



Summary of the 2018 Accountable Care Organization (ACO) Final Rule American Medical Association

On December 31, 2018, the Centers for Medicare & Medicaid Services (CMS) released the [Medicare Shared Savings Program; Accountable Care Organizations – Pathways to Success Final Rule](#). Below is a brief overview of the final rule and a chart comparing the previous Medicare Shared Savings Program (MSSP) ACO tracks to the ACO tracks in the final rule.

Overview: CMS restructures MSSP ACOs by removing Tracks 1 and 2, and replacing them with a new Basic Track that includes 5 levels with progressively higher shared savings and shared risk. A second Enhanced Track is based on the program's existing Track 3 for ACOs that take on the highest level of risk and potential shared savings. CMS also extends the length of agreement periods from 3 years to 5 years to create more program stability and allow longer periods for participation before recalculating an ACOs benchmark. (For 2019 there is a 6-month agreement period beginning July 1, 2019, which will not count toward an ACO's 5-year agreement period). ACOs will be allowed to complete current agreements under existing program rules through 2020.

Previously, MSSP ACOs could stay in shared-savings only models for 6 years without taking on any downside risk. Now ACOs will be forced to take on some downside risk after 3 years (3.5 years for those starting in July 1, 2019). AMA continues to oppose mandatory downside financial risk for ACOs and has advocated to CMS to allow ACOs to continue to participate in shared savings-only models if they meet certain criteria.

High / Low-Revenue ACOs: Designates ACOs as either high or low revenue based on whether Medicare Parts A and B fee-for-service revenue of ACO participants is greater or less than 35% of the total Medicare Parts A and B fee-for-service expenditures for the ACO participants. Low revenue ACOs can participate in the Basic Track for up to two 5-year agreement periods, meaning the ACO would remain at the Basic Track Level E for the full second 5-year agreement period. Low revenue ACOs and ACOs inexperienced with performance-based risk have the option to enter the Basic Track at Level A, then spend two years at Level B, before moving to Level E for the remaining 2 years of the agreement period. This would allow these ACOs to elect an additional year of one-sided risk. High revenue ACOs are limited to a maximum of a single agreement period in the Basic Track.

Risk Adjustment: Expands application of risk adjustment to all of the ACO's assigned beneficiaries, instead limiting it to just those who are new to the ACO, but imposes a 3% cap on CMS-HCC risk score increases over 5 years.

Beneficiary Assignment: Allows all ACOs to choose to change their beneficiary assignment methodology to prospective assignment prior to the start of the performance year.

Waivers: CMS finalized additional flexibilities for ACOs, including new beneficiary incentive programs, telehealth services, and broader access to the program's existing skilled nursing facility 3-day rule waiver.

Quality Measures: In the 2019 Medicare Physician Fee Schedule Final Rule, CMS reduced the number of quality measures from 31 to 23 measures for ACOs.

Quality Payment Program: Participants in ACOs that qualify as Advanced Alternative Payment Models (APMs) will receive a 5% lump sum payment annually until 2022. Participants in ACOs that do not qualify as Advanced APMs will be considered a Merit-Based Incentive Payment System (MIPS) APM and have their MIPS scores determined based on their ACO participation.

Track 1 Comparison

	Track 1	Basic Track Levels A&B
Agreement Period	3-years	5-years progressing through Basic Track levels A-E
Risk	Upside risk only	Upside risk only
Shared Savings Rate	Up to 50%	Up to 40%
Beneficiary Assignment	Prospective assignment with retrospective reconciliation	Can choose to change beneficiary assignment to prospective assignment at the start of the performance year
Beneficiary Incentive Program Allowed	No	Yes (optional)
Advanced APM?	No	No

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Track 1+ Comparison

	Track 1+	Basic Track Level E
Agreement Period	3 years	5 years
Risk	Two-sided	Two-sided
Shared Savings Rate	Up to 50%	Up to 50%
Shared Loss Rate	Fixed 30% shared loss rate	Loss sharing rate of 30% not to exceed the percent of revenue specified in the revenue-based nominal amount standard under the Quality Payment Program (currently 8%), capped at a percentage of the updated benchmark that is 1% higher than the expenditure-based nominal amount standard (currently 4%)
Beneficiary Assignment	Prospective assignment	Can choose to change beneficiary assignment to prospective assignment at the start of the performance year
Beneficiary Incentive Program Allowed	No	Yes (Optional)
Advanced APM?	Yes	Yes

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Track 2 Comparison

	Track 2	No Comparison Track
Agreement Period	3-years	
Risk	Two-sided	
Shared Savings Rate	Up to 60%	
Shared Loss Rate	40-60% not to exceed 5% in year 1, 7.5% in year 2, or 10% in year 3 and beyond	
Beneficiary Assignment	Prospective Assignment with Retrospective reconciliation	
Beneficiary Incentive Program Allowed	Not previously allowed, but proposed beginning in July 1, 2019 for remaining agreement period	
Advanced APM?	Yes	

Track 3 Comparison

	Track 3	Enhanced Track
Agreement Period	3-years	5-years
Risk	Two-sided	Two-sided
Shared Savings Rate	Up to 75%	Up to 75%
Shared Loss Rate	Loss sharing rate between 40-75% not to exceed 15 percent of updated benchmark	Loss sharing rate between 40-75% not to exceed 15 percent of updated benchmark
Beneficiary Assignment	Prospective assignment	Can choose to change beneficiary assignment to prospective assignment at the start of the performance year
Beneficiary Incentive Program Allowed	No	Yes (optional)
Advanced APM?	Yes	Yes