April 20, 2026

Chris Klomp
Deputy Administrator and Director of Medicare
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services

RE: Holding ACOs Harmless for Egregious Skin Substitute Spending

Dear Deputy Administrator Klomp,

The National Association of ACOs (NAACOS) appreciates your attention to the challenges posed by increased skin substitute spending and fraud, waste, and abuse in the Medicare program. We applaud you for protecting participants in the Accountable Care Organization Realizing Equity, Access, and Community Health (ACO REACH) Model by removing 90 percent of skin substitute spending, as well as ensuring all ACOs are not penalized by fraudulent activity related to wound dressings, orthotics, and catheters. Additionally, we appreciate that you finalized payment policy that will prevent bad actors from providing inappropriate care to beneficiaries and increasing the cost of care. **We now ask that the Centers for Medicare & Medicaid Services (CMS) ensures that ACOs in the Medicare Shared Savings Program (MSSP) who are negatively impacted by egregious skin substitute spending are not financially penalized.**

NAACOS is a member-led and member-governed nonprofit of nearly 500 accountable care organizations (ACOs) and value-based care entities in Medicare, Medicaid, and commercial insurance working on behalf of health care providers across the nation to improve the quality of care for patients and reduce health care costs. Collectively, our members are accountable for the care of more than 10 million beneficiaries through Medicare's population health-focused payment and delivery models, including MSSP and REACH.

The year-over-year increase of skin substitute spending – $1.6 billion in 2022, $4.5 billion in 2023, $9.9 billion in 2024, $16.4 billion in 2025 – can largely be explained by the CMS payment methodology that allowed suppliers to set increasingly higher average sales prices for products with similar clinical value. While we understand that only a portion of the increased spending can be attributed to improper claims, we remain concerned that CMS' policies to hold ACOs harmless for fraud, waste, and abuse only accounts for confirmed fraud and does not address areas of waste and abuse also outside of the ACOs' control. CMS notes that "that the vast majority of ACOs (over 90 percent) will perform the same or better with skin substitute expenditures included in financial calculations."

We believe that appropriate policy would ensure that all ACOs are neither harmed nor helped by improper payments. In particular, the remaining ACOs who will "see a small reduction in shared savings payments or a small increase in shared losses" should be protected. **ACOs that are smaller and serving patients with complex and high needs are experiencing the most significant adverse impacts because**

they serve a disproportionate share of beneficiaries targeted by bad actors. [1] Failure to protect these ACOs creates distrust of the model and discourages ACOs from managing complex populations, a stated CMS goal. We recommend the following actions to protect ACOs.

Proactively support ACOs in pursuing reopening determination related to skin substitutes. CMS notes that ACOs may request a reopening of an initial determination, or a final agency determination, signaling that this may be an approach for impacted ACOs to request relief. However, the reopening determination puts the onus on ACOs to prove the payments are improper. And, even when CMS has confirmed improper payments, the agency retains full discretion whether to reopen settlement. CMS should do more to support ACOs with identification and removal of improper skin substitute payments.

First, we know that some skin substitute payments were fraudulent. For example, the owners of Apex Medical, LLC, were sentenced to prison and ordered or pay $614 million and $605 million, respectively, for a $1.2 billion fraud scheme[2]. Known fraudulent claims for skin substitutes should be removed from ACO expenditures.

Second, beyond known fraudulent claims, CMS' definition of improper payment and how skin substitutes would apply is unclear. CMS should work with stakeholders to establish a set of parameters for how it defines and identifies improper payments for skin substitutes. This could include claims associated with skin substitute application to a Medicare beneficiary enrolled in hospice or who died within 14 days of the date of service.

Consider additional approaches to remove skin substitutes from MSSP. In recognition that the increased skin substitute billing does not meet the criteria for SAHS, we previously recommended that CMS explore approaches to reduce the impact through policies that mitigate the increased costs without fully removing all costs, such as a code-specific truncation factor. For the ACO REACH program, CMS is employing this concept in removing 90 percent of skin substitute expenditures. CMS notes that capping an assigned beneficiary's annualized expenditures at the 99th percentile of national Medicare fee-for-service (FFS) per capita expenditures for assignable beneficiaries removes 65 percent of skin substitute expenditures for MSSP ACOs. However, CMS does not provide rationale for removing 90 percent in one program and just 65 percent in another. For MSSP, CMS should consider setting a cap on the total amount of skin substitutes billed for a beneficiary in a calendar year and use this as a proxy for wasteful and harmful spending.

Fix the Accountable Care Prospective Trend. As currently structured, unreliable prospective trend adjustments unreasonably hold ACOs accountable for CMS' forecasting errors of Medicare cost trends. This results in significant financial harm for ACOs. In 2025 the Accountable Care Prospective Trend (ACPT) dramatically underestimated cost growth – 5.1 percent for the 2025 contract class of new and renewing ACOs compared to actual spending growth of 6.83 percent – resulting in $702 million in losses for ACOs. Moreover, the ACPT does not account for unpredictable spending associated with fraudulent, wasteful, and abusive practices. CMS should reweight the ACPT to zero for all MSSP participants in 2025 and establish guardrails for future years to provide predictability.

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[1] https://www.naacos.com/wp-content/uploads/2025/11/Data-Brief-Impact-of-Rising-Skin-Substitute-Costs-on-ACOs.pdf

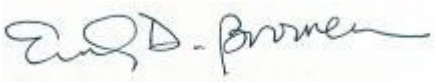
[2] https://www.justice.gov/opa/pr/arizona-couple-pleads-guilty-12b-health-care-fraud

Improve Policies to Protect ACOs from Fraud, Waste, and Abuse. Finally, we reiterate our calls to improve the policies that protect ACOs from fraud, waste and abuse outside of their control. The current polices are inadequate as they do not account for regionalized instances of fraud, they do not account for waste and abuse (as in the case of skin substitutes), and the reopening process is slow and creates uncertainty regarding funds to reinvest in care and physician payment. We ask that CMS:

- Implement standardized reporting pathways and a consistent feedback loop, including acknowledgment of fraud submissions and status updates. Timely notification of high-confidence fraud would allow ACOs to act more quickly to protect beneficiaries and limit improper payments.
- Remove claims that are not fully adjudicated, such as those held in escrow, from ACO financial calculations.
- Remove suspected improper or fraudulent claims from ACO financial calculations. These include claims submitted by vendors under investigation, claims from vendors referred to law enforcement, or claims for which there is no referring provider.
- Improve data sharing to help ACOs identify improper payments, including when suppliers are removed from the program.
- Adapt the SAHS policy to account for regionalized instances of fraud, and areas of waste and abuse that results from known bad actors.

Thank you for your consideration in ensuring that ACOs remain viable amid fraudulent and wasteful spending by bad actors. NAACOS and its members are committed to providing the highest quality care for patients while advancing population health goals for the communities they serve. We look forward to our continued engagement in sustaining accountable care. If you have any questions, please contact Aisha Pittman, senior vice president of government affairs at NAACOS at aisha_pittman@naacos.com.

Sincerely,



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