MILLIMAN WHITE PAPER

Early thoughts on Medicare Shared Savings Program (MSSP) Track 1+

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On October 14, 2016, the Centers for Medicare and Medicaid Services (CMS) released the Final Rules[1] for the Medicare Access and CHIP Reauthorization Act of 2015, also known as MACRA. The majority of this Final Rule discusses the details of the regulation that will go into effect on January 1, 2017. However, the Final Rule also included some preliminary information regarding a new track of the Medicare Shared Savings Program (MSSP), Track 1 Plus (1+), which, if introduced, would allow participants to qualify as Advanced Alternative Payment Models (APMs) beginning in 2018, without taking on as much downside risk as in MSSP Tracks 2 or 3.

Background

CMS has stated that it is interested in driving more providers toward risk-based contracts and Alternative Payment Models where the providers have a stake in the quality and costs of the services they provide. In order to further this cause, CMS is hoping to drive providers toward Advanced APMs, where providers "bear risk for monetary losses of a more than nominal amount."[2] CMS has stated that MSSP Track 1+ will be introduced with sufficient financial risk to qualify as an Advanced APM when it is introduced.[3]

Advanced APM participants take on downside risk and can be exempt from Merit-based Incentive Payment System (MIPS) payment adjustments as well as qualify for a 5% Medicare Part B bonus payment. In order to qualify for the MIPS exemption and the bonus payment, participants will need to have downside exposure that meets or exceeds one of the following two standards:

- **Benchmark-based standard:** For all years, 3% of the expected Medicare fee-for-service (FFS) expenditures for which an APM entity is responsible under the APM (i.e., 3% of the total assigned population's expenditures).
  - This standard is consistent with the current MSSP Tracks 2 and 3 programs, as well as the Next Gen ACO program.
- **Revenue-based standard:** 8% of the average estimated total Medicare FFS Parts A and B revenues of participating APM entities in 2017 and 2018 (i.e., 8% of the participating provider's FFS revenue) and a higher percentage of revenue for 2019 and post.
  - This standard was included in the final rule after the comment period. No current CMS Advanced APMs are built on this standard.

With the introduction of these new programs, CMS is trying to direct more providers away from MIPS and into the Advanced APM program, where providers would take on performance-based risk. It is worth noting that these two criteria can be quite different depending on the mix of providers in the ACO. A primarily PCP-based group has much lower expected Medicare FFS revenue per patient than a group comprising multiple specialties, or a group that includes a medical group and hospital system.

One notable addition to the list of future Advanced APMs is the MSSP Track 1+ model.[4] This is notable because a vast majority (389 providers of 392 in 2015 and 411 of 434 in 2016) of the providers participating in the currently available ACO models are in MSSP Track 1. MSSP Track 1 is not an Advanced APM unlike MSSP Track 2, MSSP Track 3, or Next Gen, which are all currently Advanced APMs. CMS indicated that the providers that are currently participating in MSSP Track 1 would be able to transition to MSSP Track 1+ within their current agreement period (instead of having to wait until the end of their current agreement period). This would allow a huge volume of providers to transition from MSSP Track 1 into MSSP Track 1+ and thus be engaged in Advanced APMs. Unfortunately, CMS has not released many details on MSSP Track 1+.

1 Centers for Medicare and Medicaid Services (November 4, 2016). Medicare Program; Merit-based Incentive Payment System (MIPS) and Alternative Payment Model (APM) Incentive under the Physician Fee Schedule, and Criteria for Physician-Focused Payment Models. Retrieved November 8, 2016, from https://s3.amazonaws.com/public-inspection.federalregister.gov/2016-25240.pdf.

2 Page 21 of the regulation (https://s3.amazonaws.com/public-inspection.federalregister.gov/2016-25240.pdf).

3 Ibid.

4 Centers for Medicare and Medicaid Services (October 26, 2016). Quality Payment Program. Retrieved November 8, 2016, from https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Value-Based-Programs/MACRA-MIPS-and-APMs/MACRA-Quality-Payment-Program-webinar-slides-10-26-16.pdf.

What we know and what we don't

The following table summarizes several of the key knowns and unknowns involving the proposed Track 1+ option.

