NAACOS Essentials for MSSP Voluntary Alignment

In Brief: Effective beginning with performance year (PY) 2018, the Centers for Medicare & Medicaid Services (CMS) updated the Medicare Shared Savings Program (MSSP) assignment methodology to incorporate patient designations of their primary clinician through a process called voluntary beneficiary alignment. NAACOS has long advocated for CMS to incorporate voluntary alignment, and we were pleased that CMS finalized its decision to do so in the final 2017 Medicare Physician Fee Schedule. This process allows Medicare fee-for-service (FFS) beneficiaries to designate a primary clinician, and provided certain criteria are met, that designation will result in assigning the beneficiary to a particular ACO. Voluntary alignment will complement traditional claims-based assignment, which is driven by utilization of primary care services. Designation of a primary clinician for voluntary alignment is optional and is done through MyMedicare.gov. Voluntary alignment can help ACOs maintain a more stable beneficiary population and supports ACOs' efforts to increase patient engagement and coordinate care for their beneficiaries. Slides from a CMS presentation on voluntary alignment are available here.

Assignment Background: Assignment is a key program methodology used to identify the beneficiaries associated with an ACO and defines the population for which the ACO is held accountable. Beneficiary assignment lists are used for program operations such as developing quarterly program reports, determining the ACO's financial and quality performance, and determining whether an ACO is eligible to share in savings or losses. MSSP Track 1 and Track 2 utilize retrospective assignment while MSSP Track 1+, Track 3, and the Next Generation ACO Model use prospective assignment. Regardless of methodology, ACOs often experience changes over time in the beneficiaries for whom they are accountable. There are pros and cons of the assignment methodologies, which are detailed in our NAACOS resource, *The Impact of Retrospective Versus Prospective Attribution on Your ACO.*

Generally speaking, assignment is determined based on the plurality of primary care services, and the primary care codes and rules for MSSP assignment are detailed in CMS regulations. Other requirements detailed in Title 42 of the Code of Federal Regulations at §425.401(a) specify the criteria that must be met for a beneficiary to be assigned to an ACO, including that he or she:

- Has at least one month of Part A and Part B enrollment; and does not have any months of Part A only or Part B only enrollment.
- Does not have any months of Medicare group (private) health plan enrollment.
- Is not assigned to any other Medicare shared savings initiative.
- Lives in the United States or U.S. territories and possessions, based on the most recent available data in CMS beneficiary records regarding the beneficiary's residence at the end of the assignment window.

Timeline for Voluntary MSSP Alignment: CMS finalized its decision to incorporate voluntary alignment into the MSSP assignment methodology beginning with PY 2018. To be effective for PY 2018, a beneficiary must designate his or her primary clinician by October 31, 2017 and meet other criteria detailed below. Designations made after October 31 and before the fall 2018 deadline would be effective for PY 2019. CMS will determine the fall 2018 deadline at a later point but has stated it anticipates the deadline to be around late October each year.

Impact on Beneficiaries: It's important to note that voluntary alignment is optional for beneficiaries and does not affect their Medicare benefits or restrict their ability to choose a doctor in any way. Regardless of ACO assignment or designation of a primary clinician, Medicare FFS beneficiaries may continue to see any Medicare provider.

Voluntary Alignment Process: The functionality to designate a primary clinician was added to the MyMedicare.gov website in June 2017. If a beneficiary has existing favorite clinicians from the "My Health" web page on MyMedicare.gov, he or she can select "add as my primary clinician." If a beneficiary does not have a MyMedicare.gov account, one must be created. Beneficiaries can receive assistance with MyMedicare.gov, including help to set up an account and/or designate a primary clinician by calling 1-800-Medicare (1-800-633-4227). However, they cannot directly designate the primary clinician through the 1-800 number at this time, although CMS may allow that in the future. The My Medicare Help Page notes that a primary clinician is the healthcare provider that a beneficiary believes is responsible for coordinating his or her overall care. Once a beneficiary aligns to a qualifying clinician in an ACO, he or she will be assigned to that ACO until he or she removes the clinician as primary practitioner or he or she no longer meets the beneficiary eligibility assignment requirements or the requirements necessary for voluntary alignment.

It's important to note that beneficiaries who voluntarily align to an ACO participating in Track 1 or Track 2 will be prospectively assigned to that ACO for the entire performance year even if they would not be retrospectively assigned to the ACO under the claims-based assignment methodology or if they later align with another provider or supplier outside the ACO during the performance year. CMS notes that in such cases, the change in designation would be taken into account at the beginning of the next performance year. CMS also clarifies that the assignment methodology also applies to benchmarking years. Accordingly, when determining beneficiary assignment for a benchmark year, CMS will incorporate beneficiary designations that were in place during the assignment window for the benchmarking year.

