



NAACOS Essentials for MSSP Voluntary Alignment

In Brief: The Medicare Shared Savings Program (MSSP) allows fee-for-service (FFS) beneficiaries to designate a “primary clinician” of their choice through a process called voluntary alignment. Provided other criteria are met, patients’ designations result in prospective assignment to the ACO in which their selected practitioner participates, supplementing traditional claims-based assignment. Designation is optional and done through [MyMedicare.gov](https://www.medicare.gov). Voluntary alignment first became an option for performance year 2018.

NAACOS long [advocated](#) for CMS to incorporate voluntary alignment and was pleased the Centers for Medicare & Medicaid Services (CMS) finalized its decision to do so in the final 2017 Medicare Physician Fee Schedule. CMS, as required by the Bipartisan Budget Act of 2018 (BBA), adjusted the voluntary alignment process starting in performance year 2019 to allow beneficiaries to select any ACO professional, regardless of specialty, as his or her primary clinician. Voluntary alignment can help ACOs maintain a more stable beneficiary population and supports ACOs’ efforts to increase patient engagement and coordinate care for their beneficiaries.

Assignment Background: Assignment is a key program methodology used to identify the beneficiaries associated with an ACO and defines the population for which the ACO is held accountable. Beneficiary assignment lists are used for program operations such as developing quarterly program reports, determining the ACO’s financial and quality performance, and determining whether an ACO is eligible to share in savings or losses. CMS’s final [Pathways to Success regulation](#) gives ACOs the option to annually select prospective or retrospective assignment. Regardless of methodology, ACOs experience changes over time in the beneficiaries for whom they are accountable. There are pros and cons of the assignment methodologies, which are detailed in our NAACOS [resource](#), *The Impact of Retrospective Versus Prospective Attribution on Your ACO*.

Generally speaking, assignment is determined based on the plurality of primary care services. The specific primary care codes and rules for MSSP assignment are detailed in CMS [regulations](#). Other requirements detailed in Title 42 of the Code of Federal Regulations at [§425.401\(a\)](#) specify the criteria that must be met for a beneficiary to be assigned to an ACO, including that he or she:

- Has at least one month of Part A and Part B enrollment; and does not have any months of Part A only or Part B only enrollment.
- Does not have any months of Medicare group (private) health plan enrollment.
- Is not assigned to any other Medicare shared savings initiative.
- Lives in the United States or U.S. territories and possessions based on the most recent available data in CMS beneficiary records regarding the beneficiary's residence at the end of the assignment window.

Timeline for Voluntary MSSP Alignment: While beneficiaries can designate a “primary clinician” at any time through [MyMedicare.gov](https://www.mymedicare.gov), voluntary alignment for performance year assignment will be based on beneficiary designations through September 30 of the prior calendar year, per [CMS guidance](#). That means, for example, a beneficiary designation made on Oct. 1, 2021 will not be prospectively assigned to an ACO until performance year 2023.

Impact on Beneficiaries: It’s important to note that voluntary alignment is optional for beneficiaries and does not affect their Medicare benefits or restrict their ability to choose a doctor in any way. Regardless of ACO assignment or designation of a primary clinician, Medicare FFS beneficiaries may continue to see any Medicare provider.

Voluntary Alignment Process: The functionality to designate a primary clinician was added to the [MyMedicare.gov](https://www.mymedicare.gov) website in June 2017. If a beneficiary has existing favorite clinicians from the “My Health” web page on MyMedicare.gov, he or she can select “add as my primary clinician.” If a beneficiary does not have a [MyMedicare.gov](https://www.mymedicare.gov) account, one must be created. Beneficiaries can receive assistance with [MyMedicare.gov](https://www.mymedicare.gov), including help to set up an account and/or designate a primary clinician by calling 1-800-Medicare (1-800-633-4227). The My Medicare Help Page notes that a primary clinician is the healthcare provider that a beneficiary believes is responsible for coordinating his or her overall care. Once a beneficiary aligns to a qualifying clinician in an ACO, he or she will be assigned to that ACO until he or she removes the clinician as primary practitioner or he or she no longer meets the beneficiary eligibility assignment requirements. CMS has created [this resource](#) to help beneficiaries select a primary clinician.

Beneficiary Requirements for Voluntary Alignment: The BBA changed the voluntary alignment process by requiring that CMS allow beneficiaries to select any ACO professional, regardless of specialty, as his or her primary clinician starting January 1, 2019. The policy was finalized in the 2019 Medicare Physician Fee Schedule. Previously, CMS required the designated ACO professional be a primary care physician, a physician with a specialty designation specified in [§425.402\(c\)](#), a nurse practitioner, physician assistant, or clinical nurse specialist.

If a beneficiary selects a practitioner, that patient is eligible for prospective assignment to the ACO in which the practitioner is an ACO professional, unless the beneficiary is excluded by the criteria set forth in [§425.401\(b\)](#). Despite NAACOS objections, CMS aligns the beneficiary to the ACO in which the clinician participates even if the beneficiary does not receive primary care services from an ACO professional within a 12-month window. Previously, beneficiary must have had at least one primary care service during the assignment window with a physician who is an ACO professional in the ACO. But the BBA changed ACO assignment by removing the primary care service requirement and allowing beneficiaries to select any ACO professional, regardless of specialty, as his or her primary clinician.

