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MSSP Performance Results Indicate Another Successful Year

On August 30, 2022, the Centers for Medicare & Medicaid Services (CMS) released the financial and quality performance results for the Medicare Shared Savings Program (MSSP) Performance Year (PY) 2021.[1] The results revealed net savings of $1.66 billion for Medicare, marking the fifth consecutive year of savings.[2] In total, 58% of MSSP accountable care organizations (ACOs) achieved savings as a result of their performance.[3] This Health Capital Topics article will discuss the 2021 performance results, which are being released on the eve of seismic changes to the MSSP.

By way of background, ACOs participating in the MSSP must enroll in a specific track (either the *Basic Track* or the *Enhanced Track*), with each track corresponding to a different level of risk.[4] The *Basic Track* is divided into five track levels: A, B, C, D, and E.[5] Track levels A and B are one-sided risk models, while the two-sided risk models begin with Level C and progressively increase in risk (as well as in potential shared savings) with each track level.[6] Newly participating ACOs that enroll in the *Basic Track* can begin in any of the track levels, but will automatically progress to the next track level each year.[7] The only exception to this is that newly participating, low-revenue ACOs[8] are permitted to remain enrolled in *Basic Track –Level B* for an additional year, provided that they agree to skip to *Basic Track –Level E* in their fourth year of participation.[9] As of January 2022, the MSSP includes over 525,000 clinicians providing care to over 11 million Medicare beneficiaries.[10] It is CMS's goal for 100% of Traditional Medicare beneficiaries to be assigned to an ACO by 2030.[11]

For 2023, CMS proposed a number of updates to the MSSP in an effort to combat stagnant growth in the program over the past few years. If finalized, these updates will "represent some of the most significant reforms since the final rule that established the program was finalized in November 2011 and ACOs began participating in 2012."[12] First, in order to provide smaller providers with no previous ACO experience more time to acclimate to two-sided risk, CMS proposes extending the amount of time during which these providers may participate in those one-sided shared savings models. If finalized, these ACOs would be able to spend up to seven years in track levels A or B.[13] Second, in furtherance of its focus on health equity,[14] CMS proposes incorporating advance shared savings payments (a $250,000 one-time payment and quarterly payments for two years thereafter based on "enrollee neediness") to low-revenue ACOs, which can be used to address social needs of Medicare beneficiaries.[15] For example, the funds could be used to improve provider infrastructure, increase staffing, or care for underserved enrollees.[16] These funds would then be repaid to CMS through the ACO's shared savings (if it earns any). If finalized, this will be one of the first times traditional Medicare payments would be permitted for such uses.[17] Third. CMS proposes fixing "glitches" in the MSSP's benchmarks that make it progressively harder to top the previous year's metrics. Toward that end, the agency proposes adding a prospective (rather than an historical) external factor, and including a prior savings adjustment in historical benchmarks. CMS also proposes reducing the cap on negative regional adjustments, from 5% to 1.5% of national per capita expenditures, for Parts A and B services.[18] In total, these proposed updates could result in an additional $650 million in shared savings payments to ACOs and a $15.5 billion decrease in benefits spending (as a result of savings from efficiency).[19]

The PY 2021 performance results found that 99% of MSSP ACOs met the program's quality standards last year.[20] Perhaps as a testament to the program, MSSP ACOs achieved higher average quality scores than non-MSSP participants. Notably, MSSP ACOs also performed better on depression screening and depression remission rates, "underscoring how this type of coordinated, whole-person care can improve treatment of behavioral health conditions in ACOs, in helping to achieve the goal of strengthening behavioral health quality in CMS' Behavioral Health Strategy."[21]

Despite the high quality performance, only 58% of participants earned shared savings (by virtue of meeting or exceeding their spending targets).[22] Medicare realized gross savings of $3.6 billion, prior to accounting for shared savings payments.[23] This amount is lower than 2020 savings, in which ACO participants realized $4.5 billion in gross savings and almost $2 billion in net savings, which is notable given the stress imposed on the healthcare system as a result of the COVID-19 pandemic.[24] The National Association for ACOs (NAACOs) attributed this to ACOs that "were proactive in their outreach to high-risk patients to keep them healthy, quickly established telehealth and remote

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monitoring capabilities to continue to provide care, and effectively managed home visits and post-acute care to reduce COVID transmission."[25]

Arguably the most notable observation from the PY 2021 results is the continued trend of low-revenue ACOs outperforming high-revenue ACOs.[26] Low-revenue ACOs, which are typically comprised of physicians, include a small hospital, and/or serve a rural area, had a higher per capita net savings ($237) compared to high-revenue ACOs ($124).[27] Additionally, CMS reported that physician-led ACOs generated relatively high savings – ACOs that were comprised of at least 75% primary care physicians garnered $281 in savings compared to ACOs with a lower proportion of primary care providers (only $149).[28] According to CMS, this "underscore[s] how important primary care is to the success of the Shared Savings Program and demonstrate[s] how the program supports primary care providers."[29]

This year, in anticipation of the 2023 changes to the MSSP discussed above, CMS also conducted a health equity analysis, regarding beneficiaries eligible for ACO assignment in 2021.[30] The analysis indicated that "lower-income individuals or members of racial or ethnic communities appeared to represent a disproportionately smaller share of the Medicare population assigned to ACOs."[31] It remains to be seen whether the new advance shared savings payments to further health equity increases ACO access for low-income and minority beneficiaries.

