

## Vermont All-Payer Accountable Care Organization Model Agreement - Appendix 3

### Amendment to Sections 6, 7, 8, 9, 15, Appendix 1.

This amendment is made to the Vermont All-Payer Accountable Care Organization (“ACO”) Model Agreement (“Agreement”) entered into between the Centers for Medicare & Medicaid Services (“CMS”) and the Governor of Vermont, the Green Mountain Care Board (“GMCB”), and the Vermont Agency of Human Services (“AHS”) (collectively, “State” or “Vermont”). Each Vermont entity, and CMS, is a party to the Agreement. CMS wishes to amend the terms of the Agreement to update the process by which the GMCB may propose modifications to the Initiative, to address data sharing with GMCB for health oversight activities, to revise the Statewide Health Outcomes and Quality of Care Targets, and to make certain technical and conforming revisions. The parties therefore amend the Agreement as set forth herein.

1. **Effective Date.** Unless otherwise specified, the amendments hereby made to the Agreement shall be effective when this Amendment is signed by the last party to sign it (as indicated by the date associated with that party’s signature).
2. **Effect of Amendment.** All other terms and conditions of the Agreement shall remain in full force and effect. In the event of any inconsistency between the provisions of this Amendment and the provisions of the Agreement, the provisions of this Amendment shall prevail.
3. **ACO Scale Targets.** Section 6.f of the Agreement is hereby amended by replacing “section 8” with “section 8.c”.
4. **Statewide Health Outcomes and Quality of Care Targets.** Section 7 of the Agreement is hereby amended as follows:
  - a. Section 7.c and Section 7.c.iii are hereby amended by replacing “at least four of the seven” with “at least five of the nine”.
  - b. Section 7.e is hereby amended by replacing “September 30<sup>th</sup>” with “December 31<sup>st</sup>”.
5. **Vermont Medicare ACO Initiative (“Initiative”).** Section 8 of the Agreement is hereby amended as follows:
  - a. The first paragraph of Section 8 is hereby amended in its entirety to read as follows:

“CMS, in collaboration with Vermont, shall design and launch the Vermont Medicare ACO Initiative to begin on January 1, 2019, and its performance period will align with Performance Years 2 through 5 of this Agreement. CMS shall

require Vermont ACOs participating in the Initiative (VMA ACOs) to accept beneficiary alignment methodology, ACO quality measures, payment mechanisms, and risk arrangements for the overall quality and cost of medical care furnished to Medicare FFS beneficiaries aligned to the ACO. As described in section 8.c, the GMCB may submit one or more proposals to CMS for modifications to the Initiative to better align the Initiative with ACO programs operated by Vermont Medicaid, Vermont Commercial Plans, and participating Vermont Self-insured Plans.”

- b. Section 8.a.iii is hereby amended by inserting “in accordance with section 8.c” after “Initiative” the third time such term appears.
- c. Section 8.a.iv is hereby amended by inserting “Care Management Home Visits” after “Post-discharge home visits”.
- d. Section 8 of the Agreement is hereby amended by inserting after paragraph (b) the following new paragraph (c):
  - c. **Proposals for the Initiative.** During the Performance Period of this Model, the GMCB, in collaboration with AHS, may submit to CMS a proposal for modifications to the Initiative (“Initiative Proposal”). The Initiative Proposal must include all of the information specified in section 8.c.i and must be developed in accordance with sections 8.b.ii.1.c and 8.c.ii. CMS reserves the right at its sole discretion to accept or reject the GMCB’s Initiative Proposal.
    - i. **Required Information.** The GMCB’s Initiative Proposal must include the following information:
      1. How the proposed modification will enhance Vermont’s ability to meet the ACO Scale Targets, as described in section 6, and the Statewide Health Outcomes and Quality of Care Targets, as described in section 7;
      2. How the proposed modification will enhance Vermont’s ability to meet the All-payer Total Cost of Care per Beneficiary Growth Target and the Medicare Total Cost of Care per Beneficiary Growth Target, as described in section 9;
      3. The potential impact of the proposed modification on the Vermont Medicare ACO Initiative Benchmark;
      4. Descriptions of any waivers authorized under Section 1115A(d)(1) of the Act that may be necessary to implement the proposed modification;

5. The GMCB's plans to encourage VMA ACOs' participation in the modification to the Initiative; and
6. The State's monitoring strategy and evaluation strategy for the modification to the Initiative.

ii. **Collaboration.** In developing the Initiative Proposal, the GMCB shall collaborate with the AHS and the VMA ACOs to ensure input into the Initiative Proposal.

