MEDICARE SHARED SAVINGS PROGRAM UPDATES

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2023 Physician Fee Schedule Final Rule

Over the past decade, the Medicare Shared Savings Program (MSSP) has grown from 220 Accountable Care Organizations (ACOs) at its start to nearly 500 ACOs across the nation. However, the growth in the number of ACOs and assigned beneficiaries have slowed over the past several years. On Tuesday, November 1, 2022, the Center for Medicare and Medicaid Services (CMS) issued the 2023 Medicare Physician Fee Schedule (MPFS) Final Rule, finalizing a series of impactful policy changes aimed at increasing participation in the program. Through these updates, CMS aims to revitalize this program through policies that broadly fall into the following categories: increasing participation, adjusting the benchmark calculation, and reducing administrative burden.

Increasing Participation

Many of the most impactful changes are intended to increase participation in the MSSP program, specifically for newly participating and low-revenue ACOs, and to reward those who provide care for rural, underserved, and high-need populations. CMS finalized a new option available January 1st, 2024, for these ACOs to receive an upfront $250,000, and quarterly payments for the first two years of a five-year agreement period. These payments will be based on the demographics and risk of the ACO participants. Additionally, CMS will add a health equity quality adjustment to help incentivize participation and reward ACOs providing high-quality care to underserved populations.

CMS will allow more time before transitioning to risk and has made participation in the Enhanced track optional

Recognizing that new MSSP ACOs may be less capable of assuming risk early on, CMS made modifications to the glide path to allow certain ACOs to participate for up to seven years before transitioning to risk. Moreover, CMS doubled down on policy changes aimed at helping low-revenue ACOs succeed by allowing eligible ACOs that would otherwise be below the minimum savings rate to receive some shared savings if they meet minimum quality requirements.

CMS also increased the opportunity to share in savings and the predictability of shared savings amounts by replacing the all-or-nothing shared savings approach with a sliding scale for all ACOs beginning January 1st, 2023. If an ACO fails to reach the quality performance standard to qualify for the maximum sharing rate, it will still be able to share in savings at a lower rate.

Adjusting the Benchmark

Within the MPFS Final Rule, CMS finalized several significant changes to the financial and benchmarking methodology to further increase participation and address many concerns that ACOs and other parties have expressed in the past. The major proposed changes include:

- Establishing a prospectively projected growth trend to incorporate as a third component to the MSSP's current two-way blend of national and regional growth rates when updating an ACO's historical benchmark to the performance year
- Adjustments to an ACO's benchmark to account for savings generated in a prior agreement period
- Reducing the maximum impact of negative regional adjustments on the benchmark from 5% to 1.5%
- Improving the risk score growth cap methodology to adjust for changes in an ACO's demographic composition
- Applying the risk score growth cap against the aggregate risk score growth across all four enrollment types (i.e., aged, disabled, dual-eligible, and ESRD)

MSSP benchmark changes seek to address the "ratchet" effect, the "rural glitch," and the risk score growth caps

Each of these policies will be applicable for new agreement periods beginning on or after January 1, 2024. This means that if an ACO's current 5-year agreement period began in 2022, these changes will not be in force until a new agreement period starting in 2027. For a deep dive on these concepts and the benchmark methodology updates, please refer to this whitepaper previously released by Wakely. Proposed Benchmarking Updates to the Medicare Shared Savings Program | Wakely.

Reducing Administrative Burden

CMS made several policy changes aimed at reducing administrative burden. ACOs no longer need to submit marketing materials to CMS for approval before use or provide narratives for communication and care management plans when applying for the SNF 3-day waiver application. CMS also updated data sharing regulations to make it easier to request aggregate reports and claims data for organized healthcare arrangements. Finally, CMS updated its beneficiary notification policies to require providing a beneficiary notice once per agreement period, with a follow-up communication taking place within 180 days after the notice is provided, as opposed to an annual notice requirement.

Table 1 – Summary of MSSP Changes and Timing

MSSP Change	Timing
Allow current ACOs participating in Level A or B to continue their current level for remainder of agreement period	January 1, 2023
Reinstate sliding scale quality scoring to determine shared savings	January 1, 2023
Incorporate health equity and social determinants into quality measurement	January 1, 2023
Marketing materials no longer require submission to CMS	January 1, 2023
Beneficiary notices are only required once per agreement period with a follow-up 180 days after initial contact	January 1, 2023
Advanced Investment Payments	January 1, 2024
Allow inexperienced ACOs to participate in a full 5-year agreement period at Level A	January 1, 2024
Reduce burden on SNF 3-day rule waiver application	January 1, 2024
Increased opportunities for Low Revenue ACOs to share in savings below the MSR	New agreement periods beginning January 1, 2024
Prospective, administratively set trend is incorporated into benchmarking	New agreement periods beginning January 1, 2024
Benchmarks will account for prior savings	New agreement periods beginning January 1, 2024
Cap on negative regional adjustment is reduced to 1.5%	New agreement periods beginning January 1, 2024
Risk adjustment methodology changes	New agreement periods beginning January 1, 2024

The finalized changes above mark a major step forward toward improving the sustainability and viability of the Shared Savings Program. If you are a group interested in entering the program or want to better understand how these changes impact your ACO, Wakely experts can help you strategically think through the implications and model out projected financial outcomes in wake of these final updates.

Please contact Casey Gardner at casey.gardner@wakely.com or Brian Machut at Brian.Machut@wakely.com with any questions or to follow up on any of the concepts presented here.

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