

§ 425.655

42 CFR Ch. IV (10–1–24 Edition)

- (i) ESRD.
 - (ii) Disabled.
 - (iii) Aged/dual eligible Medicare and Medicaid beneficiaries.
 - (iv) Aged/non-dual eligible Medicare and Medicaid beneficiaries.
- (2) Aggregating the values determined under paragraph (b)(1) of this section for each population of beneficiaries (according to Medicare enrollment type) across all counties within the ACO's regional service area.

[87 FR 70246, Nov. 18, 2022, as amended at 88 FR 79549, Nov. 16, 2023]

§ 425.655 Calculating the regional risk score growth cap adjustment factor.

(a) *General.* This section describes the methodology for calculating the regional risk score growth cap adjustment factor that will be applied to the regional growth rate component of the three-way blend used to update the historical benchmark as described in § 425.652(b) for agreement periods beginning on January 1, 2024, and in subsequent years.

(b) *Calculating county risk scores.* CMS does all of the following to determine county prospective HCC and demographic risk scores for use in calculating the ACO's regional risk scores:

(1) Determines average county prospective HCC and demographic risk scores for the assignable population of beneficiaries in each county in the ACO's regional service area. The assignable population of beneficiaries is identified for the relevant benchmark or performance year using the assignment window or expanded window for assignment that is consistent with the beneficiary assignment methodology selected by the ACO for the performance year according to § 425.400(a)(4)(ii).

(2) Makes separate risk score calculations 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.

(c) *Calculating regional risk scores.* CMS calculates an ACO's regional prospective HCC and demographic risk scores by:

(1) Weighting the county-level risk scores determined under paragraph (b) of this section according to the ACO's proportion of assigned beneficiaries in the county, determined by the number of the ACO's assigned beneficiaries in the applicable population (according to Medicare enrollment type) residing in the county in relation to the ACO's total number of assigned beneficiaries in the applicable population (according to Medicare enrollment type) for the relevant benchmark or performance year 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.

(2) Aggregating the values determined under paragraph (c)(1) of this section for each population of beneficiaries (according to Medicare enrollment type) across all counties within the ACO's regional service area.

(d) *Determining aggregate growth in regional risk scores.* CMS determines aggregate growth in regional prospective HCC and demographic risk scores by:

(1) Determining growth in regional prospective HCC and demographic risk scores determined in paragraph (c) of this section (expressed as a ratio of the performance year regional risk score to the BY3 regional risk score) 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.

(2) Determines the aggregate growth in regional risk scores by calculating a weighted average of the growth in regional prospective HCC risk scores or demographic risk scores, as applicable, across the populations described in paragraph (d)(1) of this section. When calculating the weighted average growth in prospective HCC risk scores or demographic risk scores, as applicable, the weight applied to the growth in risk scores for each Medicare enrollment type is equal to the product of

the ACO's regionally adjusted historical benchmark expenditures for that enrollment type and the ACO's performance year assigned beneficiary person years for that enrollment type.

(e) *Determining the cap on regional risk score growth.* CMS determines the cap on regional prospective HCC risk score growth by:

(1) Computing the sum of the aggregate growth in regional demographic risk scores as determined in paragraph (d)(2) of this section and 3 percentage points.

(2) Calculating the ACO's aggregate market share by calculating the weighted average of the share of assignable beneficiaries in the ACO's regional service area that are assigned to the ACO for the performance year as determined in § 425.652(b)(2)(iv) across the populations described in § 425.652(b)(1). In calculating this weighted average, the weight applied to the share for each Medicare enrollment type is equal to the ACO's performance year assigned beneficiary person years for that enrollment type.

(3) Adding to the sum computed in paragraph (e)(1) of this section an amount equal to the product of:

(i) The ACO's aggregate market share as determined in paragraph (e)(2) of this section.

(ii) The difference between the aggregate growth in regional prospective HCC risk scores as determined in paragraph (d)(2) of this section and the sum determined in paragraph (e)(1) of this section. This difference is subject to a floor of zero.

(f) *Determining the regional risk score growth cap adjustment factor.* CMS determines the regional risk score growth cap adjustment factor for each Medicare enrollment type to be applied in calculating the regional growth rate described in § 425.652(b) by comparing the aggregate growth in regional prospective HCC risk scores determined in paragraph (d)(2) of this section and, if applicable, the growth in regional prospective HCC risk scores for individual Medicare enrollment types as determined in paragraph (d)(1) of this section with the cap determined in paragraph (e) of this section.