However, CMS will not voluntarily align a beneficiary to the ACO when the beneficiary is also eligible for assignment to an entity participating in a demonstration or program operated through the CMS Innovation Center under which assignment is based solely on claims other than primary care services.

Annual Election of Assignment Methodology: Under the Pathways to Success structure of MSSP, ACOs are allowed to annually change their patient assignment methodology from prospective to retrospective assignment or vice versa. However, CMS states this annual selection has no effect on the voluntary alignment process because beneficiaries who designate a primary clinician are prospectively assigned to that ACO.

CMS clarifies that the assignment methodology also applies to benchmarking years. Accordingly, when determining beneficiary assignment for a benchmark year, CMS incorporates beneficiary designations that were in place during the assignment window for the benchmarking year.

Informing Beneficiaries about Voluntary Alignment: As part of CMS's revised policies on beneficiary notification, effective beginning July 1, 2019 ACOs are required annually to inform beneficiaries of their option to voluntarily align with a clinician. This information must come at or before the first primary care visit of each performance year along with notification of ACO providers and suppliers participating in the MSSP and beneficiaries' opportunity to opt out of claims data sharing. ACOs must inform patients by posting signs in its facilities and through a standardized written notice. ACOs selecting prospective assignment only have to send written notices to prospectively assigned patients, while ACOs selecting retrospective assignment must send notices to all FFS beneficiaries. Voluntary alignment factsheets are available as part of the ACO Marketing Toolkit on the MSSP portal. The [Medicare and You Handbook](#) also includes information for beneficiaries about MyMedicare.gov and voluntary alignment.

ACO Compliance Considerations: CMS emphasizes that it does not intend for voluntary alignment to be used as a mechanism for ACOs to target beneficiaries for whose treatment the ACO might expect to earn shared savings or to avoid those for whose treatment the ACO might be less likely to generate shared savings. The agency is monitoring implementation of voluntary alignment to prevent this from happening. CMS prohibits the ACO and its participants and other individuals or entities performing functions or services related to the ACO from providing or offering gifts or other remuneration to beneficiaries as inducements to influence a beneficiary's decision. ACOs are also not allowed to provide front-desk technology to assist seniors with completing voluntary alignment. CMS notes that withholding or threatening to withhold medical services and limiting or threatening to limit access to care in relation to voluntary alignment decisions are all prohibited.

FAQs

Q: Can ACOs opt out of voluntary alignment?

A: No, ACOs cannot opt out of voluntary alignment.

Q: Are there any limitations to the outreach ACOs can do, in terms of the number of times they can communicate and how they can contact beneficiaries?

A: CMS suggests ACOs use the [beneficiary factsheet](#) to notify beneficiaries of voluntary alignment. ACOs are to include information about voluntary alignment through the annual beneficiary notification effective beginning July 1, 2019. Other materials developed by an ACO need to go through the regular ACO marketing approval process. There are no specific restrictions on the number of times an ACO can reach out to beneficiaries about voluntary alignment.

Q: Are beneficiaries who voluntarily align noted as such in MSSP program files sent to ACOs, such as the assignment reports or claim and claim line feed (CCLF) files?

A: Yes. There is a column noting beneficiaries who voluntarily align in the assignment reports provided to MSSP ACOs. The voluntary alignment flag in this report indicates whether the beneficiary was voluntarily aligned to the ACO.

Q: What happens if a beneficiary selects a clinician that practices in a TIN that is part of an ACO and also practices at a TIN outside of the ACO?

A: In instances where the clinician practices in multiple locations, the beneficiary is required to designate the corresponding location at which the beneficiary sees that clinician. That provider/address combination is used for voluntary alignment, assuming other necessary criteria are met.

Q: What happens if a beneficiary selects a physician with a specialty designation not used in assignment and therefore can participate in multiple ACOs because they aren't subject to CMS's "exclusivity" rule?

A: If a selected primary clinician participates in multiple ACOs, CMS will determine where the beneficiary received the plurality of their primary care services from ACO professionals under a claims-based methodology. If the beneficiary did not receive the plurality of their primary care services from professionals in either ACO, CMS will not assign the beneficiary to either ACO. However, consistent with § 425.402(c)(2)(iv), CMS will honor the beneficiary's selection of a primary clinician and will not align the beneficiary to another ACO in which their primary clinician is not participating.

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Q: If a beneficiary designates a clinician very early in the performance year, for example in March, will they be prospectively assigned to our ACO for that year?

A: Beneficiaries can change their designation at any time through MyMedicare.gov. CMS states in the final 2019 Medicare Physician Fee Schedule that their new choice will be incorporated when the agency creates assignment for the subsequent performance year.

Q: Our ACO is still deciding what MSSP track to participate in for the next performance year. What happens with voluntary alignment if we switch MSSP tracks?

A: Voluntary alignment remains in effect for an ACO regardless of whether they switch MSSP tracks.

Should you have feedback on this resource or further questions, please contact us at advocacy@naacos.com.