



Medicare Shared Savings Program **APPLICATION REFERENCE MANUAL**

Guidance

May 2022
Version 4

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MEDICARE
SHARED SAVINGS
PROGRAM

Revision History – Version 4

TITLE OF SECTION & REVISIONS/CHANGES DESCRIPTION (since previous version)	LINK TO AFFECTED AREA
Sample ACO Participant Agreements: ACOs no longer need to submit sample agreements.	Section 2.2.5
SNF 3-Day Rule Waiver: Now included as a part of Phase 1 of the application.	Section 2.2.6

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1 Introduction

The Medicare Shared Savings Program (Shared Savings Program) promotes accountability for a population of Medicare beneficiaries, improves the coordination of fee-for-service (FFS) items and services, and encourages investment in infrastructure and redesigned care processes for high-quality and efficient service delivery. Under the Shared Savings Program, providers of services and suppliers that participate in an Accountable Care Organization (ACO) continue to receive traditional Medicare FFS payments under Parts A and B. ACOs that successfully meet quality and savings requirements share a percentage of the savings with Medicare. ACOs under a performance-based risk track, including Levels C, D, or E of the BASIC track and the ENHANCED track, may also be required to repay Medicare for shared losses.

The Centers for Medicare & Medicaid Services (CMS) accepts applications for ACOs to participate in the Shared Savings Program. An ACO may also separately apply to use the Skilled Nursing Facility (SNF) 3-Day Rule Waiver or to establish and operate a Beneficiary Incentive Program (BIP).

1.1 PURPOSE OF THE APPLICATION REFERENCE MANUAL

This *Application Reference Manual* provides guidance to help ACOs complete the Shared Savings Program Application.

Sample applications are available on the [Application Types & Timeline webpage](#) as an additional resource to help ACOs gather and prepare necessary information.

For more detailed information, review the additional resources and guidance available in the [Application Toolkit](#). In addition to this manual, please refer to the Shared Savings Program's regulations at [42 CFR part 425](#) and discussions in the previous rulemaking of the program requirements, including in the [Shared Savings Program Pathways to Success Final Rule](#) (December 2018).

1.2 OVERVIEW OF THE APPLICATION PROCESS

The application process begins with the submission of a Notice of Intent to Apply (NOIA). Additional information on the NOIA process is available in the *How to Submit a Notice of Intent to Apply in ACO-MS* tip sheet posted on the [Application Types & Timeline webpage](#). ACOs must submit a NOIA to be eligible to submit an application to the Shared Savings Program. The application is split into two submission phases; during each phase, applicants will have the opportunity to correct errors in their application(s) before CMS issues the final dispositions later in the year. Upon application approval, ACOs sign a participation agreement with CMS.¹ Figure 1, below, depicts an overview of the application process.

¹ Currently participating ACOs that submit a SNF 3-Day Rule Waiver Application and/or BIP Application will not have to sign a new participation agreement upon approval.

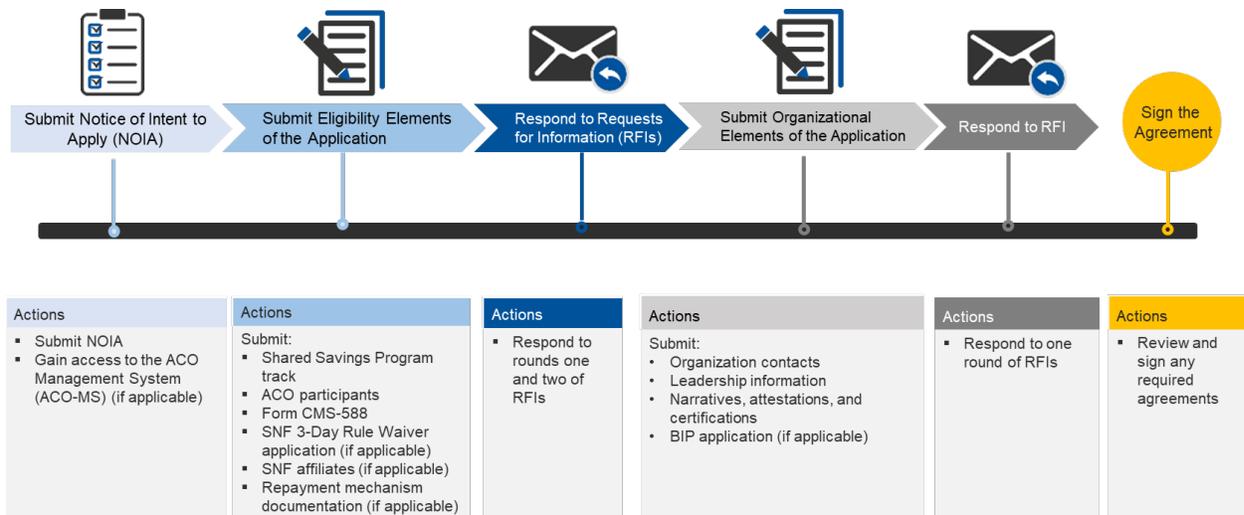


Figure 1. Application Process

ACOs apply electronically to the Shared Savings Program through the [ACO Management System](#) (ACO-MS). **CMS does not accept paper applications or emailed applications and will not accept late submissions after the deadlines specified by CMS.** Resources for how to use ACO-MS are available in the [Contact Us/FAQ](#) tab of ACO-MS.

1.3 APPLICANT COHORTS

There are five groups of applicants, which CMS refers to as cohorts, listed in Table 1. It is important for ACOs to know the cohort they fall into, because each cohort may have slightly different application requirements, and CMS will often refer to ACO applicant cohorts in program communications.

