

**Vermont All-Payer ACO Model
Vermont Medicare ACO Initiative Participation Agreement**

**Amendment to Section XIII.C.4,
Appendix B, and Appendix J
2021 Amendment No. 2**

CMS hereby amends the Next Generation ACO Model Participation Agreement (the "Agreement") between OneCare Vermont ACO, LLC
_____ ("ACO") and the Centers for Medicare & Medicaid Services ("CMS").

CMS is authorized pursuant to Section XX.D of the Agreement to amend the Agreement or any Appendix thereto without the consent of the ACO as necessary to comply with applicable federal or State law, regulatory requirements, accreditation standards or licensing guidelines or rules.

CMS is amending the Agreement unilaterally to comply with recent changes in federal law. Section 3709 of the Coronavirus Aid, Relief, and Economic Security Act of 2020 (the "CARES Act") (P.L. 116-136), enacted on March 27, 2020, temporarily suspended Medicare sequestration for the period of May 1, 2020, through December 31, 2020. Subsequently, Section 102 of the Consolidated Appropriations Act, 2021 (P.L. 116-260), enacted on December 27, 2020, extended the temporary suspension of Medicare sequestration for an additional 3-month period beginning on January 1, 2021, and ending on March 31, 2021.

To implement these changes in federal law, CMS is amending the Agreement to suspend the application of budget sequestration to any Shared Savings payments made for a Performance Year for which the settlement report issued pursuant to Section XIII.C.1(a) of the Agreement is issued to the ACO during the sequestration suspension period of May 1, 2020, through March 31, 2021, or such later date specified by Congress ("Sequestration Suspension Period"), including any subsequent adjustments to such payments. CMS is also amending the Agreement to suspend the application of budget sequestration for any monthly payments made to the ACO during the Sequestration Suspension Period for the All-Inclusive Population-Based Payment (AIPBP), for which CMS has approved the ACO.

In light of the foregoing, CMS hereby amends the Agreement as follows:

1. **Settlement Reopening.** Section XIII.C.4 of the Agreement is hereby amended to add the following paragraph at the end after Section XIII.C.4(d):

(e) For any settlement report that was initially issued during a period for which budget sequestration was suspended and that includes the application of budget sequestration in the calculation of Shared Savings, CMS will reopen and revise the

settlement report to remove the application of budget sequestration from the calculation of Shared Savings.

2. **Budget Sequestration for Shared Savings Payments.** The penultimate paragraph of Section IV.E of both Part 2 and Part 3 of Appendix B is hereby amended in its entirety to read as follows:

Budget sequestration will apply to the payment of Shared Savings, including any related adjustments, that results from a settlement report that is initially issued in a period during which budget sequestration is in effect, but does not apply to the repayment of Shared Losses. For example, if the budget sequestration rate is 2%, the amount of Shared Savings owed to the ACO would be 98% of any savings calculated after application of the Savings/Losses Cap and the Risk Arrangement as described above, but the amount of Shared Losses owed by the ACO would be 100% of any losses calculated after application of the Savings/Losses Cap and the Risk Arrangement as described above.

3. **Budget Sequestration for AIPBP Payments.** Section VI.B.4 of Appendix J is hereby amended in its entirety to read as follows:

4. *Calculation of Total AIPBP Payment and Monthly AIPBP Payment*

The total amount of AIPBP payments to the ACO for a Performance Year is equal to:

- i. *The projected Part A and Part B PBPM payments made for services furnished by all AIPBP-participating Initiative Participants and Preferred Providers calculated in accordance with Sections VI.B.1 and VI.B.2 of this Appendix; and*
- ii. *Multiplied by the Total Projected Member Months calculated in accordance with Section VI.B.3 of this Appendix.*


The resulting amount is then divided by 12 and then multiplied by 0.98 (i.e., reduced by 2%) if budget sequestration is in effect for the period for which the AIPBP Payment is made to determine the “Monthly AIPBP Payment” to the ACO.

5. **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.
6. **Effective Date.** This amendment shall be effective on March 27, 2020. While the Agreement requires CMS to provide the ACO with 30 calendar days advance written notice of any unilateral amendment, to the extent practicable, it was not practicable to provide such notice for this amendment, which takes effect retroactively on the effective date of the CARES Act.

[SIGNATURE PAGE FOLLOWS]

CENTERS FOR MEDICARE & MEDICAID SERVICES

Date: 3/18/21

By: **Amy Bassano -S**  Digitally signed by Amy Bassano -S
Date: 2021.03.18 07:48:28 -04'00'

Amy Bassano, Deputy Director, Center for Medicare and Medicaid Innovation