

§ 425.604

42 CFR Ch. IV (10–1–24 Edition)

into consideration all individually beneficiary identifiable payments, including interim payments, made under a demonstration, pilot or time limited program.

(B) For performance year 2018 and subsequent performance years, these calculations will take into consideration individually beneficiary identifiable final payments made under a demonstration, pilot or time limited program.

(7) In order to qualify for a shared savings payment, the ACO's average per capita Medicare expenditures for

the performance year must be below the applicable updated benchmark by at least the minimum savings rate established for the ACO under paragraph (b) of this section.

(b) *Minimum savings rate (MSR)*. CMS uses a sliding scale, based on the number of beneficiaries assigned to the ACO under subpart E of this part, to establish the MSR for an ACO participating under the one-sided model. The MSR under the one-sided model for an ACO based on the number of assigned beneficiaries is as follows:

Number of Beneficiaries	MSR (low end of assigned beneficiaries) (percent)	MSR (high end of assigned beneficiaries) (percent)
1 – 499	≥12.2	
500 – 999	12.2	8.7
1,000 – 2,999	8.7	5.0
3,000 – 4,999	5.0	3.9
5,000 – 5,999	3.9	3.6
6,000 – 6,999	3.6	3.4
7,000 – 7,999	3.4	3.2
8,000 – 8,999	3.2	3.1
9,000 – 9,999	3.1	3.0
10,000 – 14,999	3.0	2.7
15,000 – 19,999	2.7	2.5
20,000 – 49,999	2.5	2.2
50,000 – 59,999	2.2	2.0
60,000 +	2.0	2.0

(c) *Qualification for shared savings payment*—(1) *For performance years (or a performance period) beginning on or before January 1, 2020*. In order to qualify for shared savings, an ACO must meet or exceed its minimum savings rate determined under paragraph (b) of this section, meet the minimum quality performance standards established under § 425.502, and otherwise maintain its eligibility to participate in the Shared Savings Program under this part.

(2) *For the performance year beginning on January 1, 2021*. To qualify for shared savings, an ACO must meet or exceed

its minimum savings rate determined under paragraph (b) of this section, meet the quality performance standard established under § 425.512, and otherwise maintain its eligibility to participate in the Shared Savings Program under this part.

(d) *Final sharing rate*—(1) *For performance years (or a performance period) beginning on or before January 1, 2020*. An ACO that meets all the requirements for receiving shared savings payments under the one-sided model will receive a shared savings payment of up to 50 percent of all savings under the updated benchmark, as determined on the

basis of its quality performance under § 425.502 (up to the performance payment limit described in paragraph (e)(2) of this section).

(2) *For the performance year beginning on January 1, 2021.* An ACO that meets all the requirements for receiving shared savings payments under Track 1 will receive a shared savings payment of 50 percent of all the savings under the updated benchmark (up to the performance payment limit described in paragraph (e)(2) of this section).

(e) *Performance payment.* (1) If an ACO qualifies for savings by meeting or exceeding the MSR, the final sharing rate will apply to an ACO's savings on a first dollar basis.

(2) The amount of shared savings an eligible ACO receives under the one-sided model may not exceed 10 percent of its updated benchmark.

(f) *Notification of savings.* CMS notifies an ACO in writing regarding whether the ACO qualifies for a shared savings payment, and if so, the amount of the payment due.

(g) *January 1, 2019 through June 30, 2019 performance year.* Shared savings for the January 1, 2019 through June 30, 2019 performance year are calculated as described in § 425.609.

[76 FR 67973, Nov. 2, 2011, as amended at 81 FR 38016, June 10, 2016; 82 FR 53370, Nov. 15, 2017; 83 FR 60094, Nov. 23, 2018; 83 FR 68074, Dec. 31, 2018; 85 FR 85042, Dec. 28, 2020]

§ 425.605 Calculation of shared savings and losses under the BASIC track.

(a) *General rules.* For each performance year, CMS determines whether the estimated average per capita Medicare Parts A and B fee-for-service expenditures for Medicare fee-for-service beneficiaries assigned to the ACO are above or below the updated benchmark determined under § 425.601 or § 425.652, as applicable. In order to qualify for a shared savings payment under the BASIC track, or to be responsible for sharing losses with CMS, an ACO's average per capita Medicare Parts A and B fee-for-service expenditures for its assigned beneficiary population for the performance year must be below or above the updated benchmark, respectively, by at least the minimum savings or loss rate under paragraph (b) of

this section except as provided in paragraph (h) of this section.

