



July 14, 2016

Patrick Conway, MD
Deputy Administrator for Innovation & Quality CMS Chief Medical Officer
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244

Dear Deputy Administrator Conway,

The National Association of ACOs (NAACOS) writes this letter in response to recent recommendations that CMS move quickly to implement additional mandatory bundled payment models under the current Administration. The prevalence of Medicare bundled payment programs has grown considerably in the last few years, creating conflicts when patients attributed to an ACO are also evaluated under a bundled payment program.

Under current CMS policy, a bundled payment participant maintains financial responsibility for the bundled payment episode of care. Any gains or losses during that episode are linked to the bundled payment participant and are removed from ACO results during year-end financial reconciliation. When CMS calculates an ACO's shared savings the spending for ACO patients with an episode of care provided by a bundled payment participant is set to that bundler's target price, regardless of actual spending. Target prices based on higher cost baselines arbitrarily raises an ACO's performance cost and removes their saving opportunity. At the same time, certain ACOs can benefit from bundled payment program overlap if a bundle target price is lower than the ACO's actual spending. While this impact may be favorable or unfavorable for a particular ACO depending on their costs relative to those of the bundlers in their market, the net effect skews accountability for population-based models and in general undermines ACOs' opportunity for savings through care redesign since any savings would automatically go to the bundler.

The problem is further exacerbated by the fact that the 60 to 90-day patient episode of care is carved out of the ACO's provider network and there are no requirements for the bundler to transition the patient or their medical records back to the ACO to which they are assigned. CMS argues that prioritizing bundled payment programs helps assure adequate sample size for bundlers. However, much of the variation in per-episode spending is a result of utilization of post-acute care or readmissions, both of which ACOs are often instrumental in managing or preventing. ACOs focus on, and make considerable investments in care coordination and improving care transitions to manage post-acute care effectively. Many successful ACOs credit these efforts for allowing them to achieve shared savings. What's more, bundled payment models focus solely on per-unit costs rather than total cost thereby leaving the very important issue of volume unaddressed.

CMS also does not provide opportunities for Medicare ACOs to formally share savings with bundlers, nor does the agency properly incentivize ACOs and bundlers to partner in coordinating beneficiary care. In

fact, the rules guiding shared savings in the bundled payment programs such as Bundled Payments for Care Improvement (BPCI) and the Comprehensive Care for Joint Replacement (CCJR) specifically preclude an ACO from receiving payments for savings achieved in the bundled payment programs. While the agency encourages collaboration, it has not required nor given proper incentives for bundled payment participants to enter into agreements with ACOs. Many ACOs report significant challenges negotiating arrangements with bundled payment participants, who have little incentive to do so. Unless bundled payment participants and ACOs sign collaborative agreements, ACO patients' care should not be included in bundles.

CMS policy should promote the growth of population-based payment models that take responsibility for the entirety of patients' care needs and invest in care coordination throughout the year, thus reducing costly care such as avoidable hospitalizations. We urge CMS to take immediate action to give priority to population-focused health care and exclude ACO beneficiaries from bundled payment programs unless a collaborative agreement exists between the bundler and the ACO. ACOs and bundled payment participants must coordinate care and medical information of the patients they serve. While bundled payments may be able to deliver savings over the short term, placing an emphasis on programs that do not address volume or total cost of care could undermine the success of ACOs in the long term.

Due to the problems detailed above, we also ask CMS to refrain from implementing any new voluntary or mandatory bundled payment programs until and unless the aforementioned issues can be resolved. ACOs are at a critical turning point. With the implementation of the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) accelerating the proliferation of new and innovative payment models, CMS must take action to avoid competing priorities and problems that exist when multiple programs overlap. We urge CMS to prioritize population-based payment models like the Medicare Shared Savings Program (MSSP) and Next Generation ACO (NGACO) Models, as this is the greatest opportunity to focus on total cost of care and truly transform how health care is delivered.

Sincerely,



Clif Gaus
President and CEO
National Association of ACOs