

## § 425.218

## 42 CFR Ch. IV (10–1–23 Edition)

(2) Nothing in this part, including the actions set forth in paragraph (a)(1) of this section, negates, diminishes, or otherwise alters the applicability of other laws, rules, or regulations, including, but not limited to, the Sherman Act (15 U.S.C. 1 *et seq.*), the Clayton Act (15 U.S.C. 12), and the Federal Trade Commission Act (15 U.S.C. 45 *et seq.*).

(b) *Corrective action plans.* (1) The ACO must submit a CAP for CMS approval by the deadline indicated on the notice of violation.

(i) The CAP must address what actions the ACO will take to ensure that the ACO, ACO participants, ACO providers/suppliers or other individuals or entities performing functions or services related to the ACO's activities or both correct any deficiencies and comply with all applicable Shared Savings Program requirements.

(ii) The ACO's performance will be monitored and evaluated during and after the CAP process.

(2) CMS may terminate the participation agreement if the ACO fails to submit, obtain approval for, or implement a CAP, or fails to demonstrate improved performance upon completion of the CAP.

[76 FR 67973, Nov. 2, 2011, as amended at 80 FR 32839, June 9, 2015]

### § 425.218 Termination of the participation agreement by CMS.

(a) *General.* CMS may terminate the participation agreement with an ACO when an ACO, the ACO participants, ACO providers/suppliers or other individuals or entities performing functions or services related to ACO activities fail to comply with any of the requirements of the Shared Savings Program under this part.

(b) *Grounds for termination by CMS.* CMS may terminate the participation agreement for reasons including, but not limited to the following:

(1) Non-compliance with eligibility and other requirements described in this part.

(2) The imposition of sanctions or other actions taken against the ACO by an accrediting organization, State, Federal or local government agency leading to inability of the ACO to com-

ply with the requirements under this part.

(3) Violations of the physician self-referral prohibition, civil monetary penalties (CMP) law, Federal anti-kickback statute, antitrust laws, or any other applicable Medicare laws, rules, or regulations that are relevant to ACO operations.

(4) Failure to comply with CMS requests for documentation or other information by the deadline specified by CMS.

(5) Submitting false or fraudulent data or information.

(c) CMS may immediately terminate a participation agreement without taking any of the pre-termination actions set forth in § 425.216.

(d) *Notice of termination by CMS.* CMS notifies an ACO in writing of its decision to terminate the participation agreement.

[76 FR 67973, Nov. 2, 2011, as amended at 80 FR 32839, June 9, 2015]

### § 425.220 Termination of the participation agreement by the ACO.

(a) *Notice of termination.* An ACO must provide at least 30 days advance written notice to CMS and its ACO participants of its decision to terminate the participation agreement and the effective date of its termination.

(b) [Reserved]

[76 FR 67973, Nov. 2, 2011, as amended at 80 FR 32839, June 9, 2015; 83 FR 68064, Dec. 31, 2018]

### § 425.221 Close-out procedures and payment consequences of early termination.

(a) *Close-out procedures.* (1) An ACO whose participation agreement has expired or is terminated by CMS under § 425.218 or by the ACO under § 425.220 must implement close-out procedures including but not limited to the following issues in a form and manner and by a deadline specified by CMS:

(i) Notice to ACO participants of termination.

(ii) Record retention.

(iii) Data sharing.

(iv) Quality reporting.

(v) Beneficiary continuity of care.

(2) ACOs that fail to complete close-out procedures in the form and manner