

FOR IMMEDIATE RELEASE

October 20, 2011

Contact: David Kinsman, (202) 261-4554
dkinsman@acponline.org
Jacquelyn Blaser, (202) 261-4572
jblaser@acponline.org

American College of Physicians Applauds CMS's Improved Shared Savings Program

The American College of Physicians (ACP) today applauded CMS for making substantial improvements in its long-awaited Final Rule on Accountable Care Organizations (ACOs). Based on its initial, preliminary analysis, ACP concluded that the changes will make it easier for internal medicine physician specialists and other primary care physicians to participate in this important effort to improve patient care through efforts to organize an ACO or serve as a practice in one of these efforts. Many of the changes made in comparison to the proposed rule are consistent with comments submitted by ACP in response to the proposed rule:

- **Less burdensome reporting requirements:** The required number of data measures has been reduced from 65 measures in 5 domains to 33 measures in 4 domains. A phase-in approach for implementing these measures is included. ACP had expressed concern that the original proposal would have imposed an unworkable burden of reporting on physicians participating in ACOs, which would especially act as a barrier to participation by physicians in smaller practices.
- **Electronic medical records would be encouraged but not mandated:** Electronic Health Record systems will not be a requirement for participation, but is included as a quality measure.
- **Opportunities for physicians and other providers to share in savings without being at risk for losses:** The inclusion of a true one-sided, upside-only track in which physicians and other providers will only share in savings and would not be "at risk" for sharing in losses. A second two-sided track, similar to that proposed in the proposed rule, would allow for both sharing in both saving and losses. The percentage of obtained saving potentially available to the ACO would be higher under the two-sided track option.
- **Physicians will know in advance which of their Medicare patients are being attributed to the ACO, so that they work with those patients as true partners in achieving better outcomes:** Beneficiaries would be attributed to the ACO on a prospective rather than a retrospective basis.
- **Recognition of the role of internal medicine subspecialists in providing primary care:** In situations in which a beneficiary has not received their primary care services from a defined primary care physician, attribution can be linked to any other ACO professional that provides a plurality of primary care services. This reflects recognition that certain specialty/subspecialty providers do provide primary care services to some Medicare beneficiaries.

Other improvements in the ACO rule include: Primary care physicians used for attribution can participate in more than one ACO, rather than being limited to a single ACO under certain conditions, and ACOs will be able to get "first dollar" payments for achieving minimum quality thresholds.

CMS today also proposed several other initiatives to reduce barriers to physician participation in shared savings models:

Advanced Payment Initiative: ACP commended CMS for creating an Advanced Payment Initiative through the Innovation Center to assist specified groups in obtaining the necessary capital to participate in the ACO program through the receipt of upfront front bundled payments and monthly upfront payments. These advanced payments will be recouped from the ACO's earned shared saving distributions, and participating ACO will not be liable to repay Medicare if their earned shared savings do not equal the advanced payments provided by CMS and they complete the full, initial agreement period of their ACO involvement. This Advanced Payment Initiative helps to recognize the problem of limited available capital for small and medium sized physician groups attempting to organize an ACO.

Anti-trust barriers: In addition, the administration has offered needed guidance from the Department of Justice and Federal Trade Commission regarding ACO participation within the CMS Shared Saving Programs. CMS and the HHS Office of the Inspector General also released an Interim Final Rule that waives provisions of the Physician Self-Referral Law, the Federal anti-kickback statute, the Civil Monetary Penalty (CMP) law prohibiting hospital payments to physicians to reduce or limit services (the Gainsharing CMP), and the CMP law prohibiting inducements to beneficiaries (the Beneficiary Inducements CMP) to ACO's approved under the Medicare Shared Savings ACO program.

Finally, ACP noted that today's release of a multi-pronged strategy to broadly encourage adoption of the ACO shared savings model follows on the heels of the **Comprehensive Primary Care Initiative** recently announced by CMS. This bold program will create a critical mass of payers-Medicare, private health insurers, and Medicaid-to support and sustain primary care practices that have transformed care and demonstrated the capability to improve care coordination and other elements of patient-centered care.

ACP will be doing a more complete analysis of the Medicare ACO Final rule and related releases and will have a more detailed reaction in the near future.

The American College of Physicians (www.acponline.org) is the largest medical specialty organization and the second-largest physician group in the United States. ACP members include 132,000 internal medicine physicians (internists), related subspecialists, and medical students. Internists specialize in the prevention, detection, and treatment of illness in adults. Follow ACP on Twitter (www.twitter.com/acpinternists) and Facebook (www.facebook.com/acpinternists).

Bob Doherty
Senior Vice President
Governmental Affairs and Public Policy
American College of Physicians
Direct phone: 202-261-4530

Address:
American College of Physicians
25 Massachusetts Avenue, NW Suite 700
Washington, D.C. 20001

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