Risks and Rewards of ACOs

Save to myBoK

By Timothy D. Martin

The Affordable Care Act of 2010 calls for the Centers for Medicare and Medicaid Services to create a Medicare "shared savings" program, which will encourage the development of accountable care organizations. ACOs will be eligible to receive additional payments if they meet predetermined quality and savings measures. The program begins January 2012.

This month CMS published a proposed rule establishing detail on how the program will work. This article describes the proposed rule's shared-savings payment and shared-loss risk provisions.

3 Years, 2 Tracks, 65 Measures

To qualify for shared saving under the proposed rule, an ACO must enter into a three-year agreement with CMS and must satisfy quality performance standards for each year. CMS has defined standards for the first year of an ACO's existence and will publish standards for years 2 and 3 in later rules.

The quality performance standard for the first year is "full and accurate measures reporting." Table 1 in the proposed rule lists 65 measures an ACO must report related to process, outcome, and patient experience of care (see page 19571). If an ACO reports all of these measures, it is eligible for full shared savings in the first year. Quality performance standards for later years may scale the amount of shared savings an ACO is eligible for based on the level of quality performance the ACO demonstrates.

The proposed rule outlines two ways for an ACO to participate in shared-savings initiatives. Track 1, also called the "one-sided model," begins as a no-risk shared-savings payment system. It offers a way for ACOs to get up to speed before they share financial risk. It does convert to a risk-sharing payment system in the third year. CMS will reconcile shared-savings payments annually for each of the first two years an ACO participates in track 1.

Track 2, or the "two-sided model," is a risk-sharing arrangement that requires an ACO to share its losses with the Medicare program from the first year of participation.

The proposed rule defines a number of key terms for ACO shared-savings payment and shared-loss recapture.

Expenditure Benchmark

The expenditure benchmark is the average amount CMS expects to pay in a year for each ACO-assigned beneficiary using the normal Medicare Parts A and B reimbursement mechanisms. The benchmark is unique to each ACO.

CMS will base the benchmark on the ACO's most recently available three years of claim data, heavily weighted toward the most recent years. CMS will adjust the benchmark appropriately to account for the beneficiaries' characteristics and the projected amount of absolute growth.

Minimum Savings Rate (MSR)

For an ACO to receive a payment for shared savings, its actual expenditures must be less than the expenditure benchmark by more than the minimum savings rate (MSR). The MSR is a percentage CMS uses to account for normal variations in expenditures. For ACOs participating in track 1, the MSR depends on the size of the ACO in the first two years of the agreement. Smaller ACOs must overcome a higher threshold, while large ACOs must overcome a smaller threshold.

At the lowest end (5,000–5,999 beneficiaries), the MSR ranges from 3.6 to 3.9 percent. At the high end (50,000 to 59,999 beneficiaries), the rate varies from 2 to 2.2 percent. At 60,000 beneficiaries or more, the rates is 2 percent. (For the complete intervals, see table 1, which is based on table 6 in the proposed rule.)

Table 1. Minimum Savings Rate (MSR) for Track 1 ACOs in First Two Years of Operation		
No. Beneficiaries	**MSR Lower Bound**	**MSR Upper Bound**
5,000 - 5,999	3.9%	3.6%
6,000 – 6,999	3.6%	3.4%
7,000 – 7,999	3.4%	3.2%
8,000 – 8,999	3.2%	3.1%
9,000 – 9,999	3.1%	3.0%
10,000 – 14,999	3.0%	2.7%
15,000 – 19,999	2.7%	2.5%
20,000 – 49,999	2.5%	2.2%
50,000 – 59,999	2.2%	2.0%
60,000 +	2.0%	
Based on table 6 of the proposed rule		

To determine the MSR for a particular ACO, CMS will use linear interpolation between the appropriate MSR lower bound and upper bound based on the exact number of beneficiaries assigned to the ACO. For example, an ACO with 5,500 beneficiaries would have an MSR of 3.75 percent and an ACO with 6,500 beneficiaries would have an MSR of 3.5 percent. Thus an ACO with 6,500 beneficiaries and an expenditure benchmark of $10,000 per beneficiary, the ACO's actual expenditures must be less than $9,650 per beneficiary for the ACO to experience any shared-savings payment.

For track-2 ACOs, the MSR is a flat 2 percent regardless of the number of beneficiaries.

