

DATA SHARING WITH ACOs POLICY

PURPOSE: To outline the ACO's policies for ensuring compliance with the Medicare Shared Savings Program's requirements for data sharing with ACOs as set forth in 42 CFR §425.700.

SCOPE: CMG ACO, LLC ("ACO"), its ACO participants, and ACO providers/suppliers.

DEFINITIONS:

"ACO participant", "ACO provider/supplier", and "Medicare Shared Savings Program" shall have the meanings set forth in 42 CFR §425.20.

POLICY: It is the ACO's policy to observe all relevant statutory and regulatory provisions regarding the appropriate use of data and the confidentiality and privacy of individually identifiable health information and to comply with the terms of the data use agreement ("DUA") described in 42 CFR §425.710. The ACO must not limit or restrict appropriate data sharing of medical record data with providers and suppliers both within and outside the ACO in accordance with applicable law.

PROCEDURE:

1. Beneficiary-identifiable claims data

- a. If the ACO wishes to receive beneficiary identifiable claims data, it must sign a DUA with CMS and it must submit a formal request for data.
- b. The ACO must certify that it is requesting claims data about any of the following:
 - i. Its own patients, as a HIPAA-covered entity, and the request reflects the minimum data necessary for the ACO to conduct its own health care operations work that falls within the first or second paragraph of the definition of health care operations at 45 CFR §164.501.
 - ii. The patients of its HIPAA-covered entity ACO participants or its ACO providers/suppliers as the business associate of these HIPAA covered entities, and the request reflects the minimum data necessary for the ACO to conduct health care operations work that falls within the first or second paragraph of the definition of health care operations at 45 CFR §164.501 on behalf of those participants.
 - iii. The patients of the organized health care arrangement (as defined in 45 CFR §160.103) in which the ACO is participating with its ACO participants and ACO providers/suppliers, and the request reflects the minimum data necessary for the ACO to conduct health care operations work that falls within the first or second paragraph of the definition of health care operations at 45 CFR §164.501 on behalf of the organized health care arrangement.
- c. The use of identifiers and claims data will be limited to developing processes and engaging in appropriate activities related to coordinating care and improving the

quality and efficiency of care that are applied uniformly to all Medicare beneficiaries with primary care services at the ACO, and that these data will not be used to reduce, limit, or restrict care for specific beneficiaries.

- d. To ensure that beneficiaries have a meaningful opportunity to decline having their claims data shared with the ACO, the ACO may only request claims data about a beneficiary if-
 - i. For an ACO participating under-
 - 1. Preliminary prospective assignment with retrospective reconciliation as specified in 42 CFR §425(a)(2), the beneficiary's name appears on the preliminary prospective assignment list provided to the ACO at the beginning of the performance year, during each quarter (and in conjunction with the annual reconciliation) or the beneficiary has received a primary care service from an ACO participant upon whom assignment is based during the most recent 12-month period; or
 - 2. Prospective assignment as specified under 42 CFR §425.112(a)(3), the beneficiary's name appears on the prospective assignment list provided to the ACO at the beginning of the performance year.
 - ii. The beneficiary has been notified in compliance with 42 CFR §425.708 that the ACO has requested access to beneficiary identifiable claims data to improve the quality of care that is furnished to the beneficiary and, where applicable, coordinate care offered to the beneficiary; and
 - iii. The beneficiary did not exercise the opportunity to decline having his/her claims data shared with the ACO as provided in 42 CFR §425.708.

2. Minimum necessary data.

- a. The ACO must limit its identifiable data requests to the minimum necessary to accomplish a permitted use of the data; see 42 CFR §425.706 for examples of minimum necessary Parts A, B, and D data elements.

3. Beneficiary notifications.

- a. The ACO shall ensure that Medicare fee-for-service beneficiaries are notified about the following in the manner set forth in 42 CFR §425.312(a)(2):
 - i. That each ACO participant and its ACO providers/suppliers are participating in the Medicare Shared Savings Program.
 - ii. The beneficiary's opportunity to decline claims data sharing under 42 CFR §425.708.
 - iii. The beneficiary's ability to, and the process by which, he or she may identify or change identification of the individual he or she designated for purposes of voluntary alignment (as described in 42 CFR §425.402(e)).

4. Data use agreement.

- a.** Before receiving any beneficiary identifiable data, ACOs must sign a DUA with CMS. Under the DUA, the ACO must comply with the limitations on use and disclosure that are imposed by HIPAA, the applicable DUA, and the statutory and regulatory requirements of the Medicare Shared Savings Program.

APPROVAL BODY: ACO governing body.

EFFECTIVE DATE:

APPROVAL SIGNATURE: 
[Joseph Quaranta \(Dec 12, 2024 17:57 EST\)](#)

Joseph L. Quaranta, MD, ACO Manager