



February 13, 2020

Ms. Seema Verma
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, DC 20201

Re: Request to Remove New Beneficiary Notification Requirements for ACOs

Dear Administrator Verma:

The National Association of ACOs (NAACOS) appreciates the opportunity to raise an important regulatory issue affecting our members. As you are aware, as a result of the Pathways to Success rule, ACOs must now comply with new beneficiary notification requirements. This notification is intended to inform patients of the ACO's mission and work, however in reality serves no benefit to the patient and instead creates confusion and results in unnecessary regulatory burden and costs for the ACO. NAACOS has previously requested the agency remove the beneficiary notification requirement, and **we are requesting that CMS do so effective for 2020 and subsequent years. If the agency deems it is necessary to go through rulemaking, we urge CMS to include this issue in the 2021 Medicare Physician Fee Schedule, which is typically developed by CMS staff early in the year for the following year.**

Beneficiary notifications were required as part of the Medicare Shared Savings Program (MSSP) in the early years of the program. Due to the administrative burdens and operational complexity caused by the notifications, CMS later reversed this policy and removed the notification requirement. Since then, CMS has reintroduced the requirement with new specifications per the Pathways to Success rule. Given that some ACOs began participating in the new Pathways to Success program structure in mid-2019, these ACOs have just sent notifications to patients late last year and must now re-send the notification again for 2020. This is duplicative, has an enormous cost and has created confusion among both ACOs and the patients they serve.

As a result of the notifications, some beneficiaries choose to opt-out of data sharing without understanding what the data sharing process entails. This makes it difficult for ACOs to coordinate and manage patients' care and can result in harm. If CMS feels it is necessary to inform patients about ACO goals and objectives beyond the posted notices that are already a requirement of the MSSP, NAACOS feels it is more appropriate for the payer (CMS) to issue such notifications. This would also remove the duplicative nature of the requirement. Currently, ACOs report that some patients receive multiple notifications from multiple ACOs, again adding to the confusion created for the patient. This often results in patients calling ACOs directly to better understand the intent of the letter; this creates backlogs and hold times for clinicians often at the beginning of the year (flu season) when offices should be focused on clinical care.

The administration has touted its objective to reduce regulatory burdens; removing the beneficiary notification would reduce enormous amounts of time and money associated with implementing this flawed requirement that was already removed once before due to the confusing nature of the requirement and associated time and costs. This added expense is creating an increase in the cost of delivering care without adding any value for the patient or CMS. We thank you for your attention to this matter and we again request that you remove the beneficiary notification requirement for all ACOs as soon as possible.

Sincerely,

A handwritten signature in black ink, appearing to read 'Clif Gaus', with a long horizontal flourish extending to the right.

Clif Gaus, Sc.D.
President and CEO
National Association of ACOs