Legal Entity Information

- The legal entity information for my ACO meets the following requirements:
  - ACO legal entity name matches legal documentation.
  - ACO taxpayer identification number (TIN) is correct.
  - ACO date of formation matches entity formation documentation (e.g., Certificate of Incorporation).
  - ACO contact information is entered correctly (name, title, email address).

Program Participation Options

- My ACO selected the track that my organization is applying to participate in.
- If applying to a two-sided model, my ACO selected a minimum savings rate (MSR)/minimum loss rate (MLR).
- My ACO selected a beneficiary assignment methodology (this selection can be changed before the start of each performance year):
  - Prospective assignment
  - Preliminary prospective assignment with retrospective reconciliation
- If applying to establish and operate a Beneficiary Incentive Program (BIP) or for a Skilled Nursing Facility (SNF) 3-Day Rule Waiver, my ACO completed and submitted the separate application(s).

Repayment Mechanism (required for two-sided models)

- My ACO has reviewed the Repayment Mechanism Arrangements Guidance.
- My ACO has chosen which of the following arrangements to use: funds placed in escrow, line of credit as evidenced by a letter of credit, or surety bond.
- My ACO started conversations with financial institutions to establish its repayment mechanism(s).
- My ACO’s repayment mechanism is capable of repaying an amount specified by CMS, which will be provided in a notification during the application review period.

Repayment Mechanism Documentation Tips

- Proofread your documents for common spelling, grammar, and formatting errors.
- Confirm your ACO’s agreement start date is correct.
- Confirm that the ACO legal entity name on the agreement matches the legal entity name in the ACO Management System (ACO-MS).
- Confirm that the ACO Executive, Authorized to Sign (primary or secondary), or Financial Contact signs on behalf of your ACO.
- Please note that if your ACO submits a final repayment mechanism prior to obtaining CMS approval and CMS requires any changes to the submitted documentation, it may delay the establishment of your repayment mechanism. We highly encourage ACOs to submit draft documentation for approval prior to submitting its final repayment mechanism.
Leadership and Governance

Organizational Chart

- My ACO submitted an organizational chart that clearly indicates flow of responsibility and is consistent with the overall picture of the ACO. It includes our:
  - Medical director who must be a board-certified physician, licensed in a state in which the ACO operates, and physically present on a regular basis at any clinic, office, or other location of the ACO, an ACO participant, or an ACO provider/supplier;
  - Compliance Official or individual who is not legal counsel to the ACO and reports directly to the ACO’s governing body;
  - ACO Executive and name;
  - List of committees (include names of committee members) and the committee structures; and
  - Qualified healthcare professional responsible for the ACO’s quality assurance and improvement program and name.

ACO Governing Body

- My ACO has both a conflict of interest policy and compliance plan in place, which will be made available to CMS upon request.
- My ACO’s governing body meets the below requirements:
  - Is separate and unique to the ACO and is not the same as the governing body of any ACO participant in the case where the ACO is comprised of two or more ACO participants.
  - Has responsibility for oversight and strategic direction of the ACO, holding ACO management accountable for the ACO’s activities.
  - ACO participants have at least 75 percent control and include meaningful participation in the composition and control of the ACO’s governing body.
  - Includes at least one Medicare beneficiary representative with voting power served by the ACO who does not have a conflict of interest with the ACO, and who has no immediate family member with a conflict of interest with the ACO.
- My ACO has provided narratives on why it seeks to differ from the requirement, if it did not meet the 75 percent control requirement and/or did not identify at least one Medicare fee-for-service beneficiary on the governing body.