(1) CMS uses an ACO's prospective HCC risk score to adjust the benchmark for changes in severity and case mix in the assigned beneficiary population between BY3 and the performance year.

(i) For agreement periods beginning before January 1, 2024:

(A) Positive adjustments in prospective HCC risk scores are subject to a cap of 3 percent.

(B) This cap is the maximum increase in risk scores for each agreement period, such that any positive adjustment between BY3 and any performance year in the agreement period cannot be larger than 3 percent.

(ii) For agreement periods beginning on January 1, 2024, and in subsequent years:

(A) Positive adjustments in prospective HCC risk scores are subject to a cap equal to the ACO's aggregate growth in demographic risk scores between BY3 and the performance year (positive or negative) plus 3 percentage points.

(B) The cap described in paragraph (a)(1)(ii)(A) of this section will apply to prospective HCC risk score growth for a population described in paragraph (a)(2) of this section only if the ACO's aggregate growth in prospective HCC risk scores between BY3 and the performance year across all of the populations described in paragraph (a)(2) of this section exceeds this cap. If the cap described in paragraph (a)(1)(ii)(A) of this section is determined to apply, the value of the cap is the maximum increase in risk scores for the applicable performance year, such that any positive adjustment between BY3 and the performance year cannot be larger than the value of the cap for any of the populations described in paragraph (a)(2) of this section.

(C) The aggregate growth in demographic risk scores for purposes of paragraph (a)(1)(ii)(A) of this section and the aggregate growth in prospective HCC risk scores for purposes of paragraph (a)(1)(ii)(B) of this section is calculated by taking a weighted average of the growth in demographic risk scores or prospective HCC risk scores, as applicable, across the populations

§ 425.605

42 CFR Ch. IV (10–1–24 Edition)

described in paragraph (a)(2) of this section. When calculating the weighted average growth in demographic risk scores or prospective HCC risk scores, as applicable, the weight applied to the growth in risk scores (expressed as a ratio of the ACO's performance year risk score to the ACO's BY3 risk score) for each Medicare enrollment type is equal to the product of the historical benchmark expenditures for that enrollment type and the performance year person years for that enrollment type.

(2) In risk adjusting the benchmark as described in §§ 425.601(a)(10) and 425.652(a)(10), CMS makes separate adjustments for each of the following populations of beneficiaries:

- (i) ESRD.
- (ii) Disabled.
- (iii) Aged/dual eligible Medicare and Medicaid beneficiaries.
- (iv) Aged/non-dual eligible Medicare and Medicaid beneficiaries.

(3) To minimize variation from catastrophically large claims, CMS truncates an assigned beneficiary's total annual Medicare Parts A and B fee-for-service per capita expenditures at the 99th percentile of national Medicare Parts A and B fee-for-service expenditures as determined for the applicable performance year for assignable beneficiaries identified for the 12-month calendar year corresponding to the performance year.

(4) CMS uses a 3-month claims run out with a completion factor to calculate an ACO's per capita expenditures for each performance year.

(5) Calculations of the ACO's expenditures include the payment amounts included in Medicare Parts A and B fee-for-service claims.

(i) These calculations exclude indirect medical education (IME) and disproportionate share hospital (DSH) payments, and the supplemental payment for IHS/Tribal hospitals and Puerto Rico hospitals.

(ii) These calculations take into consideration individually beneficiary identifiable final payments made under a demonstration, pilot or time limited program.

(6) In order to qualify for a shared savings payment, the ACO's average per capita Medicare Parts A and B fee-for-service expenditures for the performance year must be below the applicable updated benchmark by at least the minimum savings rate established for the ACO under paragraph (b) of this section except as provided in paragraph (h) of this section.