Table 1: ACO Applicant Cohorts

COHORT	DEFINITION
Currently Participating ACO	An ACO currently participating in the Shared Savings Program that is not submitting a renewal or early renewal Shared Savings Program application for the upcoming performance year.
Initial Applicant	An ACO that is applying to participate in the Shared Savings Program that is not considered to have previously participated in the Shared Savings Program.
Renewal Applicant	An ACO currently participating in the Shared Savings Program that is in the final performance year of its most recent ACO Participation Agreement and intends to renew its participation for a new agreement period starting on January 1 st of the upcoming calendar year without a break in participation.
Early Renewal Applicant	An ACO currently participating in the Shared Savings Program that elects to voluntarily terminate its ACO Participation Agreement with an effective date of termination of December 31 st of the current performance year and intends to apply for a new agreement period

COHORT	DEFINITION
	starting on January 1 st of the upcoming calendar year without a break in participation.
Re-entering Applicant	An ACO that either previously participated in the Shared Savings Program and is applying to participate in the Shared Savings Program after a break in participation, or that CMS determines to be re-entering because greater than 50 percent of their ACO participants have prior participation in the same Shared Savings Program ACO in any of the five most recent past performance years.
+ SUPPLEMENTAL APPLICATIONS	DEFINITION
BIP Applicant	An ACO applying to establish and operate a BIP. Available for ACOs applying to or currently participating in the Shared Savings Program under Levels C, D, or E of the BASIC track, or the ENHANCED track.
SNF 3-Day Rule Waiver Applicant	An ACO applying for approval of a SNF 3-Day Rule Waiver. Available for ACOs applying to or currently participating in the Shared Savings Program under Levels C, D, or E of the BASIC track, or the ENHANCED track.

2 Phase 1 of the Application

Phase 1 of the Shared Savings Program application has five main components, as depicted in Figure 2. The following sections provide instructions on how your ACO may complete each component.

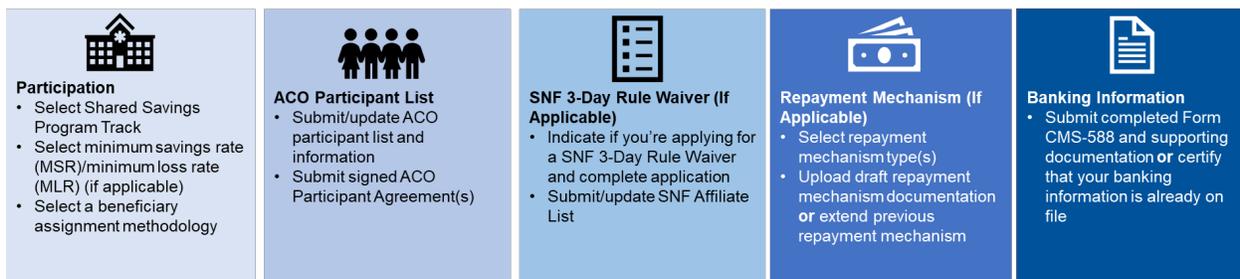


Figure 2. Phase 1 of the Application

2.1 ACO INFORMATION

2.1.1 CONFIRM ACO LEGAL ENTITY INFORMATION

In the first section of the application, ACOs confirm some information pre-populated from the submitted NOIA, such as ACO legal entity name, “doing business as” (DBA) or trade name, address, and TIN. This information should match the information on the ACO’s entity formation documentation (e.g., Certificate of Incorporation) and any additional documentation submitted with the application.

2.2 PROGRAM PARTICIPATION

2.2.1 SHARED SAVINGS PROGRAM TRACK SELECTION

Applicants apply to participate in a Shared Savings Program in either the BASIC track or the ENHANCED track. The BASIC track includes a glide path, for eligible ACOs, which begins under a one-sided model and incrementally phases in increasing levels of performance-based risk over the course of the ACO’s agreement period. ACOs should select a track for which they are eligible; if CMS determines the ACO is not eligible for the track selected, the ACO will need to adjust its track selection for its application to be approved. Table 2 summarizes the eligibility criteria for each track and level of the BASIC Track for initial applicants and re-entering applicants.

Table 2: Summary of Track Eligibility for Initial and Re-Entering ACOs

	INITIAL APPLICANT		RENEWING AND RE-ENTERING ACOS			
	No Experience with Performance-based Risk		No Experience with Performance-based Risk		Previous Experience with Performance-based Risk	
	High Revenue*	Low Revenue*	High Revenue	Low Revenue	High Revenue	Low Revenue
Level A of the BASIC Track (one-sided)	Eligible	Eligible	Not Eligible	Not Eligible	Not Eligible	Not Eligible
Level B of the BASIC Track (one-sided)	Eligible	Eligible	Eligible	Eligible	Not Eligible	Not Eligible
Level C of the BASIC Track (two-sided)	Eligible	Eligible	Eligible	Eligible	Not Eligible	Not Eligible
Level D of the BASIC Track (two-sided)	Eligible	Eligible	Eligible	Eligible	Not Eligible	Not Eligible
Level E of the BASIC Track (two-sided)	Eligible	Eligible	Eligible	Eligible	Not Eligible	Eligible
ENHANCED Track (two-sided)	Eligible	Eligible	Eligible	Eligible	Eligible	Eligible

* Per [42 CFR § 425.20](#).

[Appendix A](#) provides a summary of the features of each track (and the levels of the BASIC track’s glide path). [Appendix B](#) provides additional details about the participation options and eligibility criteria. CMS determines experience with risk based on the ACO legal entity and the ACO Participant List; high and low revenue determinations are also based on the ACO Participant List. For additional information about revenue determinations, refer to the *Shared Savings and Losses and Assignment Methodology Specifications* located on the [Program Guidance & Specifications webpage](#).

