



COVID-19 and ACOs Fact Sheet

In response to receiving a number of questions related to the COVID-19 pandemic, NAACOS has developed this fact sheet reviewing information on how ACOs may be affected by the spread of this virus.

How might ACOs be affected by the COVID-19 pandemic?

ACOs may see strains on the health system as patients present with COVID-19, particularly those ACOs located in areas with rapid community spread of the disease. Widespread shelter-in-place policies could cause disruptions in chronic care management or delays in care management generally, either of which create challenges in controlling spending and utilization during and after the pandemic.

How will emergency funding bills passed by Congress assist ACOs financially?

Congress has taken multiple steps to aide those in the health system who might be adversely impacted by the COVID-19 pandemic. On March 6, President Trump signed an [emergency appropriations package](#) that provides \$8.3 billion to federal, state, and local agencies to combat the coronavirus. Coronavirus Aid, Relief, and Economic Security ([CARES Act](#)), which was signed into law on March 27, allocated \$350 billion for a Paycheck Protection Program, providing small business zero-free loans. The [Paycheck Protection Program and Health Care Enhancement Act](#), enacted on April 24, replenished that pool of money. All pieces of legislation offered additional support for the health system, including money for testing, emergency response, and disaster relief. Congress has also granted \$175 billion in aid that doesn't have to be repaid to make up for lost revenue.

Can ACOs apply for accelerated and advanced payments through their MAC?

On April 26, the Centers for Medicare & Medicaid Services (CMS) said it [was suspending](#) and reevaluating its Accelerated and Advance Payment Program. The program, expanded by CMS on March 28 to a broader group of both Medicare Part A and Part B providers and suppliers, in order to increase cash flow to those affected by COVID-19. This provided expedited advance payments during the period of the public health emergency to any qualifying provider who submits a request to their Medicare Administrative Contractor (MAC). Most applicants were able to request up to 100 percent of the Medicare payment amount for a three-month period and up to a six-month period for certain acute care hospitals. CMS extended the repayment of these accelerated/advance payments to begin 120 days after the date of issuance of the payment. More information is available in the CMS [press release](#) and [fact sheet](#). Please note these advanced payments are for providers and suppliers, not ACOs and therefore payments would be made directly to the provider.

Can ACOs take advantage of small business loans from the CARES Act?

The [CARES Act](#) provided funding to small businesses to assist during the COVID-19 pandemic, including a Paycheck Protection Program (PPP), providing forgivable loans to qualifying small businesses of up to \$10 million. We believe many of the physician-led ACOs and some medical groups that are part of hospital-based ACOs will be eligible for these loans, they could provide up to eight weeks of payroll, rent, and

other expenses. These loan applications are being accepted through U.S. Small Business Administration (SBA) approved lenders. It appears that the lending banks will be requiring a previous business relationship to make the loan and some banks may not be lending as of this writing. It is advised that interested organizations contact their bank early, as the demand for the loans will be significant. The SBA's loan guidance and resources are available [here](#). Additionally, the SBA has made available the Economic Injury Disaster Loan Assistance (EIDL) program for small business owners providing up to \$2 million to qualifying applicants. The EIDL application is now open and can be accessed [here](#). Businesses are not eligible to receive both loans.

How will CMS help MSSP ACOs strained by the COVID-19 pandemic?

Currently, the Medicare Shared Savings Program (MSSP) has an extreme and uncontrollable circumstances policy in place that aims to provide support to ACOs affected by natural disasters and other uncontrollable circumstances. Under this policy, CMS will mitigate the amount of shared losses an ACO must pay back to CMS should it be affected by an extreme and uncontrollable circumstance by an amount determined by multiplying: (1) the percentage of the total months in the performance year affected by an extreme and uncontrollable circumstance and (2) the percentage of the ACO's assigned beneficiaries who reside in an area affected by an extreme and uncontrollable circumstance. In a March 30 [Interim Final Rule](#), CMS invoked the MSSP extreme and uncontrollable circumstances policy for the COVID-19 public health emergency. In this regulation, CMS specifies that CMS notes that 100 percent of assigned beneficiaries for all MSSP ACOs will be determined to reside in an affected area and the number of affected months will begin with March and continue through the end of the current public health emergency.

