PBGH
PACIFIC BUSINESS GROUP ON HEALTH

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Donald Berwick, MD, MPH
Administrator
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

RE: Response to Medicare Shared Savings Program: Accountable Care Organizations (ACOs) Proposed Rule

Dear Dr. Berwick:

The Pacific Business Group on Health (PBGH) shares a common goal to drive health care transformation that advances payment reform and care delivery re-engineering. PBGH is a business coalition with large purchasers representing over 2 million employees, dependents and retirees and $12 billion annual health care premium expenditures. We believe that CMS' inclusion of quality and cost requirements is important for fostering improved care coordination and advancing health system redesign. Our experience in the mature managed care markets of California affirms that aligned financial incentives and performance transparency are critical to managing affordability and improving quality.

Indeed, as many California medical groups and hospitals have shifted away from full risk arrangements in the commercial managed care market, purchasers have seen significant cost increases, with trends in California that exceed other markets. Numerous organizations continue to succeed with risk arrangements for Medicare Advantage plans, creating more affordable choices for consumers. PBGH concurs that a higher bar for the clinical and financial performance of the proposed ACOs is necessary to deliver measurable value to patients and the public.

The promise of ACOs is to offer significant improvements in quality and care coordination and decrease cost. Purchasers believe plan and provider organizations can deliver on these objectives if performance is measured based on outcomes rather than process and structure. Therefore, we have articulated to health plans and provider organizations a set of purchaser principles for ACOs (link to PBGH Issue Brief) to achieve the Triple Aim of improving care, affordability and population health:

1) Support a competitive marketplace and operate in a transparent way.
2) Use a robust measurement dashboard that is outcomes-focused and patient-centered.
3) Address affordability and cost management by demonstrating the ability to manage financial performance with specific objectives.
4) Structure provider payment to advance payment reform objectives that support evidence-based care and reward quality, not quantity. ACOs should also seek to align private and public sector approaches.
5) Use a patient-centered, team-based approach to care delivery and member engagement.
6) Demonstrate robust and meaningful use of health information technology.

PBGH has collaborated with the Consumer-Purchaser Disclosure Project and agrees with their comments which provide greater detail on specific elements of the Proposed Rule. We want to highlight several areas:

- **Market Competition:** Purchasers are very concerned that changes to CMS provider payments do not result in cost-shift to the private sector or provider consolidation that reduces competition in the marketplace. In a prior communication, we encouraged CMS to consider ways in which to mitigate such concerns, such as by implementing a robust performance reward program that provides a 10 to 20 percent differential bonus opportunity to multi-payer ACOs that include private carriers. We also recommended that antitrust safe harbors include a prohibition on “gag rules” or non-disclosure provisions in provider contracts that preclude community-level quality and efficiency measurement, consumer access to information and comparative performance reporting, and which prohibit contractual terms that limit health plans from differentiating providers based on quality and cost (unit price, efficiency and/or resource management).

- **Quality and Cost Accountability:** Performance measurement and public reporting are integral to ACOs improving care delivery as well as to evaluating its success. We encourage CMS to focus on a core set of high-value measures that focuses on outcomes and efficiency as better measures become available. Ultimately, performance information needs to be available at the individual provider level – the level that matters to patients and caregivers making health care decisions. Such information should be aligned with private purchaser efforts to give health plans and others information to guide contracting, tiering, benefit design, and pay-for-performance programs.

- **Alignment of Quality Measurement Domains:** In PBGH’s work with the National Quality Forum and on Health IT Policy, there is emerging alignment among stakeholders around the organization of quality measures. While we support a robust measurement set, we encourage CMS to expand its focus on areas where there are currently few measures of performance and to continually synchronize measures for the ACO program across the following domains:
  - Patient and family engagement;
  - Care coordination;
  - Patient safety;
  - Population and public health;
  - Clinical appropriateness and efficiency, and
  - Clinical outcomes and closely-linked processes.

- **Payment that Rewards Delivery Redesign, and the Right Care at the Right Time:** Global risk is an important step towards aligning incentives but does not sufficiently address the perverse underlying incentives of traditional fee-for-service. To expand incentives for specialty providers and hospitals, we recommend consideration of a “clawback” of any Medicare financial loses compared to non-ACO populations in the form of pro-rata exposure to future Medicare fee reductions for all Medicare providers that served the ACO’s patients if progress on the Triple Aim for all payers is not attained by the ACO by year 3.

Again, PBGH applauds CMS' efforts to date to structure the Medicare Shared Savings Program Proposed Rule to address the concerns of many stakeholders. We also endorse opportunities to test these recommendations through the Pioneer ACO under the auspices of the Center for Medicare & Medicaid Innovation. Private purchasers share a common goal in driving towards the Triple Aim. Purchasers and consumers can add a critical voice to assuring accountability and results from this ambitious program. We believe that public-private purchaser alignment is an important avenue through which to achieve meaningful health reform.

Sincerely,

David Lansky, PhD
President & CEO

cc: Jonathan Blum, Centers for Medicare & Medicaid Services
Richard Gilfillan, MD, Center for Medicare & Medicaid Innovation
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