(1) If the aggregate growth in regional prospective HCC risk scores de-

termined in paragraph (d)(2) of this section does not exceed the cap on regional risk score growth determined in paragraph (e) of this section, CMS will set the regional risk score growth cap adjustment factor equal to 1 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.

(2) If the aggregate growth in regional prospective HCC risk scores determined in paragraph (d)(2) of this section exceeds the cap determined in paragraph (e) of this section, CMS will compare the growth in regional prospective HCC risk scores for each Medicare enrollment type as determined in paragraph (d)(1) of this section with the cap on regional risk score growth determined in paragraph (e) of this section.

(i) If the growth in regional prospective HCC risk scores for the enrollment type determined in paragraph (d)(1) of this section does not exceed the cap on regional risk score growth determined in paragraph (e) of this section, CMS will set the regional risk score growth cap adjustment factor for that enrollment type equal to 1.

(ii) If the growth in regional prospective HCC risk scores determined in paragraph (d)(1) for the enrollment type exceeds the cap on regional risk score growth determined in paragraph (e) of this section, CMS will set the regional risk score growth cap adjustment factor for that enrollment type equal to the growth in regional prospective HCC risk scores for the enrollment type determined in paragraph (d)(1) of this section divided by the cap on regional risk score growth determined in paragraph (e) of this section.

[88 FR 79549, Nov. 16, 2023]

§ 425.656 Calculating the regional adjustment to the historical benchmark.

(a) *General.* This section describes the methodology for calculating the regional adjustment to the historical

benchmark based on the ACO's regional service area expenditures, making separate calculations for the following populations of beneficiaries: ESRD, disabled, aged/dual eligible Medicare and Medicaid beneficiaries, and aged/non-dual eligible Medicare and Medicaid beneficiaries. This section applies to regional adjustment calculations for agreement periods beginning on January 1, 2024, and in subsequent years.

(b) *Calculation of an average per capita expenditure amount for the ACO's regional service area.* To compute an average per capita expenditure amount for the ACO's regional service area, CMS does all of the following:

(1) Determines the counties included in the ACO's regional service area based on the ACO's BY3 assigned beneficiary population.

(2) Determines the ACO's regional expenditures as specified under § 425.654 for BY3.

(3) Adjusts for differences in severity and case mix between the ACO's assigned beneficiary population for BY3 and the assignable population of beneficiaries for the ACO's regional service area for BY3. The assignable population of beneficiaries is identified for BY3 using the assignment window or expanded window for assignment that is consistent with the beneficiary assignment methodology selected by the ACO for the performance year according to § 425.400(a)(4)(ii).

(c) *Calculation of the adjustment.* To calculate the adjustment, CMS does all of the following:

(1) Determines the difference between the average per capita amount of expenditures for the ACO's regional service area as specified under paragraph (b)(1) of this section and the average per capita amount of the ACO's historical benchmark determined under § 425.652(a)(1) through (7) and (c)(2), 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.

(2) Applies a percentage, as determined in paragraph (e) of this section.

(3) Caps the per capita dollar amount for each Medicare enrollment type (ESRD, disabled, aged/dual eligible Medicare and Medicaid beneficiaries, aged/non-dual eligible Medicare and Medicaid beneficiaries) calculated under paragraph (c)(2) of this section at a dollar amount equal to a percentage of national per capita expenditures for Parts A and B services under the original Medicare fee-for-service program in BY3 for assignable beneficiaries in that enrollment type identified for the 12-month calendar year corresponding to BY3 using data from the CMS Office of the Actuary. The cap is applied as follows:

(i) For positive adjustments, the per capita dollar amount for a Medicare enrollment type is capped at 5 percent of the national per capita expenditure amount for the enrollment type for BY3.

(ii) For negative adjustments, the per capita dollar amount for a Medicare enrollment type is capped at negative 1.5 percent of the national per capita expenditure amount for the enrollment type for BY3.