Note that current policy does not make adjustments to the benchmark or expenditures for higher than typical spending associated with such events. ACOs should not shoulder the costs of a global pandemic. NAACOS will continue to express concerns to CMS and also ask Congress to hold ACOs harmless from any losses incurred in the 2020 performance year. We are also asking that CMS not require ACOs to advance to new risk levels in 2021. We urge members to [share](#) this sentiment with your members of Congress to assist us in our advocacy efforts. Your voice matters! NAACOS will also submit a comment letter to CMS, and we encourage ACOs to also send comments in response to this interim final rule by the June 1, 2020 deadline. Comments may be submitted via [regulations.gov](#) and must be submitted no later than 5:00 p.m. EDT.

If an ACO is unable to report quality due to the extreme and uncontrollable circumstance, the ACO's quality score will be set to the mean quality performance score for all MSSP ACOs for the applicable performance year. However, if the ACO is able to completely and accurately report all quality measures, CMS will use the higher of the ACO's quality performance score or the mean quality performance score for all MSSP ACOs. In the March 30 Interim Final Rule, CMS notes they may consider making further changes to this policy for 2020 in future rulemaking. NAACOS is advocating for CMS to suspend all quality assessments in 2020 due to the impact of the COVID-19 pandemic

How will the Center for Medicare and Medicaid Innovation (CMMI) help Next Generation Model ACOs strained by the COVID-19 pandemic?

The Next Generation Model (NGACO) participation agreement states the following:

CMS may at CMS's sole discretion, retroactively modify the projected trend used in calculating the Performance Year Benchmark if CMS determines that exogenous factors, such as a natural disaster, epidemiological event, legislative change and/or other similarly unforeseen circumstance during the

Performance Year, renders the projected trend invalid for assessing the expected level of spending between the Base Year and Performance Year in the population of NGACO reference beneficiaries.

NAACOS is advocating for CMMI to make such adjustments given the widespread impact of COVID-19, an epidemiological event.

What will happen if my ACO is unable to report quality or MIPS data by the deadline due to shifting priorities and staff on quarantine/isolation?

As a result of NAACOS advocacy, CMS [announced](#) ACOs now have until April 30, 2020 to report 2019 quality data. Previously, ACOs were required to submit this data by March 31, 2020. Additionally, CMS has extended the Merit-Based Incentive Payment System (MIPS) reporting deadline to April 30 and those that do not submit *any* MIPS data by this time will qualify for the automatic extreme and uncontrollable circumstances policy and will receive a neutral payment adjustment for the 2021 MIPS payment year. This announcement comes after NAACOS and nine other healthcare organizations submitted a NAACOS-led [letter](#) to CMS requesting a delay of the upcoming deadline for 2019 reporting. NAACOS also asked for relief around participation in and data reporting options for 2020, and in this new announcement CMS noted they are evaluating options for providing relief around participation and data submission for 2020. NAACOS will keep members updated of any further changes as we continue our advocacy efforts to provide ACOs with relief from regulatory requirements due to COVID-19.

Additionally, the MSSP extreme and uncontrollable circumstances policy does have a provision that will assist ACOs who are unable to report quality in a qualifying event. In these cases, the ACO's quality score will be set to the mean quality performance score for all MSSP ACOs for the applicable performance year. However, if the ACO is able to completely and accurately report all quality measures, CMS will use the higher of the ACO's quality performance score or the mean quality performance score for all MSSP ACOs.

Will CMS/CMMI extend the 2021 MSSP/Direct Contracting application deadlines?