(b) *Minimum savings or loss rate.* (1) For ACOs under a one-sided model of the BASIC track's glide path, as specified under paragraphs (d)(1)(i) and (ii) of this section, CMS uses a sliding scale, based on the number of beneficiaries assigned to the ACO under subpart E of this part, to establish the MSR for the ACO as follows:

Number of Beneficiaries	MSR (low end of assigned beneficiaries) (percent)	MSR (high end of assigned beneficiaries) (percent)
1 – 499	≥12.2	
500 – 999	12.2	8.7
1,000 – 2,999	8.7	5.0
3,000 – 4,999	5.0	3.9
5,000 – 5,999	3.9	3.6
6,000 – 6,999	3.6	3.4
7,000 – 7,999	3.4	3.2
8,000 – 8,999	3.2	3.1
9,000 – 9,999	3.1	3.0
10,000 – 14,999	3.0	2.7
15,000 – 19,999	2.7	2.5
20,000 – 49,999	2.5	2.2
50,000 – 59,999	2.2	2.0
60,000 +	2.0	2.0

(2) Prior to entering a two-sided model of the BASIC track, the ACO must select the MSR/MLR. For an ACO making this selection as part of an application for, or renewal of, participation in a two-sided model of the BASIC track, the selection applies for the duration of the agreement period under the BASIC track. For an ACO making this selection during an agreement period, as part of the application cycle prior to entering a two-sided model of the BASIC track, the selection applies for the remaining duration of the applicable agreement period under the BASIC track.

(i) The ACO must choose from the following options for establishing the MSR/MLR:

(A) Zero percent MSR/MLR.

(B) Symmetrical MSR/MLR in a 0.5 percent increment between 0.5 and 2.0 percent.

(C) Symmetrical MSR/MLR that varies, based on the number of beneficiaries assigned to the ACO under subpart E of this part. The MSR is the same as the MSR that would apply under paragraph (b)(1) of this section for an ACO under a one-sided model of the BASIC track's glide path, and is based on the number of assigned beneficiaries. The MLR under the BASIC track is equal to the negative MSR.

(ii) The ACO selects its MSR/MLR as part of one the following:

(A) Application for, or renewal of, program participation in a two-sided model of the BASIC track.

(B) Election to participate in a two-sided model of the BASIC track during an agreement period under § 425.226.

(C) Automatic transition from Level B to Level C of the BASIC track's glide path under § 425.600(a)(4)(i).

(D) Automatic transition from Level B to Level E of the BASIC track's glide path under § 425.600(a)(4)(i)(B)(2)(ii).

(E) Automatic transition from Level A to Level E of the BASIC track's glide path under § 425.600(h)(2).

(3) Except as provided in paragraph (h) of this section, in order to qualify for a shared savings payment, an ACO's average per capita Medicare Parts A and B fee-for-service expenditures for its assigned beneficiary population for the performance year must be below its updated benchmark by at least the MSR established for the ACO.

(4) To be responsible for sharing losses with the Medicare program, an ACO's average per capita Medicare Parts A and B fee-for-service expenditures for its assigned beneficiary population for the performance year must be above its updated benchmark costs for the year by at least the MLR established for the ACO.

(c) *Qualification for shared savings payment*—(1) *For performance years beginning on or before January 1, 2020.* To

§ 425.605

42 CFR Ch. IV (10–1–24 Edition)

qualify for shared savings, an ACO must meet the minimum savings rate requirement established under paragraph (b) of this section, meet the minimum quality performance standards established under § 425.502, and otherwise maintain its eligibility to participate in the Shared Savings Program under this part.

(2) *For performance years beginning on or after January 1, 2021.* To qualify for shared savings, an ACO must—

(i) Meet either the minimum savings rate requirement established under paragraph (b) of this section, or the criteria described in paragraph (h) of this section;

(ii) Meet either the quality performance standard or alternative quality performance standard established under § 425.512; and

(iii) Otherwise maintain its eligibility to participate in the Shared Savings Program under this part.

(d) *Levels of risk and potential reward.*

(1) The following levels of risk and potential reward apply to an ACO in the BASIC track, as permitted under § 425.600(d) or § 425.600(g).

(i) *Level A (one-sided model)—(A) Final sharing rate—(1) For performance years beginning on or before January 1, 2020.* An ACO that meets all the requirements for receiving shared savings payments under the BASIC track, Level A, receives a shared savings payment of up to 40 percent of all the savings under the updated benchmark, as determined on the basis of its quality performance under § 425.502 (up to the performance payment limit described in paragraph (d)(1)(i)(B) of this section).