ACO’s Leadership and Management

- My ACO’s clinical management and oversight is managed by a senior-level medical director, board-certified physician, licensed in a state in which the ACO operates, who is physically present at an ACO provider/supplier facility. In addition, my ACO operations are managed by an executive, officer, manager, general partner, or similar party appointed by the governing body.
ACO Participants

- All ACO participants on my ACO Participant List meet the following requirements:
  - Demonstrate a meaningful commitment to the mission of the ACO.
  - Bill through a Medicare-enrolled TIN that is not participating in more than one Medicare shared savings initiative during the performance year.
  - Are exclusive to a single Shared Savings Program ACO, if the ACO participant TIN is used in assignment.

- For any sole proprietor ACO participants enrolled in Medicare under a Social Security number (SSN) and billing Medicare under a separate Employer Identification Number (EIN), both the SSN and EIN are submitted. If the proposed TIN matches either the SSN or EIN for a known sole proprietor, then ACO-MS will populate the remaining identifier so that only one change request is needed for the sole proprietor.

- The following information in the ACO-MS change request matches what is shown in the Provider Enrollment, Chain, and Ownership System (PECOS):
  - Participant TIN and legal business name (LBN)
  - Medicare enrollment status
  - Medicare exclusion

Remember to Submit ACO Participants in the Change Request Cart

- Adding ACO participants to the Change Request Cart does not submit them to CMS for review; you must click “Submit Change Request for CMS Review” from the Change Request Cart.

- CMS will not review any ACO participant additions or edits that display on the Review and Submit subtab in the Change Request Cart.

- Use the Previously Submitted subtab in the Change Request Cart to view ACO participants that have been submitted to CMS for review.
ACO Participant Agreement Requirements

Sample ACO Participant Agreement

- My ACO’s sample ACO Participant Agreement includes the following requirements:
  - Clearly states the only parties of the agreement are the ACO and ACO participant.
  - Requires the ACO participant and all ACO providers/suppliers billing through the participant TIN to comply with the requirements of the Shared Savings Program.
  - Sets forth the ACO participant’s quality reporting responsibilities, beneficiary notification requirements, and eligibility to participate in other Medicare demonstration projects or programs that involve shared savings.
  - Describes how the opportunity to receive shared savings or other financial arrangements will encourage the ACO participant to adhere to the quality assurance and improvement program and evidence-based guidelines of the ACO.
  - Requires the ACO participant to update its Medicare enrollment information on a timely basis and notify the ACO of any such changes within 30 days of the change.
  - Outlines remedial processes and penalties for noncompliance, including imposition of a corrective action plan, denial of incentive payments, and/or termination of the agreement.
  - Is set for a term of at least 1 performance year and articulates potential consequences of early termination from the ACO.
  - Requires completion of a close-out process upon termination or expiration of the agreement.

Executed ACO Participant Agreements

- My ACO’s executed ACO Participant Agreements have been executed using good contracting practices and meet the following requirements:
  - Match the approved sample agreement.
  - Clearly state the correct legal names (as indicated in ACO-MS and PECOS, respectively) of both the ACO (legal entity name) and ACO participant (LBN). Do NOT enter the trade or “doing business as” name.
  - Have been executed or have an effective date within a year of submitting the request.
  - Include the first page of the agreement identifying all parties and the completed signature page.
  - Be signed (handwritten or digital \(^2\) signatures are acceptable) by the ACO Executive or Authorized to Sign (primary or secondary) Contact on behalf of the ACO.
  - Be signed by someone legally authorized to bind the ACO participant.
  - Include the effective dates of the agreement.
  - Have the ACO and/or ACO participant TIN that matches the value as entered in ACO-MS and shown in PECOS (if the TIN is included).
  - If using an amendment, include the full amendment along with the first and last page of the original agreement that is now being revised.

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\(^1\) Refer to 42 CFR § 425.116(a) for the full requirements.

\(^2\) Digital signatures, which provide authentication methods (e.g., using unique digital certificates) that link the identity of the signatory to the signature itself, differ from electronic signatures, which allow for any mark (e.g., a typed name) that was adopted by the signatory to demonstrate their explicit authorization. The Shared Savings Program does not accept electronic signatures on ACO Participant Agreements.