Capitol Comments LEGISLATIVE UPDATE

2019 Medicare Shared Savings Program (Proposed Rule)

The Medicare Shared Savings Program (MSSP) Proposed Rule will be closing its public comment period on October 16th. The proposed rule, nicknamed "Pathways to Success," is based on 5 guiding principles decided on by CMS:

1. Accountability – Increase savings for the Medicare Trust Funds, mitigate losses by accelerating the move to two-sided risk by ACOs, and ensure rigorous benchmarking.
2. Competition – Promote free-market principles by encouraging the development of physician-only and rural ACOs to provide a pathway for physicians to stay independent, thereby preserving beneficiary choice.
3. Engagement – Promote regulatory flexibility to allow ACOs to innovate and be successful in coordinating care, improving quality, and engaging with and incentivizing beneficiaries to achieve and maintain good health.
4. Integrity – Reduce opportunities for gaming.
5. Quality – Improve quality of care for patients with an emphasis on promoting interoperability and the sharing of healthcare data between providers, focusing on meaningful quality measures, and combatting opioid addiction.

These guiding principles seem great in theory (they even mentioned rural), but let's see what the proposed reality would be. The current Medicare Shared Savings Program includes four tracks (1, 1+, 2 and 3) and three-year agreement periods. For Track 1 MSSP ACOs, the current share in any savings created is 50% for all three years of the agreement period. Track 1 MSSP ACOs are upside-only (no risk) and can remain in this track for a total of six years. After that, ACOs must move to either Track 2 or Track 3, which have much higher levels of risk and shared savings. ACOs can no longer join Track 1+.

The new proposal does away with the track system and instead implements two options for participation: BASIC and ENHANCED. I believe the use of capitalization was done to make the names seem more fun. The agreement period would increase from 3 years to 5 years and would institute a series of "gates" determining what level an ACO would enter at. The BASIC option is a 5-level glide path (Levels A to E) and an ACO would move up a level automatically each year. The ENHANCED option is static. Once in ENHANCED, an ACO remains at that level of risk and reward for the entirety of the agreement period.

BASIC					ENHANCED
Level A	Level B	Level C	Level D	Level E	
25% Sharing Rate	25% Sharing Rate	30% Sharing Rate	40% Sharing Rate	50% Sharing Rate	75% Sharing Rate
Upside Only	Upside Only	1st dollar losses at 30%, not to exceed 2% of revenue capped at 1% of benchmark	1st dollar losses at 30%, not to exceed 4% of revenue capped at 2% of benchmark	1st dollar losses at 30%, not to exceed 8% of revenue capped at 4% of benchmark	1st dollar losses not to exceed 15% of benchmark
MIPS APM	MIPS APM	MIPS APM	MIPS APM	Advanced APM	Advanced APM

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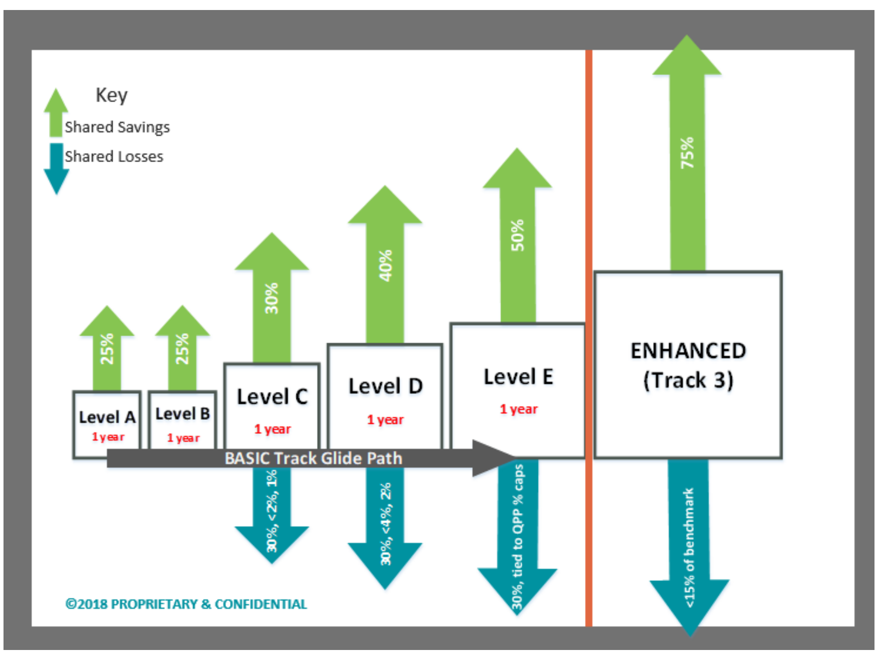
When considering where an ACO will start, CMS will determine if:

1. An ACO was a "New Entity" of a "Re-Entering" ACO based on the previous ACO participation of the ACO's members. If 50% or more of the participants have been in an ACO together in previous years, the ACO would be considered Re-Entering—even if joining under a new LLC.
2. An ACO was "experienced" or "in-experienced" based on whether the majority of ACO participants have participated in two-sided risk models in previous years.
3. An ACO was "high-revenue" or "low-revenue" based on the revenue to expenses ratio of the ACO participants. This one is a bit hairy to get into in brief, so if you would like to know more, let me know! But basically, CMS has set the threshold for being considered "high-revenue" incredibly low in the proposed rule.
   a. Low-revenue ACOs can remain in BASIC for two agreement periods (2nd period is at Level E only). High-revenue ACOs must transition to ENHANCED at the end of their first agreement periods if they want to stay in the program.

If an ACO is considered experienced: they go directly into BASIC Level E or ENHANCED.

If an ACO is a new entity, inexperienced and low-revenue, it would enter into Level A and have two agreement periods in BASIC (10 years).

If an ACO is a new entity, inexperienced and high-revenue, it would enter into Level B and have one agreement period in BASIC before moving to ENHANCED.



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BASICally, there are a lot of options for how participation will look and what level an ACO will start at. And this is all still a proposal. We are hoping the final rule will be published in November or December of 2018, but who knows. In the meantime…

Submit a Comment!

Please take a few minutes to voice your concerns about MSSP Proposed Rule for 2019 to CMS, your senators and congressmen by **October 16th**.

1. Let them know that your rural ACO is a high-quality performer and is saving CMS money.
2. Let them know that your rural practice or facility lacks capital reserves and cannot take on risk.
3. Let them know that a 25% shared savings opportunity is not worth the effort.
4. Let them know that rural ACOs who meet ACO Investment Model (AIM) eligibility criteria should be considered "low revenue".

To submit a comment to CMS on this regulation, visit https://www.regulations.gov, and enter the file code **CMS-1701-P** in the search bar.

Reach out to your senators and congressmen and share your opinions and recommendations on the proposed rule today!

2019 Physician Fee Schedule Proposed Rule

The 2019 PFS proposed rule public comment period closed on September 10th. Here's hoping the final rule will be published soon. We will develop a white paper outlining major changes for the 2019 year and post it to the CCA Member Portal. If you need access to the portal, please reach out to me.

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