Beneficiary Requirements for Voluntary Alignment: If a beneficiary designates an ACO professional that he or she believes is responsible for coordinating his or her overall care, the beneficiary will be assigned to the ACO in which that ACO professional is participating, as long as the following criteria are met:

- The beneficiary must have had at least one primary care service during the assignment window with a physician who is an ACO professional in the ACO and who is a primary care physician (as defined by the following specialty types: internal medicine, general practice, family practice, geriatric medicine, or pediatric medicine), or is a physician with one of the primary specialty designations included in §425.402(c).
- The beneficiary must have designated an ACO professional who is a primary care physician (as defined by the following specialty types: internal medicine, general practice, family practice, geriatric medicine, or pediatric medicine), is a physician with one of the primary

specialty designations included in §425.402(c), or is a nurse practitioner, physician assistant, or clinical nurse specialist as responsible for coordinating his or her overall care.
- The beneficiary must meet the assignment eligibility criteria listed above and must not be excluded by the criteria at §425.401(b).

If a beneficiary designates a physician in an ACO, but the beneficiary did not receive at least one primary care service during the assignment window from a physician in that ACO who meets the specialty criteria above, the voluntary alignment would not be used. Also, if a beneficiary designates an ACO professional whose specialty/provider type is not used in assignment, the voluntary alignment would not be effective. If a beneficiary designates a provider or supplier outside the ACO who meets the specialty/provider type requirement in the second bullet above as responsible for their overall care, the beneficiary will not be added to the ACO's list of assigned beneficiaries for a particular performance year.

Informing Beneficiaries about Voluntary Alignment: ACOs may reach out to beneficiaries to inform them about voluntary alignment. While ACOs are not required to do so, informing beneficiaries about the opportunity to designate their primary clinician will help ACOs benefit from the voluntary alignment process. As part of the ACO Marketing Toolkit, available on the MSSP portal, CMS has two voluntary alignment fact sheets – one to educate ACOs and one that ACOs can distribute to beneficiaries. *The 2018 Medicare and You Handbook* also includes information for beneficiaries about MyMedicare.gov and voluntary alignment.

ACO Compliance Considerations: CMS emphasizes that it does not intend for voluntary alignment to be used as a mechanism for ACOs to target beneficiaries for whose treatment the ACO might expect to earn shared savings or to avoid those for whose treatment the ACO might be less likely to generate shared savings. The agency will monitor implementation of voluntary alignment to prevent this from happening. CMS prohibits the ACO and its ACO participants, ACO providers/suppliers, ACO professionals, and other individuals or entities performing functions or services related to ACO activities from providing or offering gifts or other remuneration to beneficiaries as inducements to influence a beneficiary's decision to designate or not designate an ACO professional through voluntary alignment. CMS also notes that withholding or threatening to withhold medical services and limiting or threatening to limit access to care in relation to voluntary alignment decisions are all prohibited.

FAQs

Q: Can ACOs opt out of voluntary alignment?
A: No, ACOs cannot opt out of voluntary alignment. However, it is up to the ACO if it chooses to notify beneficiaries about the opportunity.

Q: Are there any limitations to the outreach ACOs can do, in terms of the number of times they can communicate and how they can contact beneficiaries?
A: CMS suggests ACOs use the beneficiary factsheet to notify beneficiaries of voluntary alignment. Other materials developed by an ACO need to go through the regular ACO marketing approval process. There are no specific restrictions on the number of times an ACO can reach out to beneficiaries about voluntary alignment.

Q: Will beneficiaries who voluntarily align be noted as such in MSSP program files sent to ACOs, such as the assignment reports or claim and claim line feed (CCLF) files?
A: CMS is considering options for identifying beneficiaries in ACO reports/files but has not yet determined how it will do that.

Q: What happens if a beneficiary selects a qualifying physician that practices in an TIN that that is part of an ACO and also practices at a TIN outside of the ACO?
A: Beneficiaries identify their primary clinician and in instances where the provider practices in multiple locations, the beneficiary will be required to designate the corresponding location at which the beneficiary sees that provider. That provider/address combination will be used for voluntary alignment, assuming other necessary criteria are met.

Q: Our ACO is still deciding what MSSP track to participate in for the next performance year or whether to participate in the Next Generation Model. What happens with voluntary alignment if we switch MSSP tracks or choose to participate in the Next Generation model?
A: Voluntary alignment will remain in effect for an ACO regardless of whether they switch MSSP tracks. Therefore, any qualifying designations made by October 31 would remain in effect regardless of track selection. Further, the Next Generation Model also has voluntary alignment and the designations made through MyMedicare.gov will be incorporated into that attribution methodology. More information on that is available in the Next Generation ACO Model Participation agreement, a sample of which is available here.

Should you have feedback on this resource or further questions, please contact us at advocacy@naacos.com.