



Pathways to Success' ACO Rules:

What a BPCI-A Episode Initiator Needs to Know



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Fusion5 sees the Pathways to Success ACO rule updates as positive

1. ACO MSSP rules were updated effective July 1, 2019 and the new program is called 'Pathways to Success'
2. Beginning 7/1/2019, the number of ACO tracks were reduced to three: Tracks 1, 2, 3, 1+ are replaced with BASIC (has A-E levels) or ENHANCED (equivalent of MSSP Track 3), and Next Generation (NGACO) continues through 2020
3. Beginning 1/1/2020, only Next Generation ACOs will have precedence over BPCI-A, while BPCI-A will have precedence over the new BASIC and ENHANCED ACOs
4. The new rules require ACOs to become risk-bearing within three years of contracting
5. Fusion5 sees Pathways to Success as positive for four reasons
6. Fusion5 BPCI-A & ACO Overlap by year table is presented, along with an anchor start date timeline
7. Fusion5 has a proprietary tool to identify ACO-attributed beneficiaries, but it does not show where the beneficiary presently resides
8. The list and map of 41 NextGen ACOs as of 7/1/19 is presented

Below please find a brief of what's new with Accountable Care Organizations (ACOs) as of July 1, 2019, and what a BPCI-A Episode Initiator needs to know.

ACO's, WHAT'S NEW: PATHWAYS TO SUCCESS



New ACO rules called Pathways to Success took effect on July 1, 2019; two important changes included the streamlining the number of participation tracks to three and increasing the requirements for ACOs to engage in two-sided risk within three years. More on both below, as well as a few additional updates of interest about the ACO Pathways to Success final rule.

Streamlining of Multiple Tracks into Three

The Medicare Shared Savings Program (MSSP) began in 2012 and until recently served as the framework for ACO participation rules. The Pathways to Success final rule went into effect on July 1, 2019 and streamlined the number of ACO tracks (1, 2, 3, 1+, Next Generation), down to three (BASIC, ENHANCED, and Next Generation).

1. Next Generation (NGACO)

- a. Remains in place but sunsets at the end of 2020; the current language is intended to terminate as to its continuation beyond 2020.
- b. NGACOs are the only ACOs as of 1/1/2020 which will have precedence over BPCI-A episodes (see Table 2, 'ACO and BPCI-A: Overlap & Precedence' below)

2. BASIC track

- a. Allows eligible ACOs to begin under a one-sided model and incrementally assume higher levels of risk that eventually qualifies as an advanced Alternative Payment Model (APM).

- b. The BASIC track glide path includes five levels of risk, with the most advanced phase (“Level E”) modeled after the popular Track 1+
- c. Levels A-D of BASIC are not considered an advanced APM, but Level E is (see Table 1 below)

3. ENHANCED track

- a. Modeled after the popular/former Track 3, for those ACOs ready to take on more substantial financial risk
- b. Provides ACOs with additional tools and flexibilities including a Telehealth Waiver, SNF 3-Day Waiver, and operating a Beneficiary Incentive Program (BIP)
- c. Is considered an advanced APM

Requiring ACOs to engage in two-sided risk in the next three years

Pathways to Success rules require ACOs to have a greater financial commitment, both in the level of shared risk and timing to engage in that risk.

Bear in mind the majority of ACOs under the former MSSP rules, 460 of the 561 ACOs or 82%, were not taking risk and had up to six years after initiating the ACO to begin taking risk. When the proposed Pathways to Success rules were released in December 2018, they originally had ACOs required to become risk-bearing within two-years of contracting -- but after the comments period, the final rule stated that ACOs are required to become risk-bearing within three years.

“While all ACOs are ultimately expected to transition to the ENHANCED track, ACOs deemed “low revenue” will be allowed additional time under lower-risk options within the BASIC track, while ACOs identified as “high revenue” will be required to transition to the ENHANCED track more quickly. Specifically, select low-revenue ACOs will now be able to stay under one-sided risk for three years - up from the proposed two-year limit - and in exchange will be required to move to Level E for the final two years of their 5-year agreement period.”

Thus, the maximum amount of time an ACO can remain in the BASIC Track for Levels A&B (no risk), is three years, and only certain types of ‘Low Revenue’ (mostly physician-owned) ACOs are allowed to be in BASIC A&B, while ‘High Revenue’ (mostly health system-owned) ACOs are required to participate in the ENHANCED track.

