

Accountable Care Organizations Final Rule Incorporates Additional Flexibility

The Centers for Medicare and Medicaid Services (CMS) has issued a final rule to implement the voluntary Medicare Shared Savings Program. Under the Program, groups of medical providers can apply to participate as Accountable Care Organizations (ACOs). Previously, we circulated an in-depth alert addressing the proposed rule and practical considerations to be taken into account by organizations evaluating whether to form or join an ACO.

The final rule was published in the Federal Register on November 2nd. Among the highlights of changes from the proposed rule incorporated into the final rule are:

- Establishment of a one-sided option where ACOs would share in savings without being at risk for losses for the entire initial 3-year term of an agreement with CMS
- Sharing in the so-called “first dollar [of] savings,” if a minimum savings rate is achieved; increasing the total shared savings payment caps; and elimination of the 25% withhold of shared savings payments
- Reduction of the number of quality performance standards from 65 to 33 measures with respect to which ACOs are evaluated to determine their shared savings rate [up to 50% for one-sided ACOs; up to 60% for two-sided ACOs]
- Increased flexibility for participation in ACOs, and in the governance and structure of ACOs

To read an in-depth summary of the changes addressed in the final rule, please [click here](#). To view an updated version of our earlier client alert reflecting the final rule changes, please [click here](#).

If you have any questions, please feel free to contact Chris Was (615-744-8527 | cwas@millermartin.com), Teresa Culver (615-744-8406 | tculver@millermartin.com), Jim Porter (744-8523 | jporter@millermartin.com), Ward Nelson (423-785-8250 | wnelson@millermartin.com), Christie Burbank (423-785-8307 | cburbank@millermartin.com), or any other member of Miller & Martin's [Health Care Practice Group](#).

The opinions expressed in this bulletin are intended for general guidance only. They are not intended as recommendations for specific situations. As always, readers should consult a qualified attorney for specific legal guidance. Should you need assistance from a Miller & Martin attorney, please call 1-800-275-7303.

ATLANTA
1170 Peachtree Street N.E.
Suite 800
Atlanta, GA 30309

CHATTANOOGA
832 Georgia Avenue
Suite 1000 Volunteer Building
Chattanooga, TN 37402

NASHVILLE
150 Fourth Avenue, North
1200 One Nashville Place
Nashville, TN 37219