Initial and renewal applicants (including early renewal applicants) can change tracks during the application cycle in accordance with the guidance on the [Application Types & Timeline webpage](#) (refer to the *Key Application Actions and Deadlines* document).

2.2.1.1 Determining Participation Options

The eligibility criteria for the BASIC track, including the glide path, and the ENHANCED track recognize differences in ACO participants' Medicare FFS revenue and the experience of the ACO and its ACO participants with performance-based risk Medicare ACO initiatives. CMS uses a combination of the following factors to determine an ACO's participation options: (1) whether applicants are low revenue ACOs or high revenue ACOs; and (2) whether applicants are experienced or inexperienced with performance-based risk Medicare ACO initiatives. CMS provides applicants with feedback on these criteria within the *Participation Options Report*, evaluated based on the ACO's latest ACO Participant List. ACOs may review the *Participation Options Report Data Dictionary*, located in the Knowledge Library in ACO-MS, for detailed information on the report.

IMPORTANT

If ACO Participant List changes during Phase 1 of the application submission period, the participation options for which ACOs are eligible may vary based on the low or high revenue calculations as well as the experienced or inexperienced with performance-based risk calculations as described above. ACOs should refer to the *Participation Options Report*, available in the Reporting tab in ACO-MS, to review the latest options available to an ACO as determined by CMS.

High Revenue ACOs

- If an ACO is identified as a **high revenue ACO**, per 42 CFR § 425.20, the following options apply:
 - An ACO determined to be inexperienced with performance-based risk Medicare ACO initiatives may choose from the following options:
 - BASIC track's glide path
 - Eligible ACOs that are new to the program and identified as initial applicants rather than re-entering ACOs may enter the BASIC track's glide path at any one of the five levels (Levels A through E).
 - An ACO that previously participated in Track 1, or a new ACO identified as a re-entering ACO with prior experience as a Track 1 ACO, may enter the BASIC track's glide path under Levels B, C, D, or E.
 - ENHANCED track
 - An ACO determined to be experienced with performance-based risk Medicare ACO initiatives may only enter the ENHANCED track.

Low Revenue ACOs

- If an ACO is identified as a **low revenue ACO**, per 42 CFR § 425.20, the following options apply:
 - An ACO determined to be inexperienced with performance-based risk Medicare ACO initiatives may choose from the following options:
 - BASIC track's glide path
 - Eligible ACOs that are new to the program and identified as initial applicants rather than re-entering ACOs may enter the BASIC track's glide path at any one of the five levels (Levels A through E).

Note: Prior to the automatic advancement of the ACO to Level C, an ACO may elect to remain in Level B for performance year 3. In the case of an ACO that elects to remain in Level B for an additional performance year, the ACO is automatically advanced to Level E at the start of performance year 4.
 - An ACO that previously participated in Track 1 or a new ACO identified as a re-entering ACO with prior experience as a Track 1 ACO may enter the BASIC track's glide path under Levels B, C, D, or E.
 - ENHANCED track
 - An ACO determined to be experienced with performance-based risk Medicare ACO initiatives may choose from the following options:
 - Agreement period under Level E of the BASIC track for all performance years.

Notes:

(1) Low revenue ACOs are limited to two agreement periods of participation under the BASIC track.

(2) CMS monitors for changes in revenue during the agreement period. ACOs determined to be experienced with performance-based risk Medicare ACO initiatives in an agreement period under Level E of the BASIC track that become high revenue during the agreement period are required to take corrective action, and if the issue is not remedied, the ACO may be terminated.
 - ENHANCED track

Please refer to [Appendix B: Participation Options](#) for additional information.

2.2.2 MINIMUM SAVINGS RATE/MINIMUM LOSS RATE

To qualify for shared savings, ACOs must meet or exceed their Minimum Savings Rate (MSR), fulfill the minimum quality performance standard, and maintain their eligibility to participate in the Shared Savings Program. To be liable for shared losses, ACOs must meet or exceed their Minimum Loss Rate (MLR).

ACOs applying under Levels A or B of the BASIC track will have an MSR that varies based on the number of beneficiaries assigned to the ACO.

ACOs applying under Levels C, D, or E of the BASIC track or the ENHANCED track must select an MSR/MLR.

ACOs that select a higher MSR/MLR have the protection of having to meet a higher threshold before being liable for losses; however, they will also have a higher threshold to meet before being eligible for shared savings. ACOs that select a lower MSR/MLR will have less protection against liability for losses but may benefit from a lower threshold for shared savings.

For more information, refer to the *Shared Savings and Losses and Assignment Methodology Specifications* located on the [Program Guidance & Specifications webpage](#).

2.2.3 BENEFICIARY ASSIGNMENT METHODOLOGY SELECTION

ACOs will select which methodology CMS uses to determine the population of beneficiaries for which an ACO is accountable. Prior to the start of each performance year, the ACO may change its beneficiary assignment methodology during the application cycle. For more information, refer to the *Shared Savings and Losses and Assignment Methodology Specifications* located on the [Program Guidance & Specifications webpage](#). ACOs should review the *Participation Options Report* throughout the application cycle, which contains assigned beneficiary estimates for the benchmark years and the upcoming performance year. Assignment estimates are based on the latest ACO Participant List available at each RFI. Assignment estimates provided at each RFI should be considered an **estimate** and are subject to change.