(2) *For performance years beginning on January 1, 2021, or January 1, 2022.* An ACO that meets all the requirements for receiving shared savings payments under the BASIC track, Level A, receives a shared savings payment of 40 percent of all the savings under the updated benchmark (up to the performance payment limit described in paragraph (d)(1)(i)(B) of this section).

(3) *For the performance year beginning on January 1, 2023.* An ACO that meets all the requirements for receiving shared savings payments under the BASIC track, Level A, receives a shared savings payment equal to a per-

centage of all the savings under the updated benchmark (up to the performance payment limit described in paragraph (d)(1)(i)(B) of this section). The percentage is as follows:

(i) 40 percent for an ACO that meets the quality performance standard by meeting the criteria specified in § 425.512(a)(2) or (a)(4)(i).

(ii) 40 percent multiplied by the ACO's health equity adjusted quality performance score calculated according to § 425.512(b) for an ACO that meets the alternative quality performance standard by meeting the criteria specified in § 425.512(a)(4)(ii).

(4) *For performance years beginning on or after January 1, 2024.* An ACO that meets all the requirements for receiving shared savings payments under the BASIC track, Level A, receives a shared savings payment equal to a percentage of all the savings under the updated benchmark (up to the performance payment limit described in paragraph (d)(1)(i)(B) of this section). Except as provided in paragraph (h) of this section, the percentage is as follows:

(i) 40 percent for an ACO that meets the quality performance standard by meeting the criteria specified in § 425.512(a)(2) or (a)(5)(i).

(ii) 40 percent multiplied by the ACO's health equity adjusted quality performance score calculated according to § 425.512(b) for an ACO that meets the alternative quality performance standard by meeting the criteria specified in § 425.512(a)(5)(ii).

(B) *Performance payment.* (1) If an ACO qualifies for savings by meeting or exceeding the MSR, or as provided in paragraph (h) of this section, the final sharing rate specified in paragraph (d)(1)(i)(A) of this section applies to an ACO's savings on a first dollar basis.

(2) The amount of shared savings an eligible ACO receives under the BASIC track, Level A, may not exceed 10 percent of its updated benchmark.

(ii) *Level B (one-sided model)—(A) Final sharing rate—(1) For performance years beginning on or before January 1, 2020.* An ACO that meets all the requirements for receiving shared savings payments under the BASIC track,

Level B, receives a shared savings payment of up to 40 percent of all the savings under the updated benchmark, as determined on the basis of its quality performance under § 425.502 (up to the performance payment limit described in paragraph (d)(1)(ii)(B) of this section).

(2) (2) *For performance years beginning on January 1, 2021, or January 1, 2022.* An ACO that meets all the requirements for receiving shared savings payments under the BASIC track, Level B, receives a shared savings payment of 40 percent of all the savings under the updated benchmark (up to the performance payment limit described in paragraph (d)(1)(ii)(B) of this section).

(3) *For the performance year beginning on January 1, 2023.* An ACO that meets all the requirements for receiving shared savings payments under the BASIC track, Level B, receives a shared savings payment equal to a percentage of all the savings under the updated benchmark (up to the performance payment limit described in paragraph (d)(1)(ii)(B) of this section). The percentage is as follows:

(i) 40 percent for an ACO that meets the quality performance standard by meeting the criteria specified in § 425.512(a)(2) or (a)(4)(i).

(ii) 40 percent multiplied by the ACO's health equity adjusted quality performance score calculated according to § 425.512(b) for an ACO that meets the alternative quality performance standard by meeting the criteria specified in § 425.512(a)(4)(ii).

(4) *For performance years beginning on or after January 1, 2024.* An ACO that meets all the requirements for receiving shared savings payments under the BASIC track, Level B, receives a shared savings payment equal to a percentage of all the savings under the updated benchmark (up to the performance payment limit described in paragraph (d)(1)(ii)(B) of this section). Except as provided in paragraph (h) of this section, the percentage is as follows:

(i) 40 percent for an ACO that meets the quality performance standard by meeting the criteria specified in § 425.512(a)(2) or (a)(5)(i).

(ii) 40 percent multiplied by the ACO's health equity adjusted quality

performance score calculated according to § 425.512(b) for an ACO that meets the alternative quality performance standard by meeting the criteria specified in § 425.512(a)(5)(ii).

