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Accountable Care Organizations – How Providers are Impacted

By [Stuart J. Vogelsmeier](#), Attorney at Law

Health care providers are trying to wrap their heads around the complexities of new requirements for coordinating care for Medicare patients – Accountable Care Organizations (ACOs). The federal government is still finalizing the regulations for this new model, which is part of the Affordable Care Act and takes effect in 2012.

ACOs use a shared savings model to reward integrated or coordinated groups of providers that deliver quality care at a reduced cost, while continuing to be paid by Medicare on a fee for services basis.

The ACOs can be made up of physicians, physicians' assistants, nurse practitioners, clinical nurse specialists, hospitals, and joint ventures and partnerships of these providers. Existing physician groups can become ACOs, as can hospitals, and medical groups can also collaborate with hospitals and other providers to form an ACO.

What do these changes mean for providers? Although the final regulations may answer some questions, certain issues stand out:

- ACO costs will be measured against the average per capita Medicare costs for “assigned” patients. If an ACO achieves cost savings, by controlling utilization, the ACO may receive a share of the government’s cost savings.
- There will be some natural tension between hospitals, specialists and primary care physicians. Some believe that ACOs will attempt to limit hospital admissions, emergency room visits, and diagnostic tests.
- Measuring “quality” will be complex and difficult.
- An ACO will require significant investment in infrastructure, such as information technology. Without hospital participation in an ACO, potential participants may not have the capital to form an ACO.
- The assignment of Medicare patients to an ACO is based on whether the patient’s primary care physician is an ACO participant. Success of an ACO will necessarily depend on having a large number of primary care physician participants.
- There will continue to be significant antitrust, anti-kickback, Stark and tax exempt organization issues to analyze, which may hinder the rapid formation of ACOs.

Our health care practice at Lashly & Baer will continue to monitor the regulations as they are finalized, and analyze the potential winners and losers in the world of ACOs.