2.2.4 ACO PARTICIPANT LIST

In Phase 1 of your ACO's application, you must submit information on the ACO participants that have agreed to form the ACO and certify that they are accountable for the quality, cost, and overall care of the ACO's beneficiaries, as well as compliance with the requirements of [42 CFR § 425.116\(a\)](#). An ACO Participant List identifies all of an ACO's participants by their Medicare-enrolled taxpayer identification numbers (TINs). For initial applicant ACOs, you will create the ACO Participant List directly in ACO-MS by submitting change requests to add new ACO participants. Renewal or early renewal applicants entering into a new Shared Savings Program agreement period are not required to submit a newly executed ACO Participant Agreement for any ACO

participants the ACO wishes to carry over into the new agreement period, provided that the current agreement meets the Shared Savings Program requirements under 42 CFR § 425.116. When renewal or early renewal applicants select an ACO participant the ACO wishes to carry over into the new agreement period, the ACO will have the option in the change request generated by ACO-MS to either submit a newly executed ACO Participant Agreement or to have ACO-MS carry forward the previously submitted executed ACO Participant Agreement associated with the ACO participant.

Whether your ACO is composed of one or multiple ACO participants has important implications for your ACO’s structure and agreement submission requirements. Table 3, below, describes a few of these implications.

Table 3: Common ACO Structures

ACO STRUCTURE	NOTES
TRADITIONAL ACO (MOST COMMON ACO STRUCTURE)	<ul style="list-style-type: none"> ▪ Multiple ACO participants join to form the ACO. ▪ The ACO is a separate legal entity from the ACO participants. ▪ Submit ACO Participant Agreements.
SINGLE TIN ACO	<ul style="list-style-type: none"> ▪ The ACO comprises one ACO participant. ▪ The ACO and the ACO participant are the same legal entity. ▪ Under this structure, you will need to contact the Shared Savings Program if you want to modify your ACO Participant List in the future.
SINGLE TIN ACO SET UP AS TRADITIONAL ACO	<ul style="list-style-type: none"> ▪ The ACO comprises one ACO participant. ▪ The ACO and ACO participant are different legal entities. ▪ Submit the ACO Participant Agreement for the one ACO participant.

Please remember that if you are submitting TINs that have merged with or acquired another TIN, you will need to provide the appropriate supporting documentation per [42 CFR § 425.204\(g\)](#).

ADDITIONAL RESOURCE

[ACO Participant List and Participant Agreement Guidance](#)

For more information, refer to the [ACO Participant List and Participant Agreement Guidance](#) and the [Adding ACO Participants & SNF Affiliates in ACO-MS](#) tip sheet.

2.2.5 ACO PARTICIPANT AGREEMENT ATTESTATION

Applicants must complete the ACO Participant Agreement attestation within the application. CMS is authorized to review all ACO Participant Agreements as a part

of any compliance monitoring activities. For more information, refer to the [ACO Participant List and Participant Agreement Guidance](#).

2.2.6 SNF 3-DAY RULE WAIVER

The SNF 3-Day Rule Waiver waives the requirement for a prior inpatient stay for eligible beneficiaries and provides SNF waiver-approved ACOs additional flexibility to increase quality and decrease costs. If your ACO is applying to participate or currently participating in Levels C, D, or E of the BASIC track or the ENHANCED track, you may elect to apply for a SNF 3-Day Rule Waiver during Phase 1 of the application submission period.

ADDITIONAL RESOURCE

[SNF 3-Day Rule Waiver Guidance](#)

ACOs submit their SNF 3-Day Rule Waiver application—including the three SNF plan narratives, all proposed SNF affiliates, and executed agreements—during Phase 1 of the application process. Per [42 CFR § 425.612\(b\)\(3\)\(iii\)](#), an ACO must have at least one approved SNF affiliate to use the SNF 3-Day Rule Waiver.

If your ACO intends to apply for a SNF 3-Day Rule Waiver, you must provide CMS with a list of SNFs (referred to as SNF affiliates) with which the ACO will partner. For initial applicant ACOs, you will create the SNF Affiliate List directly in ACO-MS by submitting change requests to add new SNF affiliates. For currently participating and renewal or early renewal applicant ACOs, you may submit change requests to add new SNF affiliates. Renewal and early renewal applicants with a current SNF 3-Day Rule Waiver who elect to apply for a SNF 3-Day Rule Waiver for use in the new Shared Savings Program agreement period are not required to submit newly executed SNF Affiliate Agreements for any SNF affiliates the ACO wishes to carry over into the new agreement period, provided that the current agreements meet the Shared Savings Program requirements under 42 CFR § 425.612. When renewal or early renewal applicants select a SNF affiliate the ACO wishes to carry over into the new agreement period, the ACO will have the option in the change request generated by ACO-MS to either submit a newly executed SNF Affiliate Agreement or to have ACO-MS carry forward the SNF Affiliate Agreement with the most recent upload date. CMS is authorized to review all SNF Affiliate Agreements as a part of any compliance monitoring activities.

For more information, refer to the [SNF 3-Day Rule Waiver Guidance](#) and the [Adding ACO Participants & SNF Affiliates in ACO-MS](#) tip sheet.

2.2.7 REPAYMENT MECHANISM

If an ACO selects Level C, D, or E of the BASIC track or the ENHANCED track, it must demonstrate it has established an adequate repayment mechanism to provide CMS assurance of its ability to repay shared losses for which it may be

ADDITIONAL RESOURCE

[Repayment Mechanism Arrangements Guidance](#)

liable upon reconciliation for each performance year under which it accepts performance-based risk.

ACOs may use funds placed in escrow, a surety bond, a line of credit the Medicare program can draw upon (as evidenced by a letter of credit), or a combination of these arrangements.

For more information, refer to the [Repayment Mechanism Arrangements Guidance](#).

FOR RENEWAL APPLICANTS (INCLUDING EARLY RENEWAL APPLICANTS) ONLY: A renewal applicant, or a re-entering ACO that is the same legal entity as an ACO that previously participated in the program, can keep the same repayment mechanism currently used by the ACO, provided that the ACO submits documentation establishing the existing repayment mechanism has been revised to increase the amount (if necessary) and extend the duration (if necessary). Please refer to the [Repayment Mechanism Arrangements Guidance](#) for further details.

