



**MLN Connects<sup>®</sup>**

*National Provider Call*

**Medicare Shared Savings Program  
Listening Session: Proposed Rule on Revised  
Benchmark Rebasing Methodology  
CMS-1644-P**

March 3, 2016



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# Agenda

- Introduction
- Segment I - Feedback on proposals for incorporating regional Fee-For-Service (FFS) expenditures into the methodology for resetting the Accountable Care Organization's (ACO's) historical benchmark
- Segment II - Feedback on other proposed revisions, including a streamlined approach to adjusting the ACO's benchmark for changes in its composition of ACO participants, an additional option to facilitate ACOs' transition to performance-based risk and administrative finality of financial calculations

# Segment I: Proposed Revisions to Benchmark Rebasing Methodology

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Note: The proposed rule includes proposed changes to the regulations not reviewed in this presentation

# Proposals for Use of Regional FFS Expenditures in Resetting ACO Historical Benchmarks

We propose the following changes, to be applied in resetting an ACO's benchmark for a second or subsequent agreement period beginning on or after January 1, 2017:

- Make an adjustment when establishing the ACO's rebased historical benchmark, to reflect a percentage of the difference between the regional FFS expenditures in the ACO's regional service area and the ACO's historical expenditures. A higher percentage will be used in calculating this adjustment to the ACO's rebased historical benchmark for the ACO's third agreement period and all subsequent agreement periods.
- Replace the national trend factor with regional trend factors for establishing the ACO's rebased historical benchmark, and remove the adjustment to explicitly account for savings generated under the ACO's prior agreement period.
- Annually, update the rebased benchmark to account for changes in regional FFS spending, replacing the current update, which is based solely on the absolute amount of projected growth in national FFS spending.

# Proposals for Regional Definition

- We propose to define an ACO's regional service area to include any county where one or more assigned beneficiary resides.
- We also propose to include the expenditures for all assignable FFS beneficiaries residing in those counties in calculating county FFS expenditures by enrollment type (ESRD, disabled, aged/dual, aged/non-dual) that will be used in the ACO's regional cost calculations. Assignable beneficiaries are all beneficiaries residing in the county who are eligible for ACO assignment.
- We propose to weight county-level FFS expenditures by the ACO's proportion of assigned beneficiaries in the county when calculating an ACO's regional service area expenditure amount.

# Proposals on Calculating Factors Based on National FFS Expenditures

- We are also proposing a program-wide change, to use all assignable beneficiaries instead of all FFS beneficiaries as the basis for program calculations using national FFS expenditures, including:
  - Completion factors
  - Truncation thresholds
  - Growth rates used for trending benchmark expenditures
  - Annual benchmark update

# Table: Characteristics of Current and Proposed Benchmarking Approaches

Source of Methodology	Agreement Period	Historical Benchmark Trend factors (Trend BY1, BY2 to BY3)	Adjustment to the historical benchmark for regional FFS expenditures (percentage applied in calculating adjustment)	Adjustment to the historical benchmark for savings in prior agreement period?	Adjustment to the historical benchmark for ACO Participant List changes	Adjustment to historical benchmark for health status and demographic factors of performance year assigned beneficiaries	Update to historical benchmark for growth in FFS spending
Current Methodology	First	National	N/A	N/A	Calculated using benchmark year assignment based on the ACO's certified ACO Participant List for the performance year	Newly assigned beneficiaries adjusted using CMS-HCC model; continuously assigned beneficiaries adjusted using demographic factors alone unless CMS-HCC risk scores result in a lower risk score	National
	Second and subsequent	National	N/A	Yes	Same as methodology for first agreement period	Same as methodology for first agreement period	National
Proposed Rebasing Methodology	Second (third for 2012/2013 starters)	Regional	Yes (35 percent)	No	ACO's rebased benchmark adjusted by expenditure ratio*	No change	Regional
	Third and subsequent (fourth and subsequent for 2012/2013 starters)	Regional	Yes (70 percent unless the Secretary determines a lower weight should be applied, as specified through future rulemaking)	No	Same as proposed methodology for second agreement period	No change	Regional

\* Proposed adjustment to the historical benchmark for ACO Participant List changes using an expenditure ratio would be a program-wide change applicable to all ACOs including ACOs in their first agreement period. As part of the proposed rebasing methodology, the regional adjustment to the ACO's rebased historical benchmark would be recalculated based on the new ACO Participant List.

# Segment II: Other Proposed Revisions

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Note: The proposed rule includes proposed changes to the regulations not reviewed in this presentation

# Proposals to Adjust Benchmarks for Changes in ACO Participant Composition

- We propose program-wide application of a streamlined approach to adjusting an ACO's historical benchmark at the start of each performance year for changes in its ACO participant TIN composition finalized before the start of that year.
- Adjustment would use an expenditure ratio calculated for a single year that accounts for differences in the ACO's assigned population determined based on its prior and current participant composition.
- This proposed approach replaces the current approach requiring recalculation of an ACO's three-year average per capita historical benchmark if the ACO changes its ACO participant TIN composition during the prior performance year.

# Proposals for Facilitating Transition to Performance-Based Risk

- We propose to provide an additional option for ACOs participating under Track 1 to apply to renew for a second agreement period under a two-sided model (Track 2 or Track 3):
  - Eligible ACOs would be approved to renew for a second agreement period under a two-sided model (including meeting requirements for establishing a repayment mechanism)
  - The ACO would remain in their existing Track 1 agreement for an additional year and we would defer rebasing the ACO's benchmark for one year
- Proposal does not replace the current option for eligible ACOs to continue participation in Track 1 for a second 3-year agreement period.

# Proposals for Administrative Finality of Financial Reconciliation Calculations

- We propose to further define timeframes and other criteria for reopening of a determination of ACO shared savings or shared losses to correct financial reconciliation calculations, including:
  - (1) Limiting re-openings to not later than four years after the date of the notification to the ACO of the initial determination of shared savings or shared losses for the performance year for good cause;
  - (2) Reserving the right to reopen a payment determination, at any time in the case of fraud or similar fault.

# Reminder – Submit Comments by March 28

- Comments must be received no later than 5 p.m. eastern time, on March 28, 2016.
- Instructions for submitting comments can be found in the proposed rule; FAX transmissions will not be accepted. You must officially submit your comments in one of the following ways:
  - electronically through Regulations.gov
  - by regular mail
  - by express or overnight mail
  - by hand or courier
- When commenting refer to file code CMS-1644-P.

# Resources

- Access the proposed rule through the Federal Register  
<https://www.federalregister.gov>
  - For example, search by CMS-1644-P
- Shared Savings Program website  
<https://www.cms.gov/sharedsavingsprogram>:
  - News and Updates webpage contains a Fact Sheet and Press Release on the proposed rule.
  - Statutes / Regulations / Guidance webpage includes links to data sources to facilitate analysis of the proposed modifications to the benchmark rebasing methodology
- For further information contact us at [aco@cms.hhs.gov](mailto:aco@cms.hhs.gov)

# Acronyms in this Presentation

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- ACO – Accountable Care Organization
- CMS – Centers for Medicare & Medicaid Services
- FFS – Fee-For-Service
- TIN – Taxpayer Identification Number

# Thank You

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