Table 1

		BASIC				ENHANCED
		Levels A & B (upside only)	Level C (two-sided)	Level D (upside only)	Level E (two-sided advanced APM)	Years 1-5 (two-sided; Advanced APM)
Shared Savings Rate		Up to 40%	Up to 50%	Up to 50%	Up to 50%	Up to 75%
Performance payment Limit		Not to exceed 10% of updated benchmark				Not to exceed 20% of updated benchmark
Shared Loss Rate		N/A	30%			40-75% shared loss rate
Loss Sharing Limit* (the lesser of...)	% of Parts A & B Revenue	N/A	Not to exceed 4%	Not to exceed 4%	Not to exceed % revenue specified by QPP	N/A
	% of Updated Benchmark				Capped at 1% point higher than normal amount standard	Capped at 15%

Source, Accountable Care Learning Collaborative's (ACLC) BASIC & ADVANCED Comparison

* Historically an MSSP ACO's financial loss exposure was based upon a percentage of its benchmark, which would make smaller, physician-led ACOs subject to unsustainable losses. To facilitate the movement toward downside risk for these participants, CMS finalized a new approach for determining a BASIC track ACO's loss limit, using the lesser of either a benchmark-based or revenue-based cap.

CMS Administrator, Seem Verma, made these comments in relation to the Pathways to Success updates:

- “After six years of experience, the time has come to put real accountability in Accountable Care Organizations. Medicare cannot afford to support programs with weak incentives that do not deliver value.”
- “ACOs can be an important component of a system that increases the quality of care while decreasing costs; however, most Medicare ACOs do not currently face any financial consequences when costs go up, and that has to change.” (ibid)

Additional updates of particular interest about the ACO Pathways to Success final rule:

- Beneficiary Notification each year: “ACO participants will be required to include information on voluntary alignment in the written notifications they must provide to beneficiaries. ACO participants would be required to provide such notifications during each beneficiary’s first primary care visit of each performance year, in addition to having such information posted in the ACO participant’s facility and available upon request, as currently required.”

Additional updates of particular interest about the ACO Pathways to Success final rule:

b. **Attribution Methodology** is complex for ACOs but generally involves how many times a beneficiary has had a visit to a primary care physician (PCP) that billed appropriate E&M code(s) in a trailing period of time. ACOs have the option under Pathways to Success, regardless of track or risk level, to be able to pick retrospective or prospective attribution at the start of each agreement period (five years), as well as to change that selection for each subsequent performance year. Most ACOs tend to favor the prospective method, as it allows greater predictability and targeted care management.

c. **Agreement Period** is defined by CMS under Pathways to Success for an ACO as five years. Current ACOs whose participation agreements do not expire at the end of 2018 will be allowed to either continue within their given track until the contract end or terminate their existing participation agreement effective June 30, 2019 to join the BASIC (if eligible) or ENANCED track on July 1, 2019.

d. **90 percent of ACOs are re-contracting:** Because of the dramatic changes to the program favoring financial risk over broad engagement, the proposed rule projected a significant drop in ACO participation over the coming years. Because of this, and in response to commenter feedback during the proposed rule period, CMS introduced several modifications in the final rule intended to improve the business case for certain ACOs to join or stay in the program. Such changes include higher shared savings rates, an additional risk-free year, and reduced weights on regional benchmark adjustments for select ACOs (ACLC, 2019). According to CMS, since these options were finalized, 90% of eligible ACOs have elected to extend their current contracts.

e. **Savings:** CMS projects that Pathways to Success will save Medicare \$2.2 billion over 10 years.

WHAT A BPCI-A EPISODE INITIATOR NEEDS TO KNOW**Fusion5 sees the Pathways to Success ACO rule updates as positive**

1. Requiring ACOs to become risk-bearing creates more interest in appropriate post-acute utilization
2. Risk-bearing ACOs have produced more substantial results for quality and cost than their non-risk bearing counterparts
3. CMS continues to show its flexibility to maximize the success of participants, including allowing ACO participants to change tracks, choose prospective or retrospective attribution methodology, creating a regional benchmarking, and allowing more use of beneficiary incentive waivers
4. ACO overlap and precedence complications with the BPCI-A model improve