The 2021 MSSP application timeframes have not been extended and are available [here](#). However, CMS's and the broader health system's response to the COVID-19 pandemic is causing delays in application cycles for 2021 participation for multiple programs. As of April 24, sites to submit a notice of intent to apply for MSSP and a formal application for Direct Contracting are not yet open, despite having been scheduled to open on April 20 and March 31, respectively. This March, the Direct Contracting Application portal was briefly opened inadvertently. While open, the portal showed an application deadline of May 29 indicating the Innovation Center was extending the May 1 deadline. However, the portal was closed soon, and this Innovation Center [resource](#) still shows a May 1 application deadline for PY2021.

NAACOS is advocating for both CMS and CMMI to extend these deadlines given the widespread impact of COVID-19. ACOs will need this additional time so that resources are not diverted at this critical time. We know this lack of clarity or communication might cause frustration or anxiety for those anticipating applying for either program. NAACOS has reached out to staff at both the MSSP and CMMI, and we have been told the agency is working on new dates for the application period. CMS wants to align applications for the two as much as possible. We will share more information when it becomes available.

Has CMS expanded the use of the SNF 3-day payment rule waiver as a result of COVID-19?

As part of the emergency declaration issued on March 13, CMS is waiving Medicare's requirement that patients have a 3-day inpatient hospitalization prior to admission to a skilled nursing facility (SNF). This effectively makes the SNF 3-day waiver available to all Medicare providers and not just to ACOs who have applied for the waiver. Additionally, CMS is allowing SNF coverage for beneficiaries who have exhausted their SNF benefits, meaning these patients don't have to wait for a new benefit year.

How has CMS expanded the use of telehealth waiver as a result of COVID-19?

In multiple COVID-relief packages passed in March, Congress greatly expanded the telehealth services Medicare will cover during public health emergencies. This includes waiving restrictions on sites of care and geographic location, making the patient eligible to receive care in their home. CMS issued a list of [frequently asked questions](#), outlining what services are covered, what providers are eligible for the expanded telehealth opportunities, and how to bill for these services. Importantly, telehealth can be provided to both new and established patients, following additional changes from Congress. CMS also states telehealth can be performed on all patients, not just those with COVID-19. In a separate notice, the HHS Inspector General said it will allow healthcare providers [to reduce or waive](#) beneficiary cost-sharing for telehealth visits paid for by Federal health care programs. The OIG has also released a [fact sheet](#) providing more information on this change.

CMS also updated its [fact sheet](#) on various ways to use technology to treat patients, including through the use of “Virtual Check-Ins,” which are short patient-initiated communications with a healthcare practitioner, and “E-visits,” which are non-face-to-face patient-initiated communications through an online patient portal. Finally, as a result of the March 30 Interim Final Rule, CMS added about 80 additional telehealth-eligible services, including emergency department visits, initial nursing facility and discharge visits, and home visits. CMS will reimburse CPT codes 98966-98968 and 99441-99443, which pay for prolonged, audio-only communication between the practitioner and the patient. Clinicians will be paid for telehealth services at a “non-facility rate,” which yields a higher reimbursement for clinicians. CMS instructs clinicians who bill for Medicare telehealth services to report the point-of-service (POS) code that would have been reported had the service been furnished in-person. Additionally, CMS finalized on an interim basis the use of the CPT telehealth modifier, modifier 95, which should be applied to claim lines that describe services furnished via telehealth.

NAACOS has developed this [telehealth resource](#) to help ACOs better understand telehealth and will continue to update it as additional changes in Medicare policy are made. We are working with CMS to address topics that needs need help with, including being able to document hierarchical condition category risk scores in non-face-to-face visits, understand how to deliver annual wellness visits through telehealth, and clarify how telehealth visits will impact beneficiary assignment for ACOs.

Who can I contact to share more information on how COVID-19 is affecting my ACO?

To share more information regarding how COVID-19 is affecting your ACO, please email us at advocacy@naacos.com.

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