

May 14, 2020

Ms. Seema Verma
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, DC 20201

Re: Supporting ACOs in Response to COVID-19 (CMS-1744-IFC and CMS-5531-IFC)

Dear Administrator Verma,

We thank the Centers for Medicare & Medicaid Services (CMS) for the significant efforts underway to address the COVID-19 pandemic, including expanded telehealth services and other flexibilities. The undersigned organizations write to provide feedback in response to the two interim final rules with comment period (IFCs) making policy and regulatory revisions related to the COVID-19 Public Health Emergency. These IFCs, CMS-1744-IFC, *Medicare and Medicaid Programs; Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency* and CMS-5531-IFC, *Medicare and Medicaid Programs, Basic Health Program, and Exchanges; Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency and Delay of Certain Reporting Requirements for the Skilled Nursing Facility Quality Reporting Program*, were published in the Federal Register April 6 and May 8, respectively. Our recommendations reflect our unified desire to see the Medicare Shared Savings Program (MSSP) achieve the long-term sustainability necessary to enhance care coordination for millions of Medicare beneficiaries, lower the growth rate of healthcare spending and improve quality of care.

ACO physicians and hospitals are among those on the front lines treating patients and supporting their communities in the face of the pandemic. ACOs have diverted resources such as clinicians, analytics, care coordinators, health IT, administration, and funding to support this fight. Advancing value-based care [has been a bipartisan priority](#) of Congress and the administration. If the Department of Health and Human Services' [goal](#) remains moving all Medicare payments into alternative payment models by 2025, then it is imperative to adapt models to withstand the highly unusual circumstances brought on by COVID-19.

We are appreciative that the IFCs enact the MSSP extreme and uncontrollable circumstances policy and provide additional helpful adjustments including removing expenditures for months that include COVID-19 episodes triggered by an inpatient COVID-19 diagnosis and allowing ACOs to remain in their current risk level for 2021, among other changes. While it is very important to protect ACOs that are harmed by the pandemic from losses, it is also critical to allow eligible ACOs to still earn shared savings for performance year 2020. ACOs make significant investments to enhance quality, address chronic disease and improve patient care, and shared savings is instrumental to continuing those initiatives. We applaud CMS for maintaining shared savings opportunities for ACOs.

While there are many helpful policies in the IFCs, we urge additional action to fully protect ACOs and ensure continued program success. Specifically, we request the following actions be swiftly take by CMS.

- **CMS should adopt a policy to give ACOs an option to be protected from losses in exchange for a reduced shared savings rate, no less than 40 percent.** Despite the protections in the IFCs, many ACOs remain concerned about the unpredictability and potential for catastrophic losses for performance year 2020. Providing the flexibility of this option would prevent ACOs from quitting and maintain the savings they generate for Medicare.
- **It is critical that CMS extend the current June MSSP deadline to voluntarily terminate to avoid financial losses to no earlier than October 31** (with no more than a 30-day notice, as is currently required). Given a potential resurgence of the virus this fall, it is imperative for CMS to provide ACOs with additional time and data to make an informed decision about their ACO participation. At a minimum, CMS should provide 90 days from the date of the second IFC to allow ACOs time to consider the program adjustments recently released by the agency.
- **CMS should reverse its decision to cancel the 2021 MSSP application cycle.** Many clinicians and healthcare entities have been preparing to enter the program in 2021. CMS notes in the May 8 IFC that one reason the agency is cancelling the 2021 application is to reduce administrative burdens on those applying. However, applying is optional so only those that have the ability to do so would. At a minimum, we urge CMS to implement an application period for an abbreviated participation year, beginning no later than July 2021, as the agency has previously done.
- **CMS should pay ACO shared savings payments and Advanced APM bonuses as soon as possible.** ACO shared savings payments are typically distributed in late summer or early fall and last year the Advanced APM bonuses were issued in late fall. ACOs and those qualifying for Advanced APM bonuses need these funds now to help them deal with reduced revenue from utilization disruptions caused by the pandemic.

CMS must act now to retain physicians and hospitals who have committed to accountable care and the transition to value, especially those that have assumed high levels of risk. Implementing the recommendations above will help ensure the future of ACOs and value-based care overall. As physicians and hospitals are focused on defeating COVID-19 and using every resource at their disposal to do so, we urge CMS to also use every opportunity at its disposal to ensure COVID-19 does not derail the ACO and value movement. As our nation and healthcare system recover from this pandemic, we will need ACOs more than ever. Thank you for your consideration of these comments.

Sincerely,

American Academy of Family Physicians
American College of Physicians
American Medical Association
American Medical Group Association
America's Physician Groups
Association of American Medical Colleges
Medical Group Management Association
National Association of ACOs
Premier healthcare alliance