Overlap of ACOs and BPCI-A: Precedence Rules Now More Favorable to BPCI-A

Fusion5 has been working closely with CMMI to develop an improved working model to address the overlap of ACO-aligned beneficiaries with BPCI Advanced episodes of care, and precedence rules that govern beneficiary attribution to each initiative/model under the new Pathways to Success model (see Table 2 below). We are pleased to report the following key points:

- For the remainder of 2019, the current rule remains in place that BPCI-A clinical episodes may not be initiated for beneficiaries assigned to a Next Gen ACO or Track 3 ACO. The beneficiary is not excluded from the BPCI-A data or having the ability to receive BPCI-A-derived incentives but will be excluded from the reconciliation process entirely.
 - However, and very significantly, beginning on January 1, 2019, BPCI-A clinical episodes will be initiated for beneficiaries assigned to a BASIC or ENHANCED ACO. Only beneficiaries aligned to Next Gen ACOs (NGACOs) will not initiate a BPCI-A clinical episode.
 - Bear in mind that NGACOs have a sunset date at the end of 2020, however, there is no indication from CMS whether the Next Gen program will be granted an extension, or whether they will simply have the option to transition into BASIC Level E or ENHANCED. It remains unclear what will occur when Next Gen ACOs sunset at the end of 2020.
- For the remainder of 2019, current precedence rules and episode timing will determine whether an ACO or BPCI-A will be attributed any specific episode of care.
 - If a beneficiary is aligned with a MSSP Track 3 with an acute-care (hospital) discharge date of Dec 31, 2019 or before, that episode of care will be attributed to the ACO model
 - However, BPCI-A episodes of care with acute-care discharge dates of 1/1/2020 or after and beneficiary alignment to a MSSP Track 3, BASIC, or ENHANCED ACO model will be attributed to BPCI-A
 - NGACOs will take precedence in both 2019 and 2020

Table 2

ACO Track	ACO and BPCI-A: Overlap & Precedence	
	2019	2020
1,2	BPCI-A has precedence	n/a, Tracks 1 & 2 retire
1+	BPCI-A has precedence	Track 1+ becomes BASIC Level E and BPCI-A has precedence
3	Track 3 ACO's have precedence	Track 3 becomes BASIC Level E and BPCI-A has precedence
BASIC (all levels)	BPCI-A has precedence	BPCI-A has precedence
ENHANCED	BPCI-A has precedence	BPCI-A has precedence
Next Generation	Next Generation ACo's have precedence	Next Generation ACo's have precedence

Tools to Identify an ACO-attributed Beneficiary

In the first quarter of 2019, CMS permitted Convener access to an ACO portal to check on beneficiary ACO alignment. Registration for this portal is a complicated, tedious process. The portal permits a query of a single beneficiary at a time requiring the full beneficiary name and Medicare ID number. Because of the search restrictions, portal queries are very time consuming. Fusion5 has worked on developing methods to perform limited batch processing, but all attempts have been severely constrained by the limitations of the CMS portal, including time-out errors. We have tested the process with Episodes Initiators (EIs) that have clearly defined ACO impact. While we can obtain beneficiary specific results, it remains unclear how frequently the portal information is updated, not how frequently queries should be made for a given beneficiary.

We also recognize that the recent addition of ACO alignment variables to the monthly data files (released for the first time in the data feed received in July 2019 (data through June 15, 2019)) has demonstrated more widespread ACO involvement than many EIs recognized previously. As a result, our intent is to provide useful information on ACO alignment in a timely manner to each EI as possible. Current portal limitations make this extremely difficult. We continue to investigate the process and work with CMS to improve the ACO query capabilities of the portal.

On a different note, you may know that CMS has a listing of ACOs available online. This listing historically is less than ideal as the update frequency and accuracy of the information is ill-defined. The information that can be gleaned gives the ACO name, main ACO address, and state(s) of participation. It does not indicate the areas within each state nor the participating PCP members and their locations. An additional complication with a general ACO lookup is that as a beneficiary travels (snowbirds are a perfect example) their ACO alignment remains. As such, a beneficiary that resides part-time in NY may be aligned to a NY ACO even when being seen for a procedure in FL.

Also remember that even when an ACO is present in a given market, not all beneficiaries will be aligned to the ACO, only those that have seen a participating member (usually a PCP) that billed appropriate E&M codes in the previous 9 months.

