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Re: Recommendations for Improving the Medicare Shared Savings Program

The Health Care Transformation Task Force strongly believes that health care organizations should have access to fair and rewarding accountable care models that align to their risk tolerance and encourage the transition away from fee-for-service as the primary chassis for APM design. As the only permanent ACO option currently available in the Medicare program, the Medicare Shared Savings Program (MSSP) offers the greatest opportunity for achieving scalable and sustainable value-based payment models in Original Medicare. The Task Force encourages CMS to leverage the size and scale of the MSSP program to shift the broader health care system toward value-based care through aligned payment models. The Task Force considers extending greater financial flexibilities to MSSP ACOs – including higher risk arrangements, options for financial flexibility, and expanded benefit enhancements – as critically important steps in this direction.

In September 2021, the Task Force wrote a letter urging CMS to: (1) improve program accessibility for new MSSP participants, (2) create sustainable advanced payment arrangements for experienced ACOS, and (3) leverage MSSP as a platform for ACO payment and care delivery innovations. The Task Force also commented on the changes CMS made to MSSP in the 2023 CY Medicare Physician Fee Schedule (PFS). We appreciate the efforts CMS has made to be responsive to the concerns raised by program stakeholders. Specifically, the emphasis in the 2023 PFS on improving program accessibility for new participants by addressing cashflow concerns through new Advanced Investment Payments (AIP), extended time in downside risk tracks, and ending mandatory participation in the ENHANCED Track. These actions are likely to facilitate the entry of more providers into the program, particularly those serving underserved communities or located in rural areas.

While these changes are beneficial for engaging new providers in MSSP, the Task Force has ongoing concerns about the long-term sustainability of the program for experienced ACOs. Specifically, our concerns fall into three areas: 1) ensuring benchmark sustainability for efficient

ACOs, 2) retaining and driving improvement among inefficient ACOs, and 3) allowing experienced ACOs opportunities for greater financial accountability for their patients.

To this end, the Task Force recommends that CMS consider some specific MSSP methodology changes to address issues with efficient and inefficient ACOs, and explore options for developing sustainable advanced risk options for experienced MSSP ACOs as part of the CY 2024 rulemaking cycle. We believe these actions will increase retention of existing ACOs, create incentives for ACOs to take on greater accountability, and support the broader CMS goal of having all Original Medicare beneficiaries in an accountable care arrangement by 2030.

Improving Program Sustainability for Efficient ACOs

Efficient ACOs are already achieving one of the central goals of MSSP, and therefore CMS should have a vested interest in supporting their success. However, the current structure of MSSP presents significant challenges for efficient ACOs, particularly with regards to rebasing within agreement periods and benchmark updates during transitions between agreement periods, which creates unsustainable downward pressure on ACO benchmarks. Therefore, we strongly urge CMS to take action to address these issues by:

1. **Increasing the weighting of the regional efficiency adjustment to the benchmark** for efficient ACOs, particularly in later agreement periods, to ensure these ACOs can remain in the program so that they maintain and improve upon the savings they generate relative to their regions.

2. **Raising or removing the 5% cap on the regional efficiency adjustment**, which exacerbates the ratcheting effect for efficient ACOs and causes them to face diminishing returns on incremental savings.

Retaining and Driving Improvement Among Inefficient ACOs

Inefficient ACOs offer CMS an opportunity to make some of the greatest impacts through MSSP participation. Bringing these providers into the program and creating incentives for them to improve care and lower costs presents a chance for CMS to generate savings and reduce variability in healthcare spending. However, the current structure of MSSP poses unique challenges for ACOs that are located in a relatively low-cost region, serve a disproportionately high-risk population, or are less experienced and still ramping up to greater regional efficiency. To address this, we urge CMS to:

1. **Increase the prior savings adjustments** by applying the actual average savings rate over the previous three years as the upward adjustment factor for new agreement periods, which would do more to help ACOs whose spending is higher than their region.

2. **Remove negative regional adjustments** for ACOs whose spending is higher than their region.

Encouraging Greater Accountability Via a New Advanced Risk Track

A new MSSP advanced risk track should prioritize encouraging experienced ACOs to shift away from the FFS payment chassis by offering three things: **(1) greater ACO opportunity for reward and accountability for risks based on costs and quality, (2) additional financial flexibilities to support ACO investment in care reforms and encourage a focus on improving health equity, and (3) expanded benefit enhancements to allow ACOs flexibility in how they manage their patient population.** CMS has repeatedly tested some of these concepts in earlier CMMI ACO and primary care models and has continued to incorporate these concepts into models like ACO-REACH. Specifically, we encourage CMS to incorporate the following into MSSP:

1. **Greater Risk/Reward Opportunities**: CMS should create a MSSP advanced risk track above the existing ENHANCED Track that offers ACO the option of:
    - **Increased Shared Savings (once minimum savings rate and quality standards are met or exceeded)**: First dollar savings at a rate of up to 95% not to exceed 20% of updated benchmark.
    - **Increased Shared Losses (once medical loss ratio and quality standards are met or exceeded)**: First dollar losses at a rate based on quality performance, with minimum shared loss rate of 55% and maximum of 75%, not to exceed 15% of updated benchmark.

