



**CENTER FOR MEDICARE AND MEDICAID INNOVATION**

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TO: Michael K. Smith, Secretary, Agency of Human services  
Kevin Mullin, Chair, Green Mountain Care Board

DATE: June 24, 2020

**RE: COVID-19 Public Health Emergency and the Vermont All-Payer ACO Model**

Thank you for your letter regarding the Vermont All-Payer ACO Model, the State's commitment to health reform during this challenging time and request for flexibilities due to the COVID-19 public health emergency.

CMS is examining existing policies to ensure they meet the needs of those who are responding to the pandemic. Last month, CMS released new rules and waivers of federal requirements to ensure that clinicians, local hospitals, and health systems have the capacity to absorb and effectively manage potential surges of COVID-19 patients. In addition, CMS has issued guidance on telehealth, nursing home health and safety standards, essential surgeries and procedures, and preservation of personal protective equipment, beds, and ventilators. You can find more information about ongoing efforts on CMS's Current Emergencies website, which is linked on the CMS.gov home page.<sup>1</sup>

The Center for Medicare and Medicaid Innovation (Innovation Center) approves a majority of the State's requests for certain flexibilities related to the current public health emergency (PHE) stemming from COVID-19. The Innovation Center's response to the requested flexibilities are outlined below.

**Vermont Medicare ACO Initiative** – When applicable, the Vermont Medicare ACO Initiative will follow the flexibilities provided to the Medicare Shared Savings Program (MSSP) and the Next Generation ACO Model (NGACO).<sup>2</sup> Specifically, the following flexibilities have been approved:

- Request 1.a., 1.b. - Adopt MSSP's Extreme and Uncontrollable Circumstances policy which reduces 2020 downside risk by reducing shared losses by the proportion of months during the PHE.<sup>3</sup> Remove Parts A and B FFS payment amounts for an episode of care for treatment of COVID-19, triggered by an inpatient service, and as specified on Parts A and B claims with dates of service during the episode for the purposes of calculating Shared Savings/Losses (settlement).
- Request 1.c., 2.c. - Revert the 2019 claims-based quality measures to pay-for-reporting. Revert all 2020 quality reporting to pay-for-reporting.

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<sup>1</sup><https://www.cms.gov/About-CMS/Agency-Information/Emergency/EPRO/Current-Emergencies/Current-Emergencies-page>

<sup>2</sup> <https://www.cms.gov/files/document/covid-innovation-model-flexibilities.pdf>

<sup>3</sup> <https://www.cms.gov/files/document/covid-ifc-2-medicare-shared-savings-program.pdf>

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- Request 1.e. - Extend the deadline for the submission of the final ACO participant list to September 30, 2020.

Please note that the 2019 and 2020 All-Inclusive Population Based Payment (AIPBP) will be reconciled as currently described in the Vermont Medicare ACO Initiative Participation Agreement, Appendix J (Request 1.d., 2.a.). The State also expressed concern around the ACO realizing Shared Losses in 2019. However, the preliminary 2019 ACO financial settlement indicates that the ACO will realize Shared Savings in 2019 in excess of the 2019 Shared Savings advance (Request 2.b.).

**Vermont All-Payer ACO Model State Agreement** – As outlined in your letter, we further acknowledge that additional issues may arise over the coming months or year with respect to the impact of the COVID-19 PHE on the Vermont All-Payer ACO Model, some of which also may necessitate amendments to the State Agreement or the State invoking the Exogenous Factors clause.

CMMI will work with our State partners in Vermont to identify other priority areas where the PHE response necessitates additional flexibilities. Thank you for taking the time to share your requests.

Sincerely,

A handwritten signature in black ink, appearing to read "Rivka Friedman".

Rivka Friedman  
Acting Director, State Innovations Group  
Center for Medicare and Medicaid Innovation  
Centers for Medicare & Medicaid Services