

§ 425.401

defined in § 425.20), when the assignment window includes any month(s) during the COVID-19 Public Health Emergency defined in § 400.200 of this chapter.

[76 FR 67973, Nov. 2, 2011, as amended at 80 FR 32840, June 9, 2015; 82 FR 53369, Nov. 15, 2017; 83 FR 60092, Nov. 23, 2018; 83 FR 68069, Dec. 31, 2018; 85 FR 27625, May 8, 2020; 85 FR 85040, Dec. 28, 2020; 86 FR 65684, Nov. 19, 2021; 87 FR 70233, Nov. 18, 2022]

§ 425.401 Criteria for a beneficiary to be assigned to an ACO.

(a) A beneficiary may be assigned to an ACO under the assignment methodology in §§ 425.402 and 425.404, for a performance or benchmark year, if the beneficiary meets all of the following criteria during the assignment window:

(1)(i) Has at least 1 month of Part A and Part B enrollment; and

(ii) Does not have any months of Part A only or Part B only enrollment.

(2) Does not have any months of Medicare group (private) health plan enrollment.

(3) Is not assigned to any other Medicare shared savings initiative.

(4) Lives in the United States or U.S. territories and possessions, based on the most recent available data in our beneficiary records regarding the beneficiary's residence at the end of the assignment window.

(b) A beneficiary is excluded from the prospective assignment list of an ACO that is participating under prospective assignment under § 425.400(a)(3) at the end of a performance or benchmark year and quarterly during each performance year consistent with § 425.400(a)(3)(ii), or at the end of CY 2019 as specified in § 425.609(b)(1)(ii) and (c)(1)(ii) if the beneficiary meets any of the following criteria during the performance or benchmark year:

(1)(i) Does not have at least 1 month of Part A and Part B enrollment; and

(ii) Has any months of Part A only or Part B only enrollment.

(2) Has any months of Medicare group (private) health plan enrollment.

(3) Did not live in the United States or U.S. territories and possessions, based on the most recent available data in our beneficiary records regard-

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ing the beneficiary's residency at the end of the year.

[80 FR 32840, June 9, 2015, as amended at 83 FR 60093, Nov. 23, 2018; 83 FR 68069, Dec. 31, 2018]

§ 425.402 Basic assignment methodology.

(a) For performance years 2012 through 2015, CMS employs the following step-wise methodology to assign Medicare beneficiaries to an ACO after identifying all patients that had at least one primary care service with a physician who is an ACO professional of that ACO:

(1)(i) Identify all primary care services rendered by primary care physicians during one of the following:

(A) The most recent 12 months (for purposes of preliminary prospective assignment and quarterly updates to the preliminary prospective assignment).

(B) The performance year (for purposes of final assignment).

(ii) The beneficiary is assigned to an ACO if the allowed charges for primary care services furnished to the beneficiary by all the primary care physicians who are ACO professionals in the ACO are greater than the allowed charges for primary care services furnished by primary care physicians who are—

(A) ACO professionals in any other ACO; and

(B) Not affiliated with any ACO and identified by a Medicare-enrolled TIN.

(2) The second step considers the remainder of the beneficiaries who have received at least one primary care service from an ACO physician, but who have not had a primary care service rendered by any primary care physician, either inside or outside the ACO. The beneficiary will be assigned to an ACO if the allowed charges for primary care services furnished to the beneficiary by all ACO professionals in the ACO are greater than the allowed charges for primary care services furnished by—

(i) All ACO professionals in any other ACO; and

(ii) Other physicians, nurse practitioners, physician assistants, clinical nurse specialists who are unaffiliated with an ACO and are identified by a Medicare-enrolled TIN.