industry “need[s] something that looks more like Medicare Advantage for a provider organization.”⁵

Between the Next Generation ACOs and the proposed changes to the MSSP, Medicare ACOs may look very different within two years, as they must to continue to attract and retain ACO participants. CMS, no doubt, believes that the NAGM program will provide a transition from current incentive models that rely primarily on improvements to earn enhanced payments to models that reward a more stable state of high-quality/low-cost service delivery.

Deadlines and Further Information

Program information, including Letters of Intent, application standards and procedures, and FAQs may be found at [CMS’s NGAM website](#). Organizations interested in applying for the first of two rounds of three-year awards must submit a Letter of Intent by 11:59 p.m. (ET) on May 1, 2015, and an application by 11:59 p.m. (ET) on June 1, 2015.

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*This Client Alert was authored by **S. Lawrence Kocot, Thomas E. Hutchinson, Arthur J. Fried, and Philo D. Hall**. For additional information about the issues discussed in this Client Alert, please contact one of the authors or the Epstein Becker Green attorney who regularly handles your legal matters.*

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⁵ John Wilkerson, *Conway Hints At Design Of “Vanguard” ACO Demonstration*, INSIDE HEALTH POLICY (Mar. 5, 2015), available at: <http://insidehealthpolicy.com/login-redirect-no-cookie?n=82089&destination=node/82089>.

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