

April 13, 2020

Seema Verma, MPH  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20201

**Re: Allowing ACO providers to focus on COVID-19 rather than shared savings**

Dear Ms. Verma:

The Medicare Payment Advisory Commission (MedPAC) recognizes the unique and difficult circumstances in which CMS currently operates, and we are cognizant of CMS's competing priorities during this time. MedPAC appreciates the steps CMS has taken to date to mitigate the financial impact of COVID-19 on accountable care organizations (ACOs). ACOs should focus on their response to COVID-19 without concern for shared ACO savings or losses. The COVID-19 public health emergency has likely affected—and will continue to affect, at least through 2020—Medicare spending in ways that are yet to be fully understood. This is particularly problematic for providers participating in ACOs, whose 2020 performance will be assessed using benchmarks established before the current emergency.

Given the dramatic shifts in care delivery that have occurred in 2020, attempting to adjust 2020 spending and benchmarks for COVID-19 will be impractical. It also may be inequitable. The degree to which different systems will have to divert resources to COVID-19 will vary widely depending on the provider's location and type of services provided. Therefore, we urge CMS not to use data from 2020 when evaluating ACOs. Specifically, we ask that, to the extent your statutory authority permits, you consider four actions:

- Do not use 2020 data to determine ACO performance for purposes of computing ACO quality, bonuses, or penalties. Consider extending all current ACO agreement periods by one year. In addition, do not use 2020 data in calculating baseline year spending for future benchmarks.
- Do not use 2020 claims to assign beneficiaries to ACOs, since the shift to telehealth (possibly with physicians located very far away from beneficiaries) could distort ACO assignment. A determination could be made later about whether to use 2019 and/or 2021 claims to assign beneficiaries to ACOs in 2021.

- Allow a three-year extension of the NextGen ACO model through 2023. This will allow ACOs that have invested in the model to continue in the ACO program without having to adapt to a new model during this difficult time.
- Delay the start of the Center for Medicare and Medicaid Innovation Direct Contracting model by a minimum of one year to allow providers time to understand the new model (some features of which have not yet been established) prior to making commitments.

We note that it may be necessary to make similar modifications to other alternative payment models, particularly those that involve substantial two-sided risk.

If you have any questions, or require clarification of our comments, please feel free to contact James E. Mathews, MedPAC's Executive Director.

Sincerely,

A handwritten signature in black ink that reads "Francis J. Crosson M.D." in a cursive script.

Francis J. Crosson, M.D.  
Chairman

cc: John Pilotte, Director Performance-Based Payment Policy Group