

Prepping for ACO REACH MODEL Compliance

Performance Year 2025





Housekeeping

- Speakers will present for approximately 45 minutes
- Q&A will take the remainder of time
- Webinar is being recorded
- Slides and recording will be available on the NAACOS website within 24 hours.

Kimberly Busenbark

- After beginning her career in Medicare Advantage compliance, Kimberly began working with ACOs during the first wave of the Medicare Shared Savings Program and started Wilems Resource Group in 2015. Since then, WRG has continued to grow, and has helped more than 80 ACOs across the country remain compliant and be successful within CMS value-based models and programs
- Kimberly is a graduate of Texas A&M University, where she received a Bachelor's of Business Administration in Marketing and Management, and of The University of Houston Law Center, where she received her Juris Doctorate before being admitted to the State Bar of Texas.
- Email: kwilems@wilemsrg.com



Questions & Answers



- To ask a question:

- To submit a written question, you can write in the Questions tab on your dashboard at any time.
- To ask a live question, you can use the “raise hand” feature on your dashboard. Please make sure you are dialed in on a telephone and have connected using the audio pin so that we can unmute your line. Your name will be called when it is your turn to ask a question.

How to Survive a Virtual Compliance Session

- Find your comfy pants and refill your coffee
- Laugh if Kimberly makes a joke, be sure to unmute your mic
- Try not to get too paranoid
- Please ask questions or make comments
- Doodle on your checklist
- **Help us! Join the discussion!**

BEFORE



AFTER



ACO REACH Compliance Program Requirements

REACH ACOs are required to have a Compliance Program containing the following 5 elements:



Compliance
Official

Mechanisms for
Identifying Issues

Compliance
Training

Method for
Anonymous
Reporting

Requirement for
Reporting
Violations of Law

Element 2: Mechanisms for Identifying Issues

CHECK COMPLIANCE BOXES

- ☐ Creation of a Formal Compliance Plan
- ☐ Adoption of Compliance and Operations Policies & Procedures
- ☐ Effective Annual Compliance Training for Related Individuals
- ☐ Anonymous Reporting – Hotline or Online Tool
- ☐ Data Use Requirements
- ☐ Marketing Material Compliance
- ☐ Development of a Monitoring and Oversight Program
- ☐ Annual Reviews and Updates

ACO Real World Compliance Checklist **WILEMS**
resource group

This checklist can serve as a guide for your organization as you work through the implementation and maintenance of your ACO's Compliance Program. However, no reference tool can ever be completely comprehensive and use of this tool can never take the place of reading all relevant guidance and regulations.

GOVERNANCE

- ☐ Develop Governing Body
 - ☐ Medical Director
 - ☐ Medicare Beneficiary Representative
 - ☐ 75% Voting Control by ACO Participants
 - ☐ "Meaningful Representation" from each Participant
- ☐ Create Organizational Chart
 - ☐ ACO Executive, Medical Director, & Compliance Officer report directly to Gov. Body
 - ☐ Clear reporting lines from individuals and Sub-Committees to Governing Body
- ☐ Create Conflict of Interest Policy & Collect Acknowledgement forms
- ☐ Create & Approve Committee Charters
- ☐ Conduct & Document Quarterly Sub-Committee & Governing Body Meetings
- ☐ Retain ACO Operating Agreement, Executed Participation Agreements, and BAAs
- ☐ Define, Update, & Manage ACO-MS Contacts (e.g., Compliance Contact)

GENERAL COMPLIANCE

- ☐ Create & Approve Compliance P&Ps and Compliance Plan
- ☐ Create, Distribute, & Audit New Hire and Annual Compliance Training
- ☐ Create, Document, & Conduct Monitoring and Oversight Activities
- ☐ Determine & Launch a Method for Anonymous Reporting (i.e. hotline, web form)
- ☐ Review & Document Utilization of FWA Waivers and Benefit Enhancements

MARKETING/NOTIFICATIONS

- ☐ Create, Document, & Implement a Marketing Material Review Process
- ☐ File Marketing Materials with CMS for Approval
- ☐ Update & Launch the Public Reporting Webpage
- ☐ Document & Distribute Beneficiary Notifications and ACO Office Posters
- ☐ Document & Distribute Benefit Enhancement Communications; if applicable

OPERATIONS

- ☐ Create & Approve Operations P&Ps required under § 425.112
- ☐ Create, Document, & Implement an OIG/GSA Screening Process
- ☐ Track Annual and New Hire Compliance Training
- ☐ Submit & Maintain DUA Addenda
- ☐ Document & Manage ACO-MS User Access