2.2.8 BANKING INFORMATION

Applicants must provide their banking information to CMS. In order to receive any earned shared savings payments, Shared Savings Program ACOs must upload a completed Electronic Funds Transfer (EFT) Authorization Agreement (Form CMS-588) and supporting documentation via ACO-MS.

**ADDITIONAL
RESOURCES**

- [Form CMS-588](#)
- [ACO Banking Form Instructions](#)

FOR RENEWAL APPLICANTS (INCLUDING EARLY RENEWAL APPLICANTS) AND CURRENTLY PARTICIPATING ACOs:
Renewal applicants and currently participating ACOs do not need to submit a Form CMS-588 and supporting documentation unless changes are made to any of the following:

- Legal entity name
- TIN
- Financial institution information
- Authorized/Delegated Official
- Contact person(s)
- Address

2.2.9 AGREEMENT PERIOD ACO IS ENTERING FOR POLICIES THAT PHASE IN OVER TIME

CMS will determine the agreement period an ACO is entering for purposes of applying the following program requirements that phase-in over multiple agreement periods:

- The quality performance standard as described in [42 CFR § 425.512\(a\)](#).
- The weight used to calculate the regional adjustment to the ACO’s historical benchmark as described in [42 CFR § 425.601\(f\)](#).
- The use of equal weights to weight each benchmark year as specified in [42 CFR § 425.601\(e\)](#).

For additional information about how cohort types enter into their respective agreement periods, refer to [42 CFR § 425.200](#).

⚠ IMPORTANT

During Phase 1 of the application submission period, there will be two rounds of RFIs. During each round of RFIs, ACOs will have the opportunity to respond to feedback from CMS and make any necessary corrections to their application. After the two rounds of Phase 1 RFIs, CMS will issue ACO Participant List and SNF Affiliate List dispositions.

3 Phase 2 of the Application

Phase 2 of the Shared Savings Program application has five components, as depicted in Figure 3. The following sections provide instructions on how your ACO may complete each component.

 <p>ACO Legal Entity Information</p> <ul style="list-style-type: none"> • General Information about your ACO • Contact information 	 <p>Participation Options (If Applicable)</p> <ul style="list-style-type: none"> • Apply to establish and operate a BIP 	 <p>Leadership and Governance</p> <ul style="list-style-type: none"> • Submit an organizational chart • Provide information about your ACO's governing body 	 <p>Certifications</p> <ul style="list-style-type: none"> • Certify that your ACO meets program requirements
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3.1 ACO INFORMATION

3.1.1 COMPLETE ACO INFORMATION

In Phase 2 of the application, ACOs will complete additional information about the ACO, such as date of formation, legal entity type, and tax status. Also, in this section, indicate whether the ACO is considered “newly formed.” ACOs that have signed or jointly negotiated any contracts with private payers after March 23, 2010, must agree to permit CMS to share a copy of this application with the Antitrust Agencies. An ACO is not newly formed if it comprises solely providers and suppliers that signed or jointly negotiated contracts with private payers on or before March 23, 2010. If the ACO includes any providers or suppliers that were not part of the prior joint negotiation or joint contracting, it is newly formed.

ADDITIONAL RESOURCE

[Federal Trade Commission \(FTC\) and Department of Justice's \(DOJ\) Statement of Antitrust Enforcement Policy Regarding Accountable Care Organizations](#)

3.1.2 PUBLIC REPORTING WEBPAGE

As a part of their participation in the Shared Savings Program, ACOs are required to create and maintain a designated webpage to post organizational and programmatic information about the ACO, as specified in [42 CFR § 425.308](#). ACOs must provide the webpage URL in ACO-MS.

3.1.3 CONTACT INFORMATION

ACOs must submit contact information for the roles described in the [Overview of ACO-MS User Access and ACO Contacts](#) tip sheet.

Keep in mind the following guidelines:

- An individual can serve as more than one ACO contact. However, CMS recommends that applicants diversify their contacts by assigning a different person to each role.
- Applicants may submit consultant and management company contact information; however, they may not be the only contacts for an ACO. Individual(s) directly from the ACO must also be listed as ACO contacts.
- Update the Contacts subtab in ACO-MS with the appropriate contact information when there is a change in ACO contacts within your ACO (e.g., new personnel, departing personnel, changes in roles).



TIPS FOR SUCCESS

It is critical that all ACO contacts log into ACO-MS to verify that their contact role(s) and contact information is correct. Please verify email addresses and phone numbers in particular.

You can have more than one person designated as secondary contact(s). For example, having more than one person who can sign documents on behalf of your ACO (i.e., Authorized to Sign (secondary contact)) may save individuals' time when executing ACO Participant Agreements or completing Annual Certification.

FOR RENEWAL APPLICANTS (INCLUDING EARLY RENEWAL APPLICANTS)

ONLY: Renewal applicants should update and confirm contact information for all roles.

3.2 PROGRAM PARTICIPATION

3.2.1 BENEFICIARY INCENTIVE PROGRAM

ACOs participating under certain two-sided models may apply to establish and [operate a BIP](#) to provide incentive payments to assigned beneficiaries who receive qualifying services. ACOs applying to participate or currently participating in Levels C, D, or E of the BASIC track or the ENHANCED track have the option to apply to establish and operate a BIP. If your ACO intends to apply to establish and operate a BIP, you must submit a BIP Application during Phase 2.