(4) For negative adjustments, CMS will multiply the regional adjustments calculated in paragraphs (c)(2) or (3) of this section by 1 minus an offset factor equal to the sum of the following—

(i) Proportion of the ACO's BY3 assigned beneficiaries that are dually eligible for Medicare and Medicaid; and

(ii) The difference between the ACO's weighted average prospective HCC risk score for BY3 taken across the four Medicare enrollment types and 1. When calculating the weighted average prospective HCC risk score, the weight applied to the prospective HCC risk score for BY3 for each Medicare enrollment type is equal to the product of the BY3 per capita expenditures for that enrollment type and the BY3 person years for that enrollment type.

(5) The offset factor described in paragraph (c)(4) of this section is subject to a minimum value of zero (representing no offset to the negative regional adjustment) and a maximum value of 1 (representing a full offset to the negative regional adjustment).

(d) *Expression of the regional adjustment as a single value.* (1) CMS expresses the regional adjustment as a single

value by taking a person-year weighted average of the Medicare enrollment type-specific regional adjustment values determined in paragraph (c) of this section.

(2) CMS uses the regional adjustment expressed as a single value for purposes of determining the adjustment, if any, that will be applied to the benchmark in accordance with § 425.652(a)(8).

(e) *Phase-in of weights used in regional adjustment calculation.* (1) The first time that an ACO's benchmark is adjusted based on the ACO's regional service area expenditures, CMS calculates the regional adjustment as follows:

(i) Using 35 percent of the difference between the average per capita amount of expenditures for the ACO's regional service area and the average per capita amount of the ACO's initial or rebased historical benchmark, if the ACO is determined to have lower spending than the ACO's regional service area.

(ii) Using 15 percent of the difference between the average per capita amount of expenditures for the ACO's regional service area and the average per capita amount of the ACO's initial or rebased historical benchmark, if the ACO is determined to have higher spending than the ACO's regional service area.

(2) The second time that an ACO's benchmark is adjusted based on the ACO's regional service area expenditures, CMS calculates the regional adjustment as follows:

(i) Using 50 percent of the difference between the average per capita amount of expenditures for the ACO's regional service area and the average per capita amount of the ACO's rebased historical benchmark if the ACO is determined to have lower spending than the ACO's regional service area.

(ii) Using 25 percent of the difference between the average per capita amount of expenditures for the ACO's regional service area and the average per capita amount of the ACO's rebased historical benchmark if the ACO is determined to have higher spending than the ACO's regional service area.

(3) The third time that an ACO's benchmark is adjusted based on the ACO's regional service area expenditures, CMS calculates the regional adjustment as follows:

(i) Using 50 percent of the difference between the average per capita amount of expenditures for the ACO's regional service area and the average per capita amount of the ACO's rebased historical benchmark if the ACO is determined to have lower spending than the ACO's regional service area.

(ii) Using 35 percent of the difference between the average per capita amount of expenditures for the ACO's regional service area and the average per capita amount of the ACO's rebased historical benchmark if the ACO is determined to have higher spending than the ACO's regional service area.

(4) The fourth or subsequent time that an ACO's benchmark is adjusted based on the ACO's regional service area expenditures, CMS calculates the regional adjustment to the historical benchmark using 50 percent of the difference between the average per capita amount of expenditures for the ACO's regional service area and the average per capita amount of the ACO's rebased historical benchmark.

(5) To determine if an ACO has lower or higher spending compared to the ACO's regional service area, CMS does the following:

(i) Multiplies the difference between the average per capita amount of expenditures for the ACO's regional service area and the average per capita amount of the ACO's historical benchmark for each population of beneficiaries (ESRD, disabled, aged/dual eligible Medicare and Medicaid beneficiaries, aged/non-dual eligible Medicare and Medicaid beneficiaries) as calculated under paragraph (c)(1) of this section by the applicable proportion of the ACO's assigned beneficiary population (ESRD, disabled, aged/dual eligible Medicare and Medicaid beneficiaries, aged/non-dual eligible Medicare and Medicaid beneficiaries) for BY3 of the historical benchmark.

(ii) Sums the amounts determined in paragraph (e)(5)(i) of this section across the populations of beneficiaries (ESRD, disabled, aged/dual eligible Medicare and Medicaid beneficiaries, aged/non-dual eligible Medicare and Medicaid beneficiaries).

(iii) If the resulting sum is a net positive value, the ACO is considered to have lower spending compared to the