

effect for the duration of the agreement period plus 12 months following the conclusion of the agreement period.

(ii) For a renewing ACO, or a re-entering ACO that is the same legal entity as an ACO that previously participated in the program, that wishes to use its existing repayment mechanism to establish its ability to repay any shared losses incurred for performance years in the new agreement period, the existing repayment mechanism must be amended to meet one of the following criteria.

(A) The duration of the existing repayment mechanism is extended by an amount of time that covers the duration of the new agreement period plus 12 months following the conclusion of the new agreement period.

(B) The duration of the existing repayment mechanism is extended, if necessary, to cover a term of at least the first two performance years of the new agreement period and provides for automatic, annual 12-month extensions of the repayment mechanism such that the repayment mechanism will eventually remain in effect for the duration of the new agreement period plus 12 months following the conclusion of the new agreement period.

(iii) CMS may require the ACO to extend the duration of the repayment mechanism if necessary to ensure that the ACO fully repays CMS any shared losses for each of the performance years of the agreement period.

(iv) The repayment mechanism may be terminated at the earliest of the following conditions:

(A) The ACO has fully repaid CMS any shared losses owed for each of the performance years of the agreement period under a two-sided model.

(B) CMS has exhausted the amount reserved by the ACO's repayment mechanism and the arrangement does not need to be maintained to support the ACO's participation under the Shared Savings Program.

(C) CMS determines that the ACO does not owe any shared losses under the Shared Savings Program for any of the performance years of the agreement period.

(g) *Consideration of claims billed under merged and acquired entities' TINs.* An ACO may request that CMS consider,

for purposes of beneficiary assignment and establishing the ACO's benchmark under §§ 425.601, 425.602, 425.603, or 425.652, claims billed under the TINs of entities that have been acquired through sale or merger by an ACO participant.

(1) The ACO may include an acquired entity's TIN on its ACO participant list under the following circumstances:

(i) The ACO participant has subsumed the acquired entity's TIN in its entirety, including all of the providers and suppliers that reassigned their right to receive Medicare payment to the acquired entity's TIN.

(ii) Each provider or supplier that previously reassigned his or her right to receive Medicare payment to the acquired entity's TIN has reassigned his or her right to receive Medicare payment to the TIN of the acquiring ACO participant and has been added to the ACO provider/supplier list under paragraph (c)(5) of the section.

(iii) The acquired entity's TIN is no longer used to bill Medicare.

(2) The ACO must submit the following supporting documentation in the form and manner specified by CMS.

(i) An attestation that—

(A) Identifies by TIN both the acquired entity and the ACO participant that acquired it;

(B) Specifies that all the providers and suppliers that previously reassigned their right to receive Medicare payment to the acquired entity's TIN have reassigned such right to the TIN of the identified ACO participant and have been added to the ACO provider/supplier list under paragraph (c)(5) of this section; and

(C) Specifies that the acquired entity's TIN is no longer used to bill Medicare.

(ii) Documentation sufficient to demonstrate that the acquired entity's TIN was merged with or purchased by the ACO participant.

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