In response to the PY 2021 results, CMS Administrator Chiquita Brooks-LaSure stated, "The [MSSP] demonstrates how a coordinated care approach can improve quality and outcomes for people with Medicare while also reducing costs for the entire health system. [ACOs] are a true Affordable Care Act success story, and it is inspiring to see the results year after year. The Biden-Harris Administration and CMS are committed to a health care system that delivers high-quality affordable, equitable, person-centered care – and a Medicare program that can deliver just that."[32]

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1 "Medicare Shared Savings Program Saves Medicare More Than $1.6 Billion in 2021 and Continues to Deliver High-quality Care" Centers for Medicare & Medicaid Services, Press Release, August 30, 2022, cms.gov/newsroom/press-releases/medicare-shared-savings-program-saves-medicare-more-16-billion-2021-and-continues-deliver-high (Accessed 9/21/22).

2 *Ibid*; "CMS: ACOs saved Medicare $1.6B overall in 2021 as big changes on the horizon" By Robert King, Fierce Healthcare, August 30, 2022, https://www.fiercehealthcare.com/providers/cms-acos-saved-medicare-16b-overall-2021-big-changes-horizon (Accessed 9/21/22).

3 Centers for Medicare & Medicaid Services, Press Release, August 30, 2022.

4 "Shared Savings Program Participation Options for Performance Year 2023" Centers for Medicare & Medicaid Services, May 2022, https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/sharedsavingsprogram/Downloads/ssp-aco-participation-options.pdf (Accessed 9/21/22).

5 *Ibid.*

6 *Ibid.*

7 *Ibid.*

8 Formerly defined as "an ACO whose total Medicare Parts A and B FFS revenue of its ACO participants is less than 35 percent of the total Medicare Parts A and B FFS expenditures for the ACO's assigned beneficiaries." "NAACOS Assessment of High-Low Revenue Designations" National Association of ACOs, https://www.naacos.com/naacos-assessment-of-high-low-revenue-designations (Accessed 9/21/22).

9 Centers for Medicare & Medicaid Services, May 2022.

10 for Medicare & Medicaid Services, Press Release, August 30, 2022.

11 *Ibid.*

12 "Calendar Year (CY) 2023 Medicare Physician Fee Schedule Proposed Rule" Centers for Medicare & Medicaid Services, July 7, 2022, https://www.cms.gov/newsroom/fact-sheets/calendar-year-cy-2023-medicare-physician-fee-schedule-proposed-rule (Accessed 7/18/22).

13 "CMS proposes major changes to Shared Savings Program" By Maya Goldman, Modern Healthcare, July 7, 2022, https://www.modernhealthcare.com/medicare/cms-proposes-major-changes-shared-savings-program (Accessed 7/18/22).

14 "CMS Outlines Strategy to Advance Health Equity, Challenges Industry Leaders to Address Systemic Inequities" Centers for Medicare & Medicaid Services, April 20, 2022, https://www.cms.gov/newsroom/press-releases/cms-outlines-strategy-advance-health-equity-challenges-industry-leaders-address-systemic-inequities (Accessed 7/18/22).

15 "CMS Proposes Physician Payment Rule to Expand Access to High-Quality Care" Centers for Medicare & Medicaid Services, July 7, 2022, https://www.cms.gov/newsroom/press-releases/cms-proposes-physician-payment-rule-expand-access-high-quality-care (Accessed 7/18/22); Goldman, Modern Healthcare, July 7, 2022.

16 Goldman, Modern Healthcare, July 7, 2022.

17 Centers for Medicare & Medicaid Services, July 7, 2022.

18 "Medicare and Medicaid Programs; CY 2023 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; Medicare and Medicaid Provider Enrollment Policies, Including for Skilled Nursing Facilities; Conditions of Payment for Suppliers of Durable Medicaid Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS); and Implementing Requirements for Manufacturers of Certain Single-dose Container or Single-use Package Drugs to Provide Refunds with Respect to Discarded Amounts" Proposed Rule (Unpublished Version), available at: https://public-inspection.federalregister.gov/2022-14562.pdf (Accessed 7/18/22), p. 872.

19 *Ibid*, p. 629.

20 Centers for Medicare & Medicaid Services, Press Release, August 30, 2022.

21 *Ibid.*

22 *Ibid.*

23 King, Fierce Healthcare, August 30, 2022.

24 *Ibid.*

25 *Ibid.*

26 Centers for Medicare & Medicaid Services, Press Release, August 30, 2022.

27 *Ibid.*

28 *Ibid.*

29 *Ibid.*

30 *Ibid.*

31 *Ibid.*

32 *Ibid.*

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