Review of Compliance Documents



- ❑ Compliance Plan – Summary Document approved by Governing Body Annually
- ❑ Committee Charters
- ❑ Data Use Documentation
- ❑ Compliance Work Plan – deliverables and due dates
- ❑ Compliance Monitoring Plan – detailed plan for the ACO's Monitoring Program
- ❑ Policies & Procedures – Detailed documents demonstrating compliance with each required element
 - Key Policy Updates for PY25:
 - General updates for language changes in the Model Participation Agreement for PY25
 - Governance
 - New High Needs Exception
 - Financial Guarantee
 - Removes ability to hold more than one repayment mechanism
 - Beneficiary Notifications:
 - New Exceptions for Beneficiaries who fall off prior to April 30th

Building a PY25 Monitoring Program



- ☐ Beneficiary Notifications
- ☐ Governance & Leadership Requirements
- ☐ Compliance with Policies & Procedures
- ☐ Compliance Training
- ☐ Data Compliance
- ☐ Marketing Material Compliance
- ☐ Public Reporting
- ☐ Waiver Usage
- ☐ BE/BEI Usage
- ☐ Testing Anonymous Reporting Tool
- ☐ CEHRT Usage



PY25 Red Flags, Changes & What to Do About Them

- Governance & Leadership
- Beneficiary Notifications
- CEHRT Usage
- Voluntary Alignment
- 3 Day SNF Waiver

Updates: High Needs ACO Exception

High Needs ACOs experiencing extreme hardship in finding a Beneficiary Representative may request an exception from CMS.

- Must provide an alternative mechanism to ensure the ACO considers consumer and patient perspectives
- CMS will attempt to approve or deny within 30 days



Red Flag: Governance & Leadership

Ensure the Governing Body meets all requirements:

- ☐ Ultimate Authority
 - At least quarterly meetings
- ☐ 75% control by Participants
 - Meaningful Participation
 - Duty of Loyalty
- ☐ Transparent Governing Process
 - Availability of Minutes & Record Retention
- ☐ Conflict of Interest policy, including resolution process
 - Annual attestation of conflicts prior to the start of the Performance Year
- ☐ Medical Director and Executive with experience and authority with no conflicts of interest
 - Governing Body must have authority for approval/removal of Executive
 - Medical Director must be a:
 - Participant in the ACO
 - Board Certified and Licensed in a State in which the ACO operates
 - Physically present in a clinic or office of the ACO

Cover Your Audit: Governance and Leadership

- CMS increased oversight of Governance and Leadership in SSP and ACO REACH for PY2024
- Do not forget Governing Body members when setting up exclusion screening and training processes
 - Consider in-person training for Governing Body
- Monitor for COI completions in Q4 each year
- Ensure minutes are kept for each meeting to prove compliance with the following:
 - Beneficiary involvement
 - “Ultimate Authority” requirement
 - Reporting by Compliance Officer
 - Meaningful representation



Cover Your Audit: Governance and Leadership

- Policies and Procedures can help ensure requirements are not forgotten when changes are made
 - Include requirements to update 4i and public disclosure within 30 days
- Ensure Bylaws and P&Ps clearly document authority, reporting requirements and transparency



Update: Beneficiary Notifications



- ❑ CMS codified the exception granted in PY24
 - ACOs are no longer required to provide the Beneficiary Notification to those who fall off the alignment roster between January 1st and April 30th

- ❑ CMS clarified requirements for notifications to Beneficiaries in the event an ACO terminates from the Model
 - Must send notification of termination to all aligned Beneficiaries

Cover Your Audit: Beneficiary Notifications

- Document 2 attempts for each Beneficiary
- Prepare ACO-Related Individuals *before* Beneficiary Notifications are distributed
- Build record keeping at the individual-level for notifications
 - Initial attempt methodology and date
 - Second attempt methodology and date
- Be particularly careful with in-office processes
- Monitor regularly in the ACO's quarterly monitoring plan



Update: CEHRT Usage

- ❑ Beginning in PY25, REACH ACOs must attest that 100% of Participants are utilizing CEHRT systems in compliance with BASE requirements.
- ❑ How to Monitor – Request Screenshots of:
 - Product and Version Number in Use
 - Provider Name shown in system (select sample from provider/supplier list)
 - Tie in with Roster Management Oversight
 - The product ONC Number which can be found here: <https://chpl.healthit.gov/#/search>

Base Electronic Health Record (EHR) Definition

The Base Electronic Health Record (EHR) definition provides a baseline assurance that certified health IT has been developed to possess, at a minimum, a key set of capabilities as outlined below.