ADDITIONAL RESOURCES

[BIP Guidance](#)

3.3 LEADERSHIP AND GOVERNANCE

As part of an Initial or Renewal/Early Renewal Application, applicants provide information about the ACO's leadership. The description submitted in this section provides context about the ACO's ability to meet eligibility requirements, its structure, and its affiliations. Refer to the regulatory requirements at [42 CFR §§ 425.204\(b\)](#) and [425.204\(c\)\(1\)\(iii\)](#).

3.3.1 ORGANIZATIONAL CHART

Applicants must submit an organizational chart. The chart should clearly depict the flow of responsibility and reporting structure. The organizational chart should include the following roles, including names of individuals in the roles:

- Medical director/chief medical officer
- Compliance official or individual who is not legal counsel to the ACO and reports directly to the ACO's governing body
- ACO Executive
- Qualified health care professional responsible for the ACO's quality assurance and improvement program

Refer to the regulatory requirements at 42 CFR § 425.204(c)(1)(iii), [42 CFR § 425.112\(a\)\(2\)](#), [42 CFR § 425.300](#), and [42 CFR § 425.108](#).

3.3.2 GOVERNING BODY

ACOs must submit information about their governing body and confirm that specific governance procedures are in place. As part of the application, ACOs must provide governing body members, membership type, voting power, and the ACO participant legal business name (LBN). For more information about the governing body, refer to regulatory requirements at [42 CFR §§ 425.106\(a\) and \(b\)](#) and 425.204(c)(1)(iii).

The ACO must establish a mechanism for shared governance among the ACO participants that formed the ACO. ACO participants must represent at least 75 percent of the voting power for all voting members. ACO-MS will automatically calculate whether ACO participants hold 75 percent control over the ACO's governing body; non-voting governing body members are not included in the calculation. If ACO participants do not have at least 75 percent control of the governing body, the ACO must provide an explanation of why they seek to differ from this requirement and how the ACO will involve ACO participants in ACO governance in innovative ways.

CMS does not require an ACO's governing body to include a representative from each ACO participant listed on its ACO Participant List. However, the program rules require an ACO to provide meaningful participation in the composition and control of the ACO's governing body for ACO participants and/or their designated representatives. The ACO must include at least one Medicare FFS beneficiary on its governing body. Any Medicare FFS beneficiary on the governing body must be served by the ACO, cannot be an ACO provider or supplier, cannot have a conflict of interest with the ACO, and cannot have an immediate family member with a conflict of interest with the ACO. If an ACO does not include a Medicare FFS beneficiary on the governing body, the ACO must provide an explanation of why it seeks to differ from this requirement and how the ACO demonstrates meaningful representation of Medicare FFS beneficiaries in governance.

For more information, refer to regulatory requirements at 42 CFR § 425.106.

3.4 CERTIFICATIONS

In this section of the application, ACOs must certify that they agree to meet all applicable Shared Savings Program requirements in 42 CFR part 425, including but not limited to the following:

- Legal entity ([42 CFR § 425.104](#))
- Shared governance (42 CFR § 425.106)
- Leadership and management (42 CFR § 425.108)
- Required processes and patient-centeredness criteria (42 CFR § 425.112)
- Agreements with ACO participants and ACO providers/suppliers (42 CFR §§ 425.116(a) and (b))
- Content of the application (42 CFR §§ 425.204(a), (c)(1), (d), and (f))
- Compliance plan (42 CFR § 425.300)

ACOs will also certify that they will request the minimum necessary data as a HIPAA-covered entity and as the business associate of the ACO's ACO participants and ACO providers/suppliers in order to conduct health care operations per [45 CFR § 164.501](#). The minimum necessary data may include, but are not limited to, the data elements as defined in [42 CFR § 425 subpart H](#). If approved to participate in the Shared Savings Program, the ACO will be required to submit a Data Use Agreement (DUA) prior to receiving any data.

IMPORTANT

During Phase 2 of the application submission period, there will be one round of RFIs during which ACOs will have the opportunity to respond to feedback from CMS and make any necessary corrections to Phase 2 of their application. After the Phase 2 RFI, CMS will issue final application dispositions.

4 Withdrawing an Application

Applicants that submit an application but do not intend to participate in the Shared Savings Program, SNF 3-Day Rule Waiver, and/or BIP can withdraw their application by following these steps:

- The ACO Executive or Authorized to Sign (primary or secondary) Contact logs into ACO-MS.

Additional Information

ACOs may request to receive beneficiary-identifiable Part A, B, and/or D claims data, which CMS provides in Claim and Claim Line Feed (CCLF) files. For more information, refer to the [CCLF File Data Elements Resource](#).

- The ACO Executive or Authorized to Sign (primary or secondary) Contact clicks the “Withdraw Application” button.
- Once the application has been withdrawn, a success message will display and the application task status will change to “Withdrawn by ACO”.

Once the application is withdrawn, the action is final.

Appendix A: Financial Description of Models

COMPARISON OF RISK AND REWARD UNDER BASIC TRACK AND ENHANCED TRACK

(83 FR 67852)

