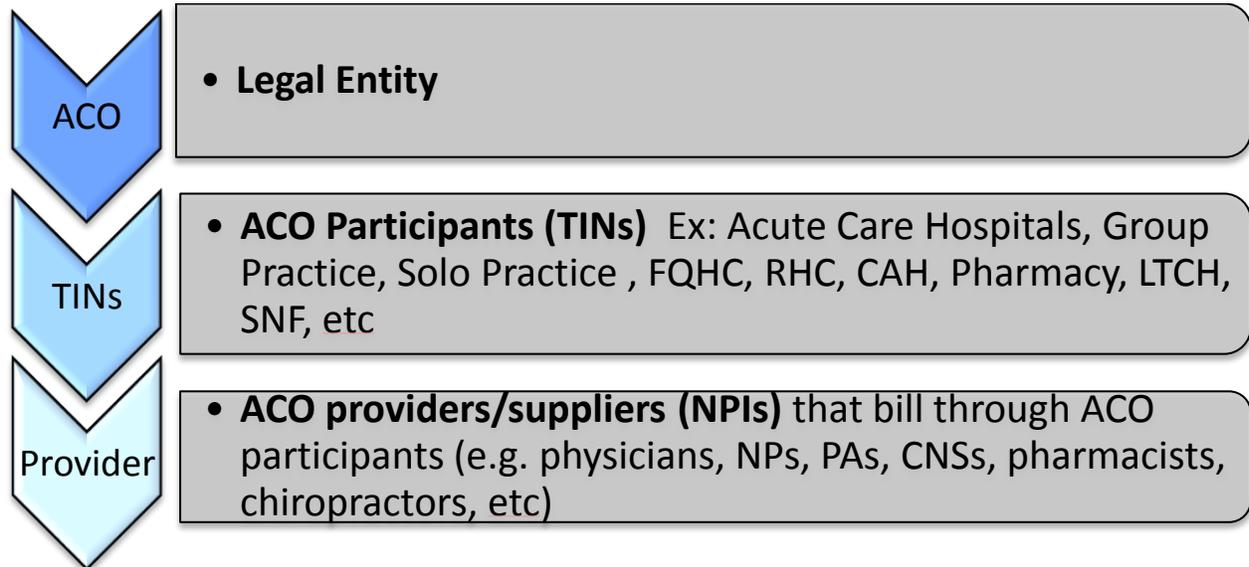


Medicare Shared Savings Program

Independent ACO participants have joined together to form the ACO.

- Most common ACO structure.



Definitions:

- **ACO Participant (§425.20)**: Individual or group of Medicare-enrolled providers (as defined in §400.202) or suppliers (as defined at §400.202), identified by a TIN, and included on the list of ACO participants that's required under §425.204(c)(5).
- **ACO Provider/Supplier (§425.20)**:
 - A provider or supplier enrolled in Medicare.
 - Bills for items and services it provides for Medicare fee-for-service beneficiaries under a Medicare billing number assigned to the TIN of an ACO participant in accordance with applicable Medicare regulations.
 - Included on the list of ACO providers/suppliers that is required under §425.204(c)(5).

Agreements between the ACO, ACO participants, and ACO provider/suppliers:

- Reference: Regulations at 42 CFR 425.204, 425.210, and the March 16 guidance found [here](#).
- For an ACO with this structure, the ACO **MUST** have an agreement in place between the ACO and all ACO participants.
 - 1) The agreements must contain at least the following elements listed in the application which are from the regulations:

- An explicit requirement that the ACO participant or the ACO provider/supplier will comply with the requirements and conditions of the Medicare Shared Savings Program (42 C.F.R. Part 425), including, but not limited to, those specified in the participation agreement with CMS.
 - The ACO participants' and ACO providers'/suppliers' rights and obligations in and representation by the ACO.
 - How the opportunity to get shared savings or other financial arrangements will encourage ACO participants and ACO providers/suppliers to follow the quality assurance and improvement program and evidence-based clinical guidelines.
 - Remedial measures that will apply to ACO participants and ACO providers/suppliers for those who don't follow the requirements of their agreements with the ACO.
- 2) The agreements must show a **direct agreement** between the ACO and ACO participant TIN. The agreement may not have a 3rd party intermediary. For example, the agreement may not be between the ACO and another legal entity such as an IPA or management company who in turn has an agreement with the ACO participants.
- The ACOs may not include an ACO participant TIN on its list of ACO participants unless the ACO participant TIN has signed an ACO Participant Agreement.
 - ACO Participant Agreements should be signed by a person authorized to sign on behalf of the ACO participant TIN (e.g. the owner of the group practice).
- The ACO is responsible for ensuring that all ACO providers/suppliers (NPIs) that bill through the TIN of the ACO participant have also agreed to participate and follow program regulations.
 - The ACO may ensure this by having direct agreements with each ACO provider/suppliers (NPIs) or it may ensure this indirectly through its agreement with the ACO participant TIN.
 - If the ACO chooses to contract directly with the ACO providers/suppliers, the agreements must meet the same requirements as the agreements with ACO participants.
 - Remember, even if an ACO chooses to contract directly with the ACO providers/suppliers (NPIs), it must still have the required agreement with the ACO participant TIN.

Examples:

Correct: A large group practice decides to participate in an ACO. Its owner signs an agreement on behalf of the practice to participate in the program and follow program regulations. Also, all practitioners that have reassigned their billings to the TIN of the large group practice have also agreed to participate and follow program regulations. **The ACO may include this group practice TIN on its list of ACO participants.**

Incorrect: A large group practice decides to participate in an ACO. Its owner signs an agreement to participate in the program and follow program regulations. However, not all practitioners that have

reassigned their billings to the TIN of the large group practice have agreed to participate and follow program regulations. **The ACO may not include this group practice TIN on its list of ACO participants.**

Incorrect: Several practitioners in a large group practice decide to participate in an ACO. However, the group practice as a whole has not agreed to participate in the program. **The ACO may not include this group practice TIN on its list of ACO participants.**