(B) *Performance payment.* (1) If an ACO qualifies for savings by meeting or exceeding the MSR, or as provided in paragraph (h) of this section, the final sharing rate specified in paragraph (d)(1)(ii)(A) of this section applies to an ACO's savings on a first dollar basis.

(2) The amount of shared savings an eligible ACO receives under the BASIC track, Level B, may not exceed 10 percent of its updated benchmark.

(iii) *Level C (two-sided model)*—(A) *Final sharing rate*—(1) *For performance years beginning on or before January 1, 2020.* An ACO that meets all the requirements for receiving shared savings payments under the BASIC track, Level C, receives a shared savings payment of up to 50 percent of all the savings under the updated benchmark, as determined on the basis of its quality performance under § 425.502 (up to the performance payment limit described in paragraph (d)(1)(iii)(B) of this section).

(2) *For performance years beginning on January 1, 2021, or January 1, 2022.* An ACO that meets all the requirements for receiving shared savings payments under the BASIC track, Level C, receives a shared savings payment of 50 percent of all the savings under the updated benchmark (up to the performance payment limit described in paragraph (d)(1)(iii)(B) of this section).

(3) *For the performance year beginning on January 1, 2023.* An ACO that meets all the requirements for receiving shared savings payments under the BASIC track, Level C, receives a shared savings payment equal to a percentage of all the savings under the updated benchmark (up to the performance payment limit described in paragraph (d)(1)(iii)(B) of this section). The percentage is as follows:

(i) 50 percent for an ACO that meets the quality performance standard by meeting the criteria specified in § 425.512(a)(2) or (a)(4)(i).

(ii) 50 percent multiplied by the ACO's health equity adjusted quality performance score calculated according to § 425.512(b) for an ACO that meets

the alternative quality performance standard by meeting the criteria specified in § 425.512(a)(4)(ii).

(4) *For performance years beginning on or after January 1, 2024.* An ACO that meets all the requirements for receiving shared savings payments under the BASIC track, Level C, receives a shared savings payment equal to a percentage of all the savings under the updated benchmark (up to the performance payment limit described in paragraph (d)(1)(iii)(B) of this section). Except as provided in paragraph (h) of this section, the percentage is as follows:

(i) 50 percent for an ACO that meets the quality performance standard by meeting the criteria specified in § 425.512(a)(2) or (a)(5)(i).

(ii) 50 percent multiplied by the ACO's health equity adjusted quality performance score calculated according to § 425.512(b) for an ACO that meets the alternative quality performance standard by meeting the criteria specified in § 425.512(a)(5)(ii).

(B) *Performance payment.* (1) If an ACO qualifies for savings by meeting or exceeding the MSR, or as provided in paragraph (h) of this section, the final sharing rate specified in paragraph (d)(1)(iii)(A) of this section applies to an ACO's savings on a first dollar basis.

(2) The amount of shared savings an eligible ACO receives under the BASIC track, Level C may not exceed 10 percent of its updated benchmark.

(C) *Shared loss rate.* For an ACO that is required to share losses with the Medicare program for expenditures over the updated benchmark, the amount of shared losses is determined based on a fixed 30 percent loss sharing rate.

(D) *Loss recoupment limit.* (1) Except as provided in paragraph (d)(1)(iii)(D)(2) of this section, the amount of shared losses for which an eligible ACO is liable may not exceed 2 percent of total Medicare Parts A and B fee-for-service revenue of the ACO participants in the ACO.

(2) Instead of the revenue-based loss recoupment limit determined under paragraph (d)(1)(iii)(D)(1) of this section, the loss recoupment limit for the ACO is 1 percent of the ACO's updated benchmark as determined under

§ 425.601 or § 425.652, if the amount determined under paragraph (d)(1)(iii)(D)(1) of this section exceeds the amount that is 1 percent of the ACO's updated benchmark as determined under § 425.601 or § 425.652.

(iv) *Level D (two-sided model)*—(A) *Final sharing rate*—(1) *For performance years beginning on or before January 1, 2020.* An ACO that meets all the requirements for receiving shared savings payments under the BASIC track, Level D, receives a shared savings payment of up to 50 percent of all the savings under the updated benchmark, as determined on the basis of its quality performance under § 425.502 (up to the performance payment limit described in paragraph (d)(1)(iv)(B) of this section).

