Patient Protection and Affordable Care Act (H.R. 3590)

JULY 1, 2010

Accountable Care Organizations
SEC. 3022 of the Patient Protection and Affordable Care Act (the "Act") provides that no later than January 1, 2012, the Secretary of Health and Human Services (the "Secretary") will establish a shared savings program that promotes accountability for a patient population and coordinates items and services under Medicare parts A and B, and encourages investment in infrastructure and redesigned care processes for high quality and efficient service delivery.

Accountable Care Organizations ("ACO") that meet quality performance standards established by the Secretary will be eligible to receive payments for shared savings. ACOs are organizations that link various providers that together take responsibility for improving the health status and efficiency of care for a specific patient population. ACOs, which are not a new concept, contemplate payment mechanisms that tie incentive provider payments to quality, outcomes and resource utilization, rather than productivity alone. The following groups of providers which have established a mechanism for shared governance are eligible to participate as ACOs: 1) physicians and practitioners in group practice arrangements; 2) networks of individual practices of physicians and practitioners; 3) partnerships or joint ventures between hospitals and physicians and practitioners; 5) hospitals employing physicians and practitioners; and 6) such other groups of providers and suppliers as the Secretary determines appropriate.

In order to take advantage of the shared savings program set forth in the Act, an ACO must meet the following requirements:

- must be willing to become accountable for the quality, cost, and overall care of the beneficiaries
- must enter into an agreement with the Secretary to participate in the program for at least 3 years
- must have a formal legal structure that would allow the organization to receive and distribute payments for shared savings
- must include primary care professionals that are sufficient for the number of beneficiaries assigned to it
- must have at least 5,000 beneficiaries assigned to it
- must provide the Secretary with information regarding ACO professionals participating in the ACO as the Secretary determines necessary to support the assignment of Medicare beneficiaries to an ACO
- must have in place a leadership and management structure that includes clinical and administrative systems

- must define processes to promote evidence-based medicine and patient engagement, report on quality and cost measures, and coordinate care
- must demonstrate to the Secretary that it meets patient-centeredness criteria specified by the Secretary

Under the program, the Secretary will determine an appropriate method to assign Medicare fee-for-service beneficiaries to an ACO based on their utilization of primary care services provided by an ACO professional. Payments will continue to be made to providers participating in an ACO under the original Medicare fee-for-service program under parts A and B in the same manner as they would otherwise be made except that a participating ACO is eligible to receive payment for shared savings if it meets quality performance standards and it meets savings requirements.

Each year, an ACO will be eligible to receive payment for shared savings only if the estimated average per capita Medicare expenditures under the ACO for Medicare fee-for-service beneficiaries for parts A and B services, adjusted for beneficiary characteristics, is at least the percent specified by the Secretary below the applicable established benchmark. The Secretary will estimate a benchmark for each agreement period for each ACO using the most recent available 3 years of per-beneficiary expenditures for parts A and B services for Medicare fee-for-service beneficiaries assigned to the ACO.

Pediatric ACO Demonstration Project
SEC. 2706 of the Act provides for the establishment of the Pediatric Accountable Care Organization Demonstration Project (the "Project"). Under the Project, a participating State will allow pediatric medical providers that meet specified requirements to be recognized as an ACO for purposes of receiving incentive payments. The demonstration project shall begin on January 1, 2012, and shall end on December 31, 2016. A State that desires to participate in the Project must submit an application to the Secretary. The Secretary, in consultation with the States and pediatric providers, will establish guidelines to ensure that the quality of care delivered to individuals by a provider recognized as an ACO is not less than the quality of care that would have otherwise been provided to such individuals. A participating State, in consultation with the Secretary, shall establish an annual minimal level of savings in expenditures for items and services covered under the Children's Health Insurance Program and Medicaid programs that must be reached by an ACO in order for the ACO to receive an incentive payment. A provider desiring to be recognized as an ACO must enter into an agreement with the State to participate in the project for not less than 3 years. Performance standards necessary to obtain an incentive payment will be established by the Secretary while minimal savings levels needed in order to obtain an incentive payment will be established by the State.