	BASIC Track's Glide Path				ENHANCED Track
	Level A & Level B (one-sided model)	Level C (risk/reward)	Level D (risk/reward)	Level E (risk/reward)	
Shared Savings (once Minimum Savings Rate (MSR) met or exceeded)²	1 st dollar savings at a rate of 40% if quality performance standard is met; not to exceed 10% of updated benchmark	1 st dollar savings at a rate of 50% if quality performance standard is met, not to exceed 10% of updated benchmark	1 st dollar savings at a rate of 50% if quality performance standard is met, not to exceed 10% of updated benchmark	1 st dollar savings at a rate of 50% if quality performance standard is met, not to exceed 10% of updated benchmark	1 st dollar savings at a rate of 75% if quality performance standard is met, not to exceed 20% of updated benchmark
Shared Losses (once Minimum Loss Rate (MLR) met or exceeded)	N/A	1 st dollar losses at a rate of 30%, not to exceed 2% of ACO participant revenue capped at 1% of updated benchmark	1 st dollar losses at a rate of 30%, not to exceed 4% of ACO participant revenue capped at 2% of updated benchmark	1 st dollar losses at a rate of 30%, not to exceed 8% of ACO participant revenue in 2019-2024, capped at 4% of updated benchmark. The loss recoupment limit is the percentage of revenue specified in the revenue-based nominal amount standard under the Quality Payment Program (QPP) ³ capped at 1 percentage point higher than the benchmark-based nominal risk amount ⁴	1 st dollar losses at a rate based on quality performance, with minimum shared loss rate of 40% and maximum of 75%, not to exceed 15% of updated benchmark

² ACOs that fail to meet the quality performance standard are ineligible to share in savings.

³ Refer to [42 CFR § 414.1415\(c\)\(3\)\(i\)\(A\)](#).

⁴ Refer to [42 CFR § 414.1415\(c\)\(3\)\(i\)\(B\)](#).

	BASIC Track's Glide Path				ENHANCED Track
	Level A & Level B (one-sided model)	Level C (risk/reward)	Level D (risk/reward)	Level E (risk/reward)	
Annual choice of beneficiary assignment methodology?	Yes	Yes	Yes	Yes	Yes
Annual election to enter higher risk?	Yes, but new low revenue ACOs may elect an additional year under Level B if they commit to completing the remainder of their agreement under Level E.	Yes	No; ACOs will automatically transition to Level E at the start of the next performance year	No; maximum level of risk/reward under the BASIC track	No; highest level of risk/reward under Shared Savings Program
Advanced APM status under the Quality Payment Program?	No	No	No	Yes	Yes

Appendix B: Participation Options

PARTICIPATION OPTIONS FOR LOW REVENUE ACOs BASED ON APPLICANT TYPE AND EXPERIENCE WITH RISK (83 FR 67911)¹

Applicant type	ACO experienced or inexperienced with performance-based risk Medicare ACO initiatives	Participation Options			Agreement period for policies that phase-in over time (benchmarking methodology and quality performance)
		BASIC track's glide path (option for incremental transition from one-sided to two-sided models during agreement period)	BASIC track's Level E (track's highest level of risk/reward applies to all performance years during agreement period)	ENHANCED track (program's highest level of risk/reward applies to all performance years during agreement period)	
New legal entity	Inexperienced	Yes—glide path Levels A through E; new legal entities (not re-entering ACOs) that are low revenue ACOs may elect to enter in Level A, transition to Level B, and remain in Level B for an additional performance year prior to being automatically advanced to Level E for the remaining performance years of their agreement period	Yes	Yes	First agreement period
New legal entity	Experienced	No	Yes	Yes	First agreement period

Applicant type	ACO experienced or inexperienced with performance-based risk Medicare ACO initiatives	Participation Options			Agreement period for policies that phase-in over time (benchmarking methodology and quality performance)
		BASIC track's glide path (option for incremental transition from one-sided to two-sided models during agreement period)	BASIC track's Level E (track's highest level of risk/reward applies to all performance years during agreement period)	ENHANCED track (program's highest level of risk/reward applies to all performance years during agreement period)	
Re-entering ACO	Inexperienced—former Track 1 ACOs or new ACOs identified as re-entering ACOs because more than 50% of their ACO participants have recent prior experience in a Track 1 ACO	Yes—glide path Levels B through E	Yes	Yes	Either: (1) the next consecutive agreement period if the ACO's prior agreement expired; (2) the same agreement period in which the ACO was participating at the time of termination; or (3) applicable agreement period ² for new ACO identified as re-entering because of ACO participants' experience in the same ACO
Re-entering ACO	Experienced	No	Yes	Yes	Either: (1) the next consecutive agreement period if the ACO's prior agreement expired; (2) the same agreement period in which the ACO was participating at the time of termination; or (3) applicable agreement period ² for new ACO identified as re-entering because of ACO participants' experience in the same ACO

Applicant type	ACO experienced or inexperienced with performance-based risk Medicare ACO initiatives	Participation Options			Agreement period for policies that phase-in over time (benchmarking methodology and quality performance)
		BASIC track's glide path (option for incremental transition from one-sided to two-sided models during agreement period)	BASIC track's Level E (track's highest level of risk/reward applies to all performance years during agreement period)	ENHANCED track (program's highest level of risk/reward applies to all performance years during agreement period)	
Renewing ACO	Inexperienced—former Track 1 ACOs	Yes—glide path Levels B through E	Yes	Yes	Subsequent consecutive agreement period
Renewing ACO	Experienced	No	Yes	Yes	Subsequent consecutive agreement period

Notes: ¹ Low revenue ACOs may operate under the BASIC track for a maximum of two agreement periods.

² CMS considers the participation of the ACO in which a majority of the new ACO's participants were participating: (1) If the participation agreement of the other ACO was terminated, then the new ACO re-enters the program at the start of the same agreement period in which the other ACO was participating at the time of termination from the Shared Savings Program, beginning with the first performance year of that agreement period; (2) if the participation agreement of the other ACO expired without having been renewed, then the new ACO re-enters the program under the other ACO's next consecutive agreement period in the Shared Savings Program; and (3) if the other ACO is currently participating in the program, the new ACO would be considered to be entering into the same agreement period in which this other ACO is currently participating, beginning with the first performance year of that agreement period.