(2) *For performance years beginning on January 1, 2021, or January 1, 2022.* An ACO that meets all the requirements for receiving shared savings payments under the BASIC track, Level D, receives a shared savings payment of 50 percent of all the savings under the updated benchmark (up to the performance payment limit described in paragraph (d)(1)(iv)(B) of this section).

(3) *For the performance year beginning on January 1, 2023.* An ACO that meets all the requirements for receiving shared savings payments under the BASIC track, Level D, receives a shared savings payment equal to a percentage of all the savings under the updated benchmark (up to the performance payment limit described in paragraph (d)(1)(iv)(B) of this section). The percentage is as follows:

(i) 50 percent for an ACO that meets the quality performance standard by meeting the criteria specified in § 425.512(a)(2) or (a)(4)(i).

(ii) 50 percent multiplied by the ACO's health equity adjusted quality performance score calculated according to § 425.512(b) for an ACO that meets the alternative quality performance standard by meeting the criteria specified in § 425.512(a)(4)(ii).

(4) *For performance years beginning on or after January 1, 2024.* An ACO that meets all the requirements for receiving shared savings payments under the BASIC track, Level D, receives a

shared savings payment equal to a percentage of all the savings under the updated benchmark (up to the performance payment limit described in paragraph (d)(1)(iv)(B) of this section). Except as provided in paragraph (h) of this section, the percentage is as follows:

(i) 50 percent for an ACO that meets the quality performance standard by meeting the criteria specified in § 425.512(a)(2) or (a)(5)(i).

(ii) 50 percent multiplied by the ACO's health equity adjusted quality performance score calculated according to § 425.512(b) for an ACO that meets the alternative quality performance standard by meeting the criteria specified in § 425.512(a)(5)(ii).

(B) *Performance payment.* (1) If an ACO qualifies for savings by meeting or exceeding the MSR, or as provided in paragraph (h) of this section, the final sharing rate specified in paragraph (d)(1)(iv)(A) of this section applies to an ACO's savings on a first dollar basis.

(2) The amount of shared savings an eligible ACO receives under the BASIC track, Level D, may not exceed 10 percent of its updated benchmark.

(C) *Shared loss rate.* For an ACO that is required to share losses with the Medicare program for expenditures over the updated benchmark, the amount of shared losses is determined based on a fixed 30 percent loss sharing rate.

(D) *Loss recoupment limit.* (1) Except as provided in paragraph (d)(1)(iv)(D)(2) of this section, the amount of shared losses for which an eligible ACO is liable may not exceed 4 percent of total Medicare Parts A and B fee-for-service revenue of the ACO participants in the ACO.

(2) Instead of the revenue-based loss recoupment limit determined under paragraph (d)(1)(iv)(D)(1) of this section, the loss recoupment limit for the ACO is 2 percent of the ACO's updated benchmark as determined under § 425.601 or § 425.652, if the amount determined under paragraph (d)(1)(iv)(D)(1) of this section exceeds the amount that is 2 percent of the ACO's updated benchmark as determined under § 425.601 or § 425.652.

(v) *Level E (two-sided model)—(A) Final sharing rate—(1) For performance*

years beginning on or before January 1, 2020. An ACO that meets all the requirements for receiving shared savings payments under the BASIC track, Level E, receives a shared savings payment of up to 50 percent of all the savings under the updated benchmark, as determined on the basis of its quality performance under § 425.502 (up to the performance payment limit described in paragraph (d)(1)(v)(B) of this section).

(2) *For performance years beginning on January 1, 2021, or January 1, 2022.* An ACO that meets all the requirements for receiving shared savings payments under the BASIC track, Level E, receives a shared savings payment of 50 percent of all the savings under the updated benchmark (up to the performance payment limit described in paragraph (d)(1)(v)(B) of this section).

(3) *For the performance year beginning on January 1, 2023.* An ACO that meets all the requirements for receiving shared savings payments under the BASIC track, Level E, receives a shared savings payment equal to a percentage of all the savings under the updated benchmark (up to the performance payment limit described in paragraph (d)(1)(v)(B) of this section). The percentage is as follows:

(i) 50 percent for an ACO that meets the quality performance standard by meeting the criteria specified in § 425.512(a)(2) or (a)(4)(i).

