

TMA'S Health REFORM School

Survive and Thrive in the New Health Care Landscape



Six Important Points Every Physician Should Consider About Medicare ACOs

My concern is that doctors are rushing, are being enticed, into systems that won't protect them or their patients. I'm afraid physicians who act too early could harm their practice and patients.
— Susan Rudd Bailey, MD, TMA President

The new health care law establishes a new breed of health care delivery system called the accountable care organization (ACO). There are many different descriptions of ACOs floating around. Loosely defined, a Medicare “shared savings ACO” is a collaboration of physicians and health care providers that accepts accountability for the costs and quality of a defined population, such as Medicare, Medicaid, or commercial health plan patients. Conceptually, an ACO should be designed to reduce costs while improving quality by weaning physicians and providers from uncoordinated fee-for-service care. New and future payment models for ACOs may pair fee-for-service payments with incentives, such as bundled payments, partial capitation, or some combination of payment models.

Most ACOs envisioned today share these elements:

- **Cost control:** accountability for the quality and cost per patient participating in the ACO;
- **Risk:** ability to prospectively establish the organization's budget and resource needs;
- **Data collection:** ability to measure performance and use the results to drive improvement;
- **Managed patient care:** capability to provide or manage patient care across a continuum of settings; and
- **New payment models:** willingness to implement payment incentives that reward health care quality improvement, efficiency, effectiveness, and timeliness.

Sound familiar? It should. Most of these features were central to the health maintenance organization or delegated provider networks that rose up in Texas in the 1990s. Many went bankrupt as a result of insufficient capitation rates, the unfulfilled promise of additional clinical reporting, and inadequate management tools.

Even though the new health law is extremely murky on exactly how the Medicare shared savings ACOs work, many hospitals and physicians already are rushing to form collaborations. **Be wary and be informed. The Texas Medical Association strongly suggests that you take the time to learn about these systems, and understand their differences and what they could mean to your practice and your patients, before you sign any agreements. Even though no one knows precisely how ACOs will work, TMA does know a few facts.**

For starters, the new law is crystal clear on these facts about Medicare shared savings ACOs:

1. What can you do if you disagree with the government's decision about whether your ACO is eligible to share in any savings?
NOTHING. The law specifically prohibits any administrative or judicial appeals of this decision.
2. What can you do if you disagree with the amount of shared savings the government decides to pay you for your patients under an ACO?
NOTHING. The law specifically prohibits any administrative or judicial appeals of this decision.
3. What can you do if you disagree with the Medicare patients the government assigns to your care under an ACO?
NOTHING. The law specifically prohibits any administrative or judicial appeals of this decision.
4. What can you do if you disagree with the measurements the government plans to use to determine the quality of care you provide to your patients under an ACO?
NOTHING. The law specifically prohibits any administrative or judicial appeals of this decision.
5. What can you do if you disagree with the government's assessment of the quality of care you are providing to your patients under an ACO?
NOTHING. The law specifically prohibits any administrative or judicial appeals of this decision.
6. What can you do if the government terminates the ACO from participating in the shared savings program?
NOTHING. The law specifically prohibits any administrative or judicial appeals of this decision.

For more about ACOs and the latest Medicare rules and regulations, see the Health System Reform Action Center at texmed.org/ACO.

CAUTION: Treat any ACO agreement you sign as if it were binding. Before signing any legal document, to ensure your rights are protected, seek advice from your retained legal counsel.