2. **Additional Financial Flexibilities:** Allow MSSP ACOs accepting two-sided risk the option to receive:
    - **Monthly primary care capitation** payments equal to 100% of their historical primary care spending. This would provide important cash flow opportunities for ACOs looking to make proactive investments in primary care capacity to better manage patient care.
    - **Total cost of care capitation** payments similar to the global track in ACO REACH. A total cost of care capitation option would support ACOs interested in better engaging specialists, a previously stated CMS goal, through mechanisms such as shadow bundles.

3. **Expanded Benefit Enhancements:** CMS should leverage MSSP as a platform for innovation by expanding the availability of benefit enhancements used in other models, to experienced MSSP ACOs. Enhancements should include:
    - **Improved Beneficiary Affordability:** Implement lessons from value-based insurance design into MSSP by:

- Covering patient copays and deductibles for visits to ACO providers in advanced risk models.
- Offering Part B premium rebates tied to tight usage of an ACO's affiliated network.
- Create a framework for Medicare ACO supplemental plan offerings with lower cost-sharing for care delivered through the ACO.
- Other opportunities to CMS to offer direct incentives to beneficiaries in MSSP ACOs such as Part A premium waivers.

As noted above, the Task Force urges CMS to act on this recommendation during the CY 2024 rulemaking. **However, if CMS is not willing to implement a new advanced risk track during this cycle, we urge CMS to issue a Request for Information that solicits input on the need for, and design of, a new advanced risk track in MSSP.**

General MSSP Improvements

Furthermore, the Task Force encourages CMS to consider several updates to the MSSP program that would apply to all participating ACOs. We believe the following changes would further improve the program and better attract and retain ACOs:

1. **Incorporate benefit enhancements designed to:**
    - **Encourage Provider Engagement:** Create additional flexibilities for ACOs to form provider networks and contract with specialists by:
        - Providing a TIN-NPI participation option to help ACOs curate a high-value, highly engaged network of primary care providers and specialists that align to the cost and quality goals of the ACO.
        - Supporting ACOs in engaging high-value specialists and facilities by engaging in efforts to develop nested bundles, shadow bundles, and other mutually beneficial payment arrangements.
    - **Strengthen Telehealth:** Broaden telehealth waivers to apply regardless of ACO assignment methodology to provide ACOs a stable telehealth policy environment after the end of COVID related telehealth policy exceptions. Furthermore, CMS could engage with stakeholders to identify additional services to be provided via telehealth and leverage ACOs to test and refine a modernized telehealth policy.
    - **Simplify SNF Three-Day Waiver:** Simplify the requirements for the SNF waiver to make it easier for ACOs to implement by adopting flexibilities implemented under the PHE as permanent aspects of the waiver program PHE. This could include encouraging but not requiring ACOs to contract with SNFs.
    - **Streamline Attribution:** Allow both electronic and paper-based voluntary alignment and greater flexibility in rules on how ACOs communicate with beneficiaries to allow ACOs to better educate patients on the benefits of seeking care from an ACO and how it differs from traditional care options. Additionally, CMS could invest resources

in better educating the public on the benefits of ACOs in general and the MSSP program in particular.

2. **Expand Financial Flexibilities for ACOs to include:**
    - **Primary Care Capitation:** Allow all participating MSSP ACOs the option to receive monthly primary care capitation payments equal to 100% of their historical primary care spending with adjustments for:
        A. **Health Equity** – Implement a methodology to upward adjust capitation amounts for underserved patient/populations in recognition of the fact that historical spending in these groups reflects an underinvestment in care, and
        B. **Increasing Primary Care Investmen**t – Increase investment in primary care via a primary care specific bonus structure designed to boost primary care spending over historical levels and promote the stability of the primary care workforce and infrastructure.

The HCTTF remains optimistic about the future of value transformation across CMS and is encouraged by the many recent positive actions CMS has made to improve MSSP. We look forward to continuing to partner with CMS to sustain the progress of experienced ACOs, improve quality and equity, and support the long-term goal of universal accountable care relationships for Medicare FFS beneficiaries.

Please contact me (Jeff.Micklos@hcttf.org) or Joshua Traylor (Joshua.Traylor@hcttf.org) with any questions or feedback on this letter.

Sincerely,

The Health Care Transformation Task Force