PARTICIPATION OPTIONS FOR HIGH REVENUE ACOs BASED ON APPLICANT TYPE AND EXPERIENCE WITH RISK (83 FR 67913)¹

Applicant type	ACO experienced or inexperienced with performance-based risk Medicare ACO initiatives	Participation Options			Agreement period for policies that phase-in over time (benchmarking methodology and quality performance)
		BASIC track's glide path (option for incremental transition from one-sided to two-sided models during agreement period)	BASIC track's Level E (track's highest level of risk/reward applies to all performance years during agreement period)	ENHANCED track (program's highest level of risk/reward applies to all performance years during agreement period)	
New legal entity	Inexperienced	Yes—glide path Levels A through E	Yes	Yes	First agreement period
New legal entity	Experienced	No	No	Yes	First agreement period
Re-entering ACO	Inexperienced—former Track 1 ACOs or new ACOs identified as re-entering ACOs because more than 50% of their ACO participants have recent prior experience in a Track 1 ACO	Yes—glide path Levels B through E	Yes	Yes	Either: (1) the next consecutive agreement period if the ACO's prior agreement expired; (2) the same agreement period in which the ACO was participating at the time of termination; or (3) applicable agreement period ² for new ACO identified as re-entering because of ACO participants' experience in the same ACO

Applicant type	ACO experienced or inexperienced with performance-based risk Medicare ACO initiatives	Participation Options			Agreement period for policies that phase-in over time (benchmarking methodology and quality performance)
		BASIC track's glide path (option for incremental transition from one-sided to two-sided models during agreement period)	BASIC track's Level E (track's highest level of risk/reward applies to all performance years during agreement period)	ENHANCED track (program's highest level of risk/reward applies to all performance years during agreement period)	
Re-entering ACO	Experienced	No	No	Yes	Either: (1) the next consecutive agreement period if the ACO's prior agreement expired; (2) the same agreement period in which the ACO was participating at the time of termination; or (3) applicable agreement period ² for new ACO identified as re-entering because of ACO participants experience in the same ACO
Renewing ACO	Inexperienced—former Track 1 ACOs	Yes—glide path Levels B through E	Yes	Yes	Subsequent consecutive agreement period
Renewing ACO	Experienced	No	No	Yes	Subsequent consecutive agreement period

Notes: ¹ High revenue ACOs that have participated in the BASIC track are considered experienced with performance-based risk Medicare ACO initiatives and are limited to participating under the ENHANCED track for subsequent agreement periods.

² CMS considers the participation of the ACO in which a majority of the new ACO's participants were participating: (1) If the participation agreement of the other ACO was terminated, then the new ACO re-enters the program at the start of the same agreement period in which the other ACO was participating at the time of termination from the Shared Savings Program, beginning with the first performance year of that agreement period; (2) if the participation agreement of the other ACO expired without having been renewed, then the new ACO re-enters the program under the other ACO's next consecutive agreement period in the Shared Savings Program; and (3) if the other ACO is currently participating in the program, the new ACO would be considered to be entering into the same agreement period in which this other ACO is currently participating, beginning with the first performance year of that agreement period.

Appendix C: Application Checklist

PHASE 1

LEGAL ENTITY INFORMATION

- The legal entity information for my ACO meets the following requirements:
 - ACO legal entity name matches legal documentation.
 - ACO TIN is correct.

PROGRAM PARTICIPATION OPTIONS

- My ACO selected the track that my organization is applying to participate in.
- If applying to a two-sided risk model, my ACO selected an MSR/MLR.
- My ACO selected a beneficiary assignment methodology.

ACO PARTICIPANT LIST

- All ACO participants on my ACO Participant List:
 - 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.
- If an ACO participant is a sole proprietor that is enrolled in Medicare under its Social Security Number (SSN) and bills Medicare under a separate Employer Identification Number (EIN) that is linked to the SSN's enrollment, both the SSN and the EIN must be included on the ACO Participant List. It is the responsibility of the ACO to communicate with each of its ACO participants to understand how the ACO participant is enrolled in and billing Medicare. ACO participants should contact their respective Medicare Administrative Contractors (MACs) with any questions regarding their Medicare enrollment.
- 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 LBN
 - Medicare enrollment status
 - Medicare exclusions
- My ACO completed the ACO Participant Agreement attestation.

PROGRAM PARTICIPATION

- If applying for a Skilled Nursing Facility (SNF) 3-Day Rule Waiver, my ACO completed and submitted the separate SNF 3-Day Rule Waiver application and SNF affiliate change request(s).
- The following information in the ACO-MS change request matches what is shown in the Provider Enrollment, Chain, and Ownership System (PECOS):
 - SNF TIN and LBN
 - Medicare enrollment status
 - SNF TIN and CCN Linkage
- If eligible, the proposed SNF affiliate is at 3 stars or higher in the 5-star Rating System in Care Compare.

BANKING FORM

- As an **initial applicant**, my ACO has the completed EFT Authorization Agreement Form CMS-588 and supporting documentation.
- As a **renewal applicant**, my ACO has submitted an updated EFT Authorization Agreement Form CMS-588 and supporting documentation if the ACO's legal entity name, TIN, financial institution information authorized/delegated official, contact person(s), or address has changed.

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, or a combination of these arrangements.
- 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.

PHASE 2

ACO INFORMATION

- ACO date of formation matches entity formation documentation (e.g., Certificate of Incorporation).
- My ACO has provided the address of our public reporting webpage (**initial applicants only**).
- My ACO has added or updated information for the required contacts.

PROGRAM PARTICIPATION

- If applying to establish and operate a Beneficiary Incentive Program (BIP), my ACO completed and submitted the separate application.

LEADERSHIP AND GOVERNANCE

Organizational Chart

- My ACO submitted an organizational chart that clearly indicates the flow of responsibility and is consistent with the overall picture of the ACO.

ACO Governing Body

- 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 comprises 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.