Use of BPCI-A Waivers and Case Management for ACO-attributed Beneficiaries

If you are a BPCI-A participating PGP, ACH, or Physician and you perform an active BPCI-A clinical episode procedure on an ACO-aligned beneficiary (MSSP Track 3, ENHANCED, or NGACO), the patient is not removed from the BPCI-A model but rather is simply removed from BPCI-A reconciliation (in 2020 this will only apply to NGACO). The implication here is two-fold:

- It is permissible to use BPCI-A beneficiary incentive waivers for that patient
- It is your discretion as to whether you provide case management for the patient

Next Generation ACOs as of 7/1/2019

For certain ACOs potentially adversely affected by the announcement of Pathways to Success in relation to their MSSP application cycle, CMS finalized a one-time July 1, 2019 agreement period start date in lieu of January 1, 2020. As such, Fusion5 has the list of 41 Next Generation ACOs as of 7/1/19, and that list may change in January 1, 2020, and will certainly change by January 1, 2021.

Below is the list of 41 Next Gen ACOs as of 7/1/2019**Bear in mind the State refers to their home office and not necessarily their practice area**

ACO Name	ACO Name
Arizona Care Network, LLC	AZ
HCP ACO California, LLC	CA
Prospect ACO Northeast, LLC	CA
Heritage California ACO	CA
APA ACO, Inc.	CA
Torrance Memorial Integrated Physicians, LLC	CA
Trinity Health ACO, Inc.	DE
Accountable Care Options, LLC	FL
Primary Care Alliance	FL
Best Care Collaborative	FL
UnityPoint Accountable Care, LCC	IA
St. Luke's Clinic Coordinated Care, LTD	ID
Deaconess Care Integration, LLC	IN
Indiana University Health	IN
Primaria ACO, LLC	IN
Franciscan Missionaries of Our Lady Health System Clinical Network	LA
Steward Integrated Care Network, Inc.	MA
Pioneer Valley Accountable Care, LLC	MA
Atrius Health, Inc.	MA
Reliant Medical Group, Inc.	MA
NEQCA Accountable Care, Inc.	MA
Henry Ford Physicians Accountable Care Organization, LLC	MI
Reliance Next Gen ACO, LLC	MI
Park Nicollet Net Generation Accountable Care Organization	MN
CoxHealth Accountable Care, LLC	MO
CHESS Health Solutions	NC
Triad HealthCare Network, LLC	NC
UNC Senior Alliance, LLC	NC
Montefiore ACO IPA	NY
CareMount ACO	NY
Accountable Care Coalition of Southeast Texas, Inc.	TX
UT Southwestern Accountable Care Network	TX
Accountable Care Coalition of Tennessee, LLC	TX
Revere Health	UT
Carilion Clinic Doctors Connected	VA
Mary Washington Health Alliance LLC	VA
NW Momentum Health Partners ACO, LLC	WA
ThedaCare ACO, LLC	WI
Bellin Health Partners, Inc.	WI
ProHealth Solutions, LLC	WI
UW Health ACO, Inc.	WI

Table 3, CMS List of 41 NGACOs as of 7/1/2019



Source: Centers for Medicare & Medicaid Services

Graph 1, CMS Map of 41 NGACOs as of 7/1/2019

SUMMARY



As Jerry Rupp, Fusion5 CIO noted, “CMS’ commitment to value-based payments and getting the industry there quicker is evident in its Pathways to Success ACO program, which frankly adds to the strength of BPCI-A programs.” Rupp also points out, “By having BPCI-A Episode Initiators have precedence over all ACO types in 2020 with exception of Next Generation ACOs, CMS is rightfully recognizing the valuable role specialist physicians play in advanced alternative payment models.”

For any questions on ACOs, please contact your Fusion5 Regional Team.

¹ <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/sharedsavingsprogram/about.html>

² Accountable Care Learning Collaborative (ACLC), “CMS Finalizes Pathways to Success and Posts 2017 NGACO Results,” Policy Brief, December, 2018’.

³ Ibid, ACLC, December 2018

⁴ <https://www.cms.gov/newsroom/press-releases/cms-proposes-pathways-success-overhaul-medicares-aco-program>

⁵ <https://www.federalregister.gov/documents/2018/08/17/2018-17101/medicare-program-medicare-shared-savings-program-accountable-care-organizations-pathways-to-success>

⁶ <https://www.cms.gov/newsroom/fact-sheets/final-rule-creates-pathways-success-medicare-shared-savings-program>

⁷ <https://www.cms.gov/newsroom/press-releases/cms-proposes-pathways-success-overhaul-medicares-aco-program>