

# Healthcare Law

November 2, 2011

## Summary of Medicare Shared Savings Program Final Rule on Accountable Care Organizations

On November 2, 2011, the Centers for Medicare and Medicaid Services ("CMS") published a Final Rule implementing the Medicare Shared Savings Program ("MSSP") established under Section 3022 of the Patient Protection and Affordable Care Act (the "Final Rule"). The Final Rule signals CMS's strong desire to encourage widespread formation of accountable care organizations ("ACOs").

By addressing many of the most significant objections raised by industry stakeholders in response to the proposed rule that was released last spring (the "Proposed Rule"), the Final Rule is likely to stimulate the formation of ACOs during 2012 and 2013. The regulatory analysis supporting the release of the Final Rule indicates that CMS assumes 1 to 5 million Medicare beneficiaries will align with between 50 and 270 ACOs during the first four years of the program. Broadening the list of entities eligible to form an ACO to include FQHCs increases the likelihood that dual eligibles and less affluent Medicare beneficiaries will participate in Medicare ACOs. A summary of the Final Rule is provided below.

### Who Is Eligible to Be a Participant in an ACO?

The following entities are eligible to form an ACO:

- ACO professionals<sup>1</sup> in group practice arrangements
- Networks of individual practices of ACO professionals
- Partnerships or joint venture arrangements between hospitals and ACO professionals
- Hospitals<sup>2</sup> employing ACO professionals
- Critical Access Hospitals ("CAHs") that bill under Method II<sup>3</sup>
- Federally Qualified Health Centers ("FQHCs")
- Rural Health Clinics ("RHCs")

Other entities may provide services through an ACO but may not form their own. ACOs may not participate in the MSSP if they include a participant involved in other shared savings initiatives. [Read more](#)

<sup>1</sup> ACO professional means a physician (defined as a doctor of medicine or osteopathy), or a practitioner (defined as a physician assistant, nurse practitioner, or clinical nurse specialist).

<sup>2</sup> Hospital means an acute care hospital paid under Medicare's hospital inpatient prospective payment system.

<sup>3</sup> Under Method II, a CAH bills for both facility and professional services. CAH

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eligibility is limited to those billing under Method II because it is the only billing method that provides CMS with the data it needs to perform various programmatic functions (e.g., assign beneficiaries to each ACO).

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