Base EHR Definition – Certification Criteria Required to Satisfy the Definition	
Base EHR Capabilities	Certification Criteria Final Rule Compliance Date
Includes patient demographic and clinical health information	Patient demographics and observations § 170.315(a)(5) Implantable device list § 170.315(a)(14)
Capacity to provide clinical decision support	Clinical decision support § 170.315(a)(9) (expires January 1, 2025) <u>or</u> Decision support interventions § 170.315(b)(11)
Capacity to support physician order entry	Computerized provider order entry § 170.315(a)(1), (2) or (3)
Capacity to capture and query information relevant to health care quality	Clinical quality measures – record and export § 170.315(c)(1)
Capacity to exchange electronic health information with, and integrate such information from other sources	<ul style="list-style-type: none">• Transitions of care § 170.315(b)(1)• Application access – patient selection § 170.315(g)(7)• Application access – all data request § 170.315(g)(9)• Standardized API for patient and population services § 170.315(g)(10)• Direct Project § 170.315(h)(1) <u>or</u> Direct Project, Edge Protocol, and XDR/XDM § 170.315(h)(2)
The requirements of the Base EHR Definition can be met using one Certified Health IT Module or a combination of Certified Health IT Modules.	

Red Flag Voluntary Alignment



PY24 “Clarifications” from CMS contrasted previous informal guidance.



ACO may version SVA Forms at the Practice or Provider level.

CMS has a strong preference for Provider level versioning.

This may create more risk of inaccurate forms being completed.



ACO must be able to document the tie between:

The Beneficiary and the Provider

The Provider and the Practice

Cover Your Audit: Voluntary Alignment

Document relationship between provider and practice:

- TIN Level Written Arrangement
- Employment/Contract Documentation

Document relationship between provider and Beneficiary

- Provider assignment in CEHRT
- EMR/Claim with date matching SVA Form or multiple visits
- Processes documented in Policies and Procedures

Training on Valid Forms:

- Beneficiary Name
- Unique Identifier (DOB, MBI or SSN)
- Signature
- Provider/Practice

Consider pre-population of SVA Forms to prevent errors

- Beneficiary or Representative **must** complete the signature and date

Consider adding Beneficiary Representative documentation on your SVA Forms

Be particularly careful with in-office processes

Monitor regularly in the ACO's quarterly monitoring plan



Update: SNF 3-Day Waiver



- ❑ CMS updated the language in the SNF 3-Day Waiver Benefit Enhancement to remove the ability for an ACO Participant to accept a 3 Day Waiver Referral. Only Preferred Providers are included in the waiver.
- ❑ What to do?
 - ❑ Review SNF Waiver Usage to determine Participant Referrals, if any
 - ❑ Update P&Ps to reflect the language changes
 - ❑ Update work plans and train Participants on the changes to ensure appropriate referrals
 - ❑ Why? Inappropriate referrals are not reimbursed by CMS and must not be sought from the Beneficiary

Feeling Overwhelmed?

There are several resources available to help you navigate compliance.

- ❑ **NAACOs Compliance Manual:** template policies & procedures covering requirements specific to the Shared Savings Program
- ❑ **CMS Communications**
 - Newsletters are a great way to avoid missing deadlines and identifying holes in P&Ps
 - Utilize your CMS Coordinator
 - FAQs and other communications – usually released in the Spotlights/Newsletters
- ❑ **NAACOS Online Library**



- ❑ **Wilems Resource Group:**
 - Free resources online at wilemsrg.com
 - Quarterly newsletter
 - LinkedIn

Final Comments

The webinar recording and slides will be available at <https://www.naacos.com/on-demand-webinars> within 24-hours. THANK YOU!

Kimberly is ready to answer your questions!



Disclaimer: This is not Kimberly Busenbark of Wilems Resource Group. This is Leslie Knope of Parks & Rec who we like to believe was speaking about compliance when she eloquently said, “one person’s annoying is another’s inspiring and heroic”.

Contact Us

NAACOS

Elizabeth Holder

support@naacos.com

202.640.1850

Wilems Resource Group, LLC

Kimberly Busenbark

kwilems@wilemsrg.com

713.829.0882