Shared-Savings Threshold

For ACOs in track 1, CMS generally will not make a shared-savings payment on first-dollar savings. CMS will pay the ACO a percentage of savings only to the extent that the savings exceed another percentage called the shared-savings threshold.

The shared-savings threshold in track 1 is a flat 2 percent of the expenditure benchmark. Using the previous example of an ACO with 6,500 beneficiaries and an expenditure benchmark of $10,000 per beneficiary, the shared-savings threshold is $200. If the ACO's actual expenditures are $9,500 per beneficiary (which exceeds the MSR), the ACO is entitled to share a percentage of only $300 of the $500 saved per beneficiary.

However, a track-1 ACO can eliminate the shared-savings threshold and share in the entire amount of savings if it satisfies one of four conditions:

- the ACO comprises only ACO professionals in group practice or networks of individual practices;
- more than 75 percent of the ACO's beneficiaries live in counties outside Metropolitan Statistical Areas;
- more than 50 percent of the ACO's beneficiaries were assigned by critical access hospitals; or
- more than 50 percent of the ACO's beneficiaries had at least one visit to a federally qualified health center (FQHC) or rural health center (RHC) in the preceding year.

Because track-2 ACOs take on risk, they have no shared-savings threshold and are eligible to participate in first-dollar savings.

Sharing Rate

The amount of shared savings an ACO can realize is based on a percentage called a sharing rate. The sharing rate depends on how well the ACO measures up to quality performance standards.

In the first year of operation, this is simply a question of whether the ACO complied with "full and accurate measures reporting." CMS will publish quality performance standards for years 2 and 3 in later rules, and those standards may scale the sharing rate according to the ACO's performance.

For track-1 ACOs, the sharing rate for year 1 is 50 percent. Because CMS wants to encourage ACOs to take on risk and enroll in track 2, the sharing rate for track-2 ACOs in the first year is 60 percent.

In the above example of a track-1 ACO eligible to share in $300 of savings per beneficiary, the ACO is entitled to a shared-savings payment of $150 per beneficiary.

Sharing-Rate Adjustments

ACOs participating in either track 1 or track 2 can increase their sharing rate based on the number of beneficiaries who visit FQHCs or RHCs during the performance year.

Track-1 ACOs can increase their sharing rate by up to 2.5 percent, and track-2 ACOs can increase their rate by up to 5 percent. This maximum rate is reached when the percentage of beneficiary visits to FQHCs and RHCs reaches 41–50 percent. (Rates for all intervals are available in table 2, which is based on table 7 in the proposed rule.)

Thus it is possible for an ACO in track 1 to increase its sharing rate to 52.5 percent in the first two years of operation. Likewise, a track-2 ACO (or a track-1 ACO in its third year of operation) can increase its sharing rate to 65 percent.

Table 2. Sharing Rate Adjustments for ACOs in Track 1 and Track 2

% Beneficiaries with Visits to FQHCs or RHCs	Track 1 Increase in Sharing Rate	Track 2 Increase in Sharing Rate
1–10%	0.5%	1.0%
11–20%	1.0%	2.0%
21–30%	1.5%	3.0%
31–40%	2.0%	4.0%
41–50%	2.5%	5.0%

Based on table 7 of the proposed rule

Shared-Savings Cap

The proposed rule limits any shared savings payment made to an ACO based on a percentage of the ACO's expenditure benchmark, called the sharing cap or shared-savings cap. For track-1 ACOs, the sharing cap is 7.5 percent of the ACO's benchmark. Therefore, if an ACO's benchmark is $10,000 per beneficiary, the amount of any shared-savings payment to the ACO cannot exceed $750 per beneficiary. In track 2, the sharing cap is 10 percent of the ACO's benchmark—another incentive for ACOs to choose track 2 over track 1.

Shared-Savings Withhold

For ACOs in both tracks, CMS will withhold 25 percent of any shared-savings payment due to the ACO to recover any losses that may occur in later years. CMS will pay anything remaining from the withhold amount at the end of the three-year agreement term. For track-2 ACOs, the proposed rule implements other methods to ensure recovery of any losses, including the ability to recover losses from individual providers that belong to the ACO.

Minimum Loss Rate (MLR)

Sharing in a percentage of losses (actual expenditures that exceed the expenditure benchmark) applies only to ACOs participating in track 2 (and track-1 ACOs in their third year of operation). To trigger loss sharing, an ACO's actual expenditures per beneficiary must exceed the benchmark by a certain percentage called a minimum loss rate (MLR).