6. **Statewide Financial Targets.** Section 9.f of the Agreement is hereby amended by replacing "June" with "December".

7. **Data Sharing.** Section 15 of the Agreement is hereby amended as follows:

a. Section 15.b is hereby amended in its entirety to read as follows:

"Over the Performance Period of this Model, CMS is willing to accept requests from the GMCB for Medicare data necessary to achieve the purposes of the Model. This Medicare data may include individually-identifiable Medicare eligibility status and demographic information of all Medicare FFS beneficiaries residing in Vermont, and claim and claim line data for services furnished by Medicare-enrolled providers and suppliers to Medicare FFS beneficiaries residing in Vermont. CMS may, upon request of the GMCB, provide additional reports that include the following: utilization, expenditures, quality of care, Medicare FFS eligibility type, VMA ACO alignment, and performance summary comparisons to other states. GMCB may request individually-identifiable health information that is necessary for carrying out health oversight activities under 45 CFR § 164.512(d)(1). All requests for individually-identifiable health information must clearly state the HIPAA basis for the requested disclosure, and include an assertion that the data requested constitutes the minimum necessary to carry out that function. CMS will make best efforts to approve, deny, or request additional information within 60 days of receipt. CMS will accept or reject such requests on a case-by-case basis and at CMS's sole discretion. CMS will provide requested data in accordance with applicable law, including HIPAA and the regulations governing the confidentiality of substance use disorder patient records under 42 CFR part 2. Appropriate privacy and security protections will be required for any data disclosed under this Agreement."

b. Section 15.b is hereby amended by inserting under paragraph (b) the following new paragraphs (i) and (ii):

- i. **Health Oversight Agency.** Appendix 3 includes assertions from the GMCB as to its status as “health oversight agency” (as defined in 45 CFR § 164.501) in the context of this Model.
  - ii. GMCB is expected to use the requested data in its efforts to monitor and oversee Vermont’s health care system as it pertains to this Agreement. Notwithstanding any other provision of this Agreement, and in accordance with applicable law, GMCB may disclose original or derivative data received under this Agreement without prior written authorization from CMS if such disclosure is necessary to enable GMCB’s oversight of the Model, or to enable quality improvement activities or health care provider incentive implementation.
8. **Appendix 1.** Appendix 1 of the Agreement is hereby stricken in its entirety and replaced with the Appendix 1 included as Attachment A to this amendment.
9. **Appendix 3.** The Agreement is hereby amended to add this Appendix 3 immediately after Appendix 2. In the event of any inconsistency between the provisions of Appendix 3 and the provisions of the Agreement relative to the subject matter of Appendix 3, the provisions of the Agreement will prevail.

Each party is signing this amendment on the date stated opposite that party's signature. If a party signs this amendment, but fails to date a signature, the date that the other parties receive the signing party's signature will be deemed to be the date that the signing party signed this amendment.

**CENTERS FOR MEDICARE & MEDICAID SERVICES**

Date: \_\_\_\_\_ By: \_\_\_\_\_

\_\_\_\_\_  
Name of authorized signatory

\_\_\_\_\_  
Title

**GOVERNOR OF THE STATE OF VERMONT**

Date: \_\_\_\_\_ By: \_\_\_\_\_

Phil Scott, Governor

**GREEN MOUNTAIN CARE BOARD**

Date: \_\_\_\_\_ By: \_\_\_\_\_

\_\_\_\_\_  
Name of authorized signatory

\_\_\_\_\_  
Title

**VERMONT AGENCY OF HUMAN SERVICES**

Date: \_\_\_\_\_ By: \_\_\_\_\_

\_\_\_\_\_  
Name of authorized signatory

\_\_\_\_\_  
Title