

#### § 425.114

hospital or transfer of care from a primary care physician to a specialist (both inside and outside the ACO); and

(ii) Have a written plan to:

(A) Implement an individualized care program that promotes improved outcomes for, at a minimum, the ACO's high-risk and multiple chronic condition patients.

(B) Identify additional target populations that would benefit from individualized care plans. Individualized care plans must take into account the community resources available to the individual.

(C) Encourage and promote use of enabling technologies for improving care coordination for beneficiaries. Enabling technologies may include one or more of the following:

(1) Electronic health records and other health IT tools.

(2) Telehealth services, including remote patient monitoring.

(3) Electronic exchange of health information.

(4) Other electronic tools to engage beneficiaries in their care.

(D) Partner with long-term and post-acute care providers, both inside and outside the ACO, to improve care coordination for its assigned beneficiaries.

[76 FR 67973, Nov. 2, 2011, as amended at 80 FR 32835, June 9, 2015; 82 FR 53368, Nov. 15, 2017; 85 FR 85038, Dec. 28, 2020]

#### § 425.114 Participation in other shared savings initiatives.

(a) ACOs may not participate in the Shared Savings Program if they include an ACO participant that participates in the independence at home medical practice pilot program under section 1866E of the Act, a model tested or expanded under section 1115A of the Act that involves shared savings, or any other Medicare initiative that involves shared savings.

(b) CMS will review and deny an ACO's application if any ACO participants are participating in another Medicare initiative that involves shared savings payments.

(c) CMS will determine an appropriate method to ensure no duplication in payments for beneficiaries assigned to other shared savings programs or initiatives, including initiatives in-

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volving dually eligible beneficiaries, when such other shared savings programs have an assignment methodology that is different from the Shared Savings Program.

#### § 425.116 Agreements with ACO participants and ACO providers/suppliers.

(a) *ACO participant agreements.* For performance year 2017 and subsequent performance years, the ACO must have an ACO participant agreement with each ACO participant that complies with the following criteria:

(1) The only parties to the agreement are the ACO and the ACO participant.

(2) The agreement must be signed on behalf of the ACO and the ACO participant by individuals who are authorized to bind the ACO and the ACO participant, respectively.

(3) The agreement must expressly require the ACO participant to agree, and to ensure that each ACO provider/supplier billing through the TIN of the ACO participant agrees, to participate in the Shared Savings Program and to comply with the requirements of the Shared Savings Program and all other applicable laws and regulations (including, but not limited to, those specified at § 425.208(b)).

(4) The agreement must set forth the ACO participant's rights and obligations in, and representation by, the ACO, including without limitation, the quality reporting requirements set forth in subpart F of this part, the beneficiary notification requirements set forth at § 425.312, and how participation in the Shared Savings Program affects the ability of the ACO participant and its ACO providers/suppliers to participate in other Medicare demonstration projects or programs that involve shared savings.

(5) The agreement must describe how the opportunity to receive shared savings or other financial arrangements will encourage the ACO participant to adhere to the quality assurance and improvement program and evidence-based medicine guidelines established by the ACO.

(6) The agreement must require the ACO participant to update its enrollment information, including the addition and deletion of ACO professionals