

American Benefits Council
NEWS RELEASE

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Council calls for agency action to ensure that
Accountable Care Organizations (ACOs) achieve goals

WASHINGTON, DC — "We are deeply disappointed that the final Accountable Care Organizations (ACOs) rules issued today by the Department of Health and Human Services (HHS) no longer call for up-front antitrust review before certain ACOs are allowed to participate in the new Medicare Shared Savings Program," said James A. Klein, President of the American Benefits Council, which represents companies that purchase health care services for tens of millions of Americans.

"The antitrust review process proposed earlier this year by the Federal Trade Commission (FTC) and the Department of Justice (DOJ) identified all the right reasons it is essential that ACOs not exert such undue market power that they could dictate higher prices to health care purchasers and consumers or restrict access to health care providers for Medicare beneficiaries," Klein said.

"The final rule includes a clear recognition that not all ACOs will benefit consumers and reinforces that existing antitrust rules will be vigorously enforced. But words alone will not be sufficient to ensure that consumers and purchasers are protected from unjustified price increases, lower quality care or restricted access to health care providers and services. It is now up to these agencies to act to ensure that anti-competitive structures or behavior do not become the legacy of the Medicare Shared Savings Program as it is launched later this year," noted Klein.

"The American Benefits Council strongly believes the Shared Savings Program has the potential to lead to more efficient, higher quality care. Success should not be measured by the number of ACOs selected in the first years of the program but, rather, on the program's ability to improve care, achieve savings and maintain healthy competition in the marketplace. We urge the government to act carefully as it considers which ACOs should participate in the Medicare program," Klein concluded.

Background:

As established under the Patient Protection and Affordable Care Act (PPACA), an ACO is an organization of health care providers that agrees to be accountable for the quality, cost, and overall care of Medicare beneficiaries who are enrolled in the traditional fee-for-service program.

Earlier this year, the Federal Trade Commission and Department of Justice jointly issued a proposed Statement of Enforcement Policy regarding ACOs participating in the Shared Savings Program. The statement addresses the application of the antitrust laws to health care collaborations among otherwise independent providers and provider groups, formed after March 23, 2010 (the date on which PPACA was enacted), that seek to participate, or have otherwise been approved to participate, as ACOs. On May 31, the American Benefits Council filed comments with DOJ and FTC applauding their work in helping to ensure that competition and antitrust concerns are appropriately brought to bear for accountable care organization initiatives.

For more information, or to speak with Council staff on implementation of the health care law, please contact the Council switchboard at 202-289-6700.

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The American Benefits Council is the national trade association for companies concerned about federal legislation and regulations affecting all aspects of the employee benefits system. The Council's members represent the entire spectrum of the private employee benefits community and either sponsor directly or administer retirement and health plans covering more than 100 million Americans.

<http://www.americanbenefitscouncil.org/issues/health/healthcarereform.cfm>