

October 16, 2018

Seema Verma
Administrator
Centers for Medicare and Medicaid
Department of Health and Human Services
Attn: CMS-1693-P
Mail Stop C4-26-05
7500 Security Blvd.
Baltimore, Maryland 21244-8016

RE: CMS-1701-P - Medicare Program; Medicare Shared Savings Program; Accountable Care Organizations- Pathways to Success (83 FR 41786)

Dear Administrator Verma,

The American Association of Nurse Practitioners (AANP), representing more than 248,000 nurse practitioners (NPs) in the United States, appreciates the opportunity to provide comment in response to the Medicare Shared Savings Program (MSSP) Pathways to Success proposed rule.

NPs are advanced practice registered nurses who are prepared at the masters or doctoral level to provide primary, acute, chronic and specialty care to patients of all ages and walks of life. Daily practice includes: assessment; ordering, performing, supervising and interpreting diagnostic and laboratory tests; making diagnoses; initiating and managing treatment including prescribing medication and non-pharmacologic treatments; coordinating care; counseling; and educating patients and their families and communities. NPs practice in nearly every health care setting including clinics, hospitals, Veterans Affairs and Indian Health Care facilities, emergency rooms, urgent care sites, private physician or NP practices (both managed and owned by NPs), nursing homes, schools, colleges, retail clinics, public health departments, nurse managed clinics, homeless clinics, and home health. NPs hold prescriptive authority in all 50 states and the District of Columbia. It is important to note that 86.6% of NPs are certified in primary care, the majority of whom see Medicare and Medicaid patients. NPs complete more than one billion patient visits annually.

We support increasing provider and beneficiary participation in the Medicare Shared Savings Program (MSSP), and many of the suggestions in this proposed rule would achieve that result. We particularly support updating the voluntary alignment option to allow patients to choose NPs as their primary care clinicians and be assigned to an ACO without needing to receive a primary care service from a primary care physician affiliated with the ACO. We firmly believe in the principles of value-based reimbursement and the importance of increasing participation in successful programs such as the MSSP. This proposal will increase the ability of NPs and their patients to participate in the MSSP and is consistent with a patient-centered approach to health care delivery.

Increase Participation in the Medicare Shared Savings Program

We support the proposal to move to five-year agreement periods to provide participating ACOs with the stability to make necessary practice improvements to become successful. The MSSP has proven to be a success as ACOs have gained experience with the program. In 2018, MSSP ACOs generated approximately \$314 million in savings for the Medicare program even after shared savings were distributed, and \$291 million of those savings were generated by Track 1 ACOs.¹ We believe that the policies put in place by CMS should continue to encourage practices to participate in the MSSP and recognize that success in the program increases with time. However, we are concerned that forcing participating ACOs to move to two-sided risk too quickly will discourage future participation and cause ACOs currently participating in the MSSP to drop out of the program.

We also encourage CMS to adopt policies that will lead to increased participation in the MSSP, especially among independent clinician practices, such as those of nurse practitioners. We note in the summary of this proposed rule, CMS refers to “physician practices” as ACO participants, but does not include practices of NPs who are also ACO professionals who own their own practices and participate in the MSSP. It is important to recognize and increase NP participation in the MSSP in order to continue to improve patient access, quality and cost effectiveness.

Fee-for-Service Benefit Enhancements (83 FR 41860)

We support broadening the use of the SNF 3-day rule waiver and expanding the use of telehealth by amending the originating site and geographic restrictions for applicable ACOs. We encourage CMS to continue to utilize the broad waiver authority granted to the Secretary under Section 1899(f) of the Social Security Act to reduce the utilization of unnecessary services and increase the efficiency, cost-effectiveness and quality of the Medicare Shared Savings Program.

Some examples include: waiving physician certification and documentation requirements in home health and hospice care thus reducing unnecessary paperwork and providing nurse practitioners and their patients with additional flexibility and timely access to safe, high-quality care. Similar waivers can be enacted to authorize NPs to order diabetic shoes and cardiac and pulmonary rehabilitation without the need for physician certification. These waivers will provide CMS with the best opportunity to maximize the efficiency and success of the MSSP.

Similarly, many other treatments and settings still have unnecessary order and supervision requirements that limit the nurse practitioner’s ability to provide high-quality care in the most efficient and cost-effective manner. Waiving these requirements for skilled nursing facilities, rehabilitation facilities, hospitals, rural health clinics and federally-qualified health centers would provide these facilities with much-needed flexibility to innovate, lower cost, and improve the quality of the care they provide within the MSSP.

Providing Tools to Strengthen Beneficiary Engagement (83 FR 41867)

AANP has long advocated for increasing patient participation in medical decision making, including guaranteeing that patients are able to select their provider of choice for all of their health care needs. In that vein, we support the proposal that an ACO participant in the MSSP must notify beneficiaries about the voluntary alignment option during the first primary care visit of the performance year.² We also support the creation of a CMS template notice to ease the burden on the ACO. We request that CMS

¹<https://www.naacos.com/press-release--more-medicare-acos-achieve-quality-and-cost-goals-in-2017>.

² 83 FR 41786, 41875.

ensure that the template states that patients are authorized to choose nurse practitioners as their designated ACO professionals within the MSSP.

CMS also requested feedback on an opt-in option for beneficiaries to choose to participate in an MSSP ACO. Our concern is that the similarity between the opt-in option and the voluntary alignment option may cause confusion among beneficiaries. If CMS does move forward with an opt-in option, we would recommend aligning it with the voluntary alignment option so that if a patient “opts-in” to an ACO the next step would be selecting a primary clinician in the ACO. This would then trigger the voluntary alignment beneficiary assignment methodology, allowing patients to select their provider of choice without requiring an unnecessary primary care visit from a primary care or specialty physician for the purposes of assignment.

Voluntary Alignment (83 FR 41894)

As we have stated earlier, we support your proposal to update the voluntary alignment methodology and remove 42 CFR § 425.402(e)(2)(i) in its entirety. This would allow beneficiaries to voluntarily align with an MSSP ACO by choosing an ACO professional, such as an NP, to be responsible for coordinating their overall care. That beneficiary would then be assigned to the ACO without having to receive at least one primary care service from a primary care physician who is an ACO professional. Consistent with the language in the Bipartisan Budget Act of 2018, this would supersede any claims-based assignment methodology. This is an important step to increase the number of clinicians and beneficiaries participating in the MSSP and reduce the utilization of unnecessary primary care visits conducted solely for beneficiary assignment. Patients should have the authority to select their health care provider of choice, including NPs. This proposal is consistent with that principle.

We thank you for the opportunity to comment on this proposed regulation. We look forward to discussing these issues with you. Should you have comments or questions, please direct them to MaryAnne Sapio, V.P. Federal Government Affairs, msapio@aanp.org, 703-740-2529.

Sincerely,

David Hebert
Chief Executive Officer