

CMS Expects to Issue ACO Rules by Mid-January 20

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Centers for Medicare & Medicaid Services officials announced they expect to issue proposed regulations for accountable care organizations (ACO) by mid-January 2011, and also revealed Medicare beneficiaries will be informed when they are assigned to an ACO.

On December 3, 2010, Centers for Medicare & Medicaid Services (CMS) officials announced they expect to issue proposed regulations for accountable care organizations (ACOs) under the Shared Savings Program established by the Patient Protection and Affordable Care Act by mid-January 2011 (PPACA). They also revealed Medicare beneficiaries will be informed when assigned to an ACO. The announcements came just 48 hours after the release of the White House Fiscal Commission's Debt Report urging CMS to aggressively pursue implementation of ACOs and other payment reform models.

Head of CMS, Donald Berwick, and Jonathon Blum, deputy administrator of CMS and director of Medicare, made the announcements while speaking on a panel during the annual policy conference of the National Committee for Quality Assurance. Berwick and Blum emphasized ACOs participating in the Shared Savings Program must be run with genuine commitment to achieving the underlying goal of the PPACA: a true change in health care delivery. Blum said CMS disfavors ACOs signing on to the Shared Savings Program "to simply roll the dice and to try to earn shared savings."

CMS expects there may inevitably be some ACOs participating in the Shared Savings Program with the belief that they can maintain the "status quo" of health care delivery and may be able to cloak the same old system in "new language." Saying this is "not what we need," Berwick suggested that under the Shared Savings Program, CMS's regulatory structure will ultimately require each ACO adhere with "authenticity" to the underlying policies of health reform.

Blum also ended another uncertainty, announcing that Medicare beneficiaries will be notified when assigned to an ACO. The issue of disclosure had been a controversial topic since the PPACA was passed; some expressed concern that failure to inform beneficiaries could result in a "backlash."

The announcements by CMS came just 48 hours after the Debt Report was made public and, intentionally or not, dovetailed with the report's recommendation that CMS "aggressively pursue" ACOs and other payment reform models. The report states CMS should use its Center for Medicare and Medicaid Innovation (CMMI) to "accelerate" pilot programs that demonstrate cost savings.

The White House Fiscal Commission also particularly encouraged CMS to introduce the concept of “down-side risk” to ACOs. This idea may be gathering momentum among policymakers. Just recently MedPAC’s comments to CMS on ACOs included a comprehensive recommendation that CMS introduce a “two-sided risk model” (essentially the same concept) to ACOs.

Blum said Medicare’s Shared Savings Program ACO model is expected to “evolve” over time and CMS will use the CMMI “to test new ideas that will become permanent policy for the Shared Savings Program.” Created by Section 3022 of PPACA, the Shared Savings Program is aimed at delivering quality health care services more efficiently and with improved patient experience. CMMI, established under PPACA Section 3023, gives CMS broad flexibility to test health care delivery and payment models, including ACO models that may vary from the parameters of ACOs under the Shared Savings Program.

The consistent themes regarding ACOs among CMS officials, MedPAC and the Debt Report may indicate growing consensus among policymakers and regulators.

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