The proposed rule sets the MLR at a flat 2 percent. Thus if an ACO has an expenditure benchmark of $10,000, its actual expenditures must exceed $10,200 per beneficiary to trigger loss sharing. Further, there is no loss-sharing threshold, so an ACO that is liable for any losses must pay a percentage of first-dollar losses (that is, a percentage of all losses above the benchmark).

Loss Rate

The loss rate is the percentage an ACO must pay of the amount by which actual expenditures per beneficiary exceed the expenditure benchmark. There is no loss-sharing threshold, so a track-2 ACO (and a track-1 ACO in its third year of operation) must pay a percentage of the entire amount that exceeds the benchmark.

The loss rate is equal to 100 percent minus the final adjusted sharing rate. An ACO with a final sharing rate of 60 percent would have a loss rate of 40 percent. Thus if an ACO's benchmark is $10,000 per beneficiary, its final sharing rate is 60 percent, and its actual expenditures are $10,400 per beneficiary, it must pay CMS 40 percent of $400, or $160 per beneficiary.

Loss Cap

To soften the impact of loss-sharing risk, the proposed rule establishes a loss cap for each year of ACO operation. The loss cap is a percentage of the ACO's expenditure benchmark.

For ACOs participating in track 2, the loss cap is 5 percent of the benchmark in year 1. In year 2, the cap would increase to 7.5 percent, and in year 3, to 10 percent. For ACOs in track 1, the loss cap would apply to year 3, when it would be 5 percent (the same as the first-year cap for track 2).

Thus for a track-2 ACO with a benchmark of $10,000 per beneficiary, the maximum loss it could pay would be $500 per beneficiary in the first year of operation, $750 in the second year, and $1,000 in the third and final year.

Comparison of Track 1 and Track 2

As noted, CMS created two tracks to allow less-established and smaller entities to take advantage of the shared-savings program without initially taking on risk. However, it is offering greater rewards to participants that agree to share risks. It is up to organizations to do the math and make their own decisions. Table 3 (an elaboration of table 8 in the proposed rule), offers a side-by-side comparison of the two tracks to aid in that decision.

Table 3: Track 1 and Track 2 Comparison

Payment System Element	**Track 1 (Years 1 and 2)**	**Track 2 (All Years)** **Track 1 (Year 3)**
Expenditure benchmark	Determined from most recent 3 years of claim data available	Determined from most recent 3 years of claim data available
Quality performance standard for year 1 (other years TBD)	Full and accurate measures reporting	Full and accurate measures reporting
Minimum savings rate	Based on number of assigned beneficiaries: 5,000 – 5,999: 3.9 – 3.6% 6,000 – 6,999: 3.6 – 3.4% 7,000 – 7,999: 3.4 – 3.2%	2%

	8,000 – 8,999: 3.2 – 3.1% 9,000 – 9,999: 3.1 – 3.0% 10,000 – 14,999: 3.0 – 2.7% 15,000 – 19,999: 2.7 – 2.5% 20,000 – 49,999: 2.5 – 2.2% 50,000 – 59,999: 2.2 – 2.0% 60,000+: 2.0%	
Shared-savings threshold	2 % reduced to 0% if one of the following conditions is met: • ACO comprises only ACO professionals in group practice or networks of individual practices; • > 75% of ACO's beneficiaries live in counties outs ide Metropolitan Statistical Areas; • > 50% of the ACO's beneficiaries were assigned to it by critical access hospitals; or • > 50% of the ACO's beneficiaries had at least one vis it to an FQHC or RHC.	None
Sharing rate for year 1 (must comply with quality performance standard for year 1)	50%	60%
Sharing-rate adjustments (% of beneficiaries who visit FQHC or RHC and % adjustment	1 – 10%: 0.5% 11 – 20%: 1.0% 21 – 30%: 1.5% 31 – 40%: 2.0% 41 – 50%: 2.5%	1 – 10%: 1.0% 11 – 20%: 2.0% 21 – 30%: 3.0% 31 – 40%: 4.0% 41 – 50%: 5.0%
Shared-savings cap	7.5%	10%
Shared-savings withhold	25%	25%
Minimum loss rate	None	2%
Loss rate	None	100% – final sharing rate
Loss cap	None	Year 1: 5.0% Year 2: 7.5% Year 3: 10.0%
Based on table 8 of the proposed rule		

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Original source:
Martin, Timothy D. "Risks and Rewards of ACOs" (Journal of AHIMA website), April 2011.