

(i) 50 percent of the pro-rated average per capita amount computed in paragraph (b)(3)(ii) of this section.

(ii) 5 percent of national per capita expenditures for Parts A and B services under the original Medicare fee-for-service program in BY3 for assignable beneficiaries identified for the 12-month calendar year corresponding to BY3 using data from the CMS Office of the Actuary and expressed as a single value by taking a person-year weighted average of the Medicare enrollment type-specific values.

(2) [Reserved]

(d) *Applicability of the prior savings adjustment.* CMS compares the per capita prior savings adjustment determined in paragraph (c)(1) of this section with the regional adjustment, expressed as a single value as described in § 425.656(d), to determine the adjustment, if any, that will be applied to the ACO's benchmark in accordance with § 425.652(a)(8).

(e) *Recalculation of the prior savings adjustment during an agreement period.*

(1) The ACO's prior savings adjustment is recalculated for changes to the ACO's savings or losses for a performance year used in the prior savings adjustment calculation in accordance with § 425.316(b)(2)(ii)(B) or (C) due to compliance action to address avoidance of at-risk beneficiaries or as a result of issuance of a revised initial determination under § 425.315.

(2) For a new ACO identified as a re-entering ACO, the prior savings adjustment is recalculated for changes to savings or losses for a performance year used in the prior savings adjustment calculation, if the savings or losses of the ACO in which the majority of the new ACO's participants were participating change in accordance with § 425.316(b)(2)(ii)(B) or (C) due to compliance action to address avoidance of at-risk beneficiaries or as a result of issuance of a revised initial determination under § 425.315.

[87 FR 70248, Nov. 18, 2022, as amended at 88 FR 79551, Nov. 16, 2023]

§ 425.659 Calculating risk scores used in Shared Savings Program benchmark calculations.

(a) *General.* CMS accounts for differences in severity and case mix of the

ACO's assigned beneficiaries and assignable beneficiaries (as defined under § 425.20) in calculations used in establishing, adjusting, and updating the ACO's historical benchmark.

(b) *Prospective Hierarchical Condition Category (HCC) risk score calculation.* In determining Medicare FFS beneficiary prospective HCC risk scores for a performance year and each benchmark year of the ACO's agreement period, CMS does the following:

(1) CMS specifies the CMS-HCC risk adjustment methodology used to calculate prospective HCC risk scores for Medicare FFS beneficiaries (as defined under § 425.20) for use in Shared Savings Program calculations as follows:

(i) In calculating risk scores for Medicare FFS beneficiaries for a performance year, CMS applies the CMS-HCC risk adjustment methodology applicable for the corresponding calendar year.

(ii) For agreement periods beginning before January 1, 2024, CMS applies the CMS-HCC risk adjustment methodology for the calendar year corresponding to the benchmark year in calculating risk scores for Medicare FFS beneficiaries for each benchmark year of the agreement period.

(iii) For agreement periods beginning on January 1, 2024, and in subsequent years, CMS applies the CMS-HCC risk adjustment methodology for the calendar year corresponding to the performance year, as specified under paragraph (b)(1)(i) of this section, in calculating risk scores for Medicare FFS beneficiaries for each benchmark year of the agreement period.

(2) CMS does the following to calculate the prospective HCC risk scores identified in paragraph (b)(1) of this section for a benchmark or performance year:

(i) Removes the Medicare Advantage coding intensity adjustment, if applicable.

(ii) Renormalizes prospective HCC risk scores by Medicare enrollment type (ESRD, disabled, aged/dual eligible Medicare and Medicaid beneficiaries, and aged/non-dual eligible Medicare and Medicaid beneficiaries) based on the national assignable FFS population for the relevant benchmark or performance year.