(ii) 50 percent multiplied by the ACO's health equity adjusted quality performance score calculated according to § 425.512(b) for an ACO that meets the alternative quality performance standard by meeting the criteria specified in § 425.512(a)(4)(ii).

(4) *For performance years beginning on or after January 1, 2024.* An ACO that meets all the requirements for receiving shared savings payments under the BASIC track, Level E, receives a shared savings payment equal to a percentage of all the savings under the updated benchmark (up to the performance payment limit described in paragraph (d)(1)(v)(B) of this section). Except as provided in paragraph (h) of this section, the percentage is as follows:

(i) 50 percent for an ACO that that meets the quality performance standard by meeting the criteria specified in § 425.512(a)(2) or (a)(5)(i).

(ii) 50 percent multiplied by the ACO's health equity adjusted quality performance score calculated according to § 425.512(b) for an ACO that meets the alternative quality performance standard by meeting the criteria specified in § 425.512(a)(5)(ii).

(B) *Performance payment.* (1) If an ACO qualifies for savings by meeting or exceeding the MSR, or as provided in paragraph (h) of this section, the final sharing rate specified in paragraph (d)(1)(v)(A) of this section applies to an ACO's savings on a first dollar basis.

(2) The amount of shared savings an eligible ACO receives under the BASIC track, Level E, may not exceed 10 percent of its updated benchmark.

(C) *Shared loss rate.* For an ACO that is required to share losses with the Medicare program for expenditures over the updated benchmark, the amount of shared losses is determined based on a fixed 30 percent loss sharing rate.

(D) *Loss recoupment limit.* (1) Except as provided in paragraph (d)(1)(v)(D)(2) of this section, the amount of shared losses for which an eligible ACO is liable may not exceed the percentage, as specified in § 414.1415(c)(3)(i)(A) of this chapter, of total Medicare Parts A and B fee-for-service revenue of the ACO participants in the ACO.

(2) Instead of the revenue-based loss recoupment limit determined under paragraph (d)(1)(v)(D)(1) of this section, the loss recoupment limit for the ACO is 1 percentage point higher than the percentage, as specified in § 414.1415(c)(3)(i)(B) of this chapter, based on the ACO's updated benchmark as determined under § 425.601 or § 425.652, if the amount determined under paragraph (d)(1)(v)(D)(1) of this section exceeds this percentage of the ACO's updated benchmark as determined under § 425.601 or § 425.652.

(2) Level E risk and reward as specified in paragraph (d)(1)(v) of this section applies to an ACO eligible to enter the BASIC track that is determined to be experienced with performance-based risk Medicare ACO initiatives as specified under § 425.600(d) or § 425.600(g).

(e) *Notification of savings and losses.*

(1) CMS notifies an ACO in writing regarding whether the ACO qualifies for a shared savings payment, and if so, the amount of the payment due.

(2) CMS provides written notification to an ACO of the amount of shared losses, if any, that it must repay to the program.

(3) If an ACO has shared losses, the ACO must make payment in full to CMS within 90 days of receipt of notification.

(f) *Extreme and uncontrollable circumstances.* The following adjustment is made in calculating the amount of shared losses, after the application of the shared loss rate and the loss recoupment limit.

(1) CMS determines the percentage of the ACO's performance year assigned beneficiary population affected by an extreme and uncontrollable circumstance.

(2) CMS reduces the amount of the ACO's shared losses by an amount determined by multiplying the shared losses by the percentage of the total months in the performance year affected by an extreme and uncontrollable circumstance, and the percentage of the ACO's assigned beneficiaries who reside in an area affected by an extreme and uncontrollable circumstance.

(i) For an ACO that is liable for a pro-rated share of losses under § 425.221(b)(2)(ii), the amount of shared losses determined for the performance year during which the termination becomes effective is adjusted according to this paragraph (f)(2).

(ii) [Reserved]

(3) CMS applies determinations made under the Quality Payment Program with respect to—

(i) Whether an extreme and uncontrollable circumstance has occurred; and

(ii) The affected areas.

(4) CMS has sole discretion to determine the time period during which an extreme and uncontrollable circumstance occurred and the percentage of the ACO's assigned beneficiaries residing in the affected areas.

(g) *July 1, 2019 through December 31, 2019 performance year.* Shared savings or shared losses for the July 1, 2019