	WHAT WE KNOW	WHAT WE DON'T KNOW
WHEN WILL TRACK 1+ BE OFFERED?	MSSP Track 1+ will likely be offered beginning in the 2018 performance year.[5]	We don't know the length of the Track 1+ agreement period.
WHEN CAN CURRENT TRACK 1 ACO PARTICIPANTS TRANSITION?	Current Track 1 ACO participants will be able to transition to the Track 1+ program within their current agreement period.	We don't know if participants currently in Track 1 and switching mid-agreement period need to sign up for a new agreement period under Track 1+.
CAN NEW PARTICIPANTS ENTER DIRECTLY INTO TRACK 1+?	Yes.	We don't know the specific terms or length of agreement period, or if there will be additional restrictions on who can enter Track 1+.
WILL TRACK 1+ INCLUDE DOWNSIDE RISK?	As an Advanced APM, Track 1+ would necessarily involve downside risk. The downside risk will be more limited than in MSSP Tracks 2 or 3 to attract smaller provider groups. Currently, Track 1 has no downside risk and as such, does not qualify as an Advanced APM.	We don't know the risk-sharing details, except that the level of risk sharing is supposed to be lower than for Tracks 2 and 3. It is possible that there will be a potential to mitigate downside risk through high quality scores, similar to the other tracks.
WHAT DO WE KNOW ABOUT THE PERFORMANCE BENCHMARKS FOR TRACK 1+?	Track 1+ would still incorporate the benchmark methodology used for all MSSP tracks, including the regional benchmarking introduced in the June 2016 final rule.	We don't know many of the specifics, including what beneficiary assignment methodology CMS will use.
WHEN WILL ADDITIONAL INFORMATION BE RELEASED?	CMS has stated that more information regarding Track 1+ will be released in the near future.	We don't know when the complete description of the program will be finalized, but we expect it will be finalized in advance of the 2018 MSSP application date.

What could the downside risk in a Track 1+ ACO look like?

Track 1 has no downside risk and so does not qualify as an Advanced APM. According to CMS, the only characteristic missing in Track 1 is financial risk; it already meets quality and reporting requirements. As such, an Advanced APM Track 1+ would necessarily involve downside risk.

What will that downside risk look like? If Track 1+ is designed to be consistent with the existing MSSP tracks, we could see characteristics such as the following:

- **Prospective beneficiary assignment:** CMS recently introduced prospective assignment to MSSP with Track 3. In our experience, many providers prefer prospective assignment because the population they are at risk for is identified in advance. CMS could continue this trend with Track 1+ or stay with the retrospective assignment that is used in MSSP Tracks 1 and 2.
- **Benchmark and performance based on total Part A and B expenditures:** As indicated above, the risk exposure could be based on total expenditures or provider FFS revenue. Currently, all MSSP tracks use a total expenditure benchmark in the first agreement period that is based on historical costs trended to the performance period. The second agreement period uses a blend of trended historical and regional benchmarks to develop the final benchmark rate.
- **Symmetric minimum savings/losses corridor:** Track 1 participants are currently given a 2.0% to 3.9% minimum savings rate based on their assigned population. A parallel minimum loss rate would be plausible for Track 1+, given that this range of minimum savings rates is below the 4% minimum loss rate standard required to be accepting of "nominal risk." Tracks 2 and 3 also allow participants to elect to use different corridor sizes; Track 1+ may allow that as well.
- **More upside than downside risk:** Tracks 2 and 3 currently have higher caps on shared savings as a percent of the benchmark than the cap on shared losses. Because of this, we would expect that Track 1+ would have a similar cap structure.

5 Page 21 of the regulation (https://s3.amazonaws.com/public-inspection.federalregister.gov/2016-25240.pdf).

- **Minimum loss sharing %:** Both Tracks 2 and 3 have minimum loss sharing rates of 40%. However, this is a place that CMS may choose to lower the risk for Track 1+ participants by lowering the minimum downside risk sharing. CMS has indicated that it expects all its Advanced APMs to have a minimum loss sharing of at least 30%, though this is not an explicit requirement in the regulation.
- **Potential mitigation of downside risk for high quality scores:** Both Tracks 2 and 3 mitigate downside risk sharing based on quality. We may see CMS implement similar measures in Track 1+ as a mechanism for these participants to mitigate financial risk through high quality scores.
- **Limited maximum shared losses:** CMS has stated that Track 1+ will include "more limited downside risk than currently present in Tracks 2 or 3 in order to encourage more rapid progression into performance-based risk." As discussed above, CMS has created some flexibility in the downside risk exposure for Advanced APMs: Downside can be either at least 3% of the benchmark costs or at least 8% of total revenue. CMS could use the revenue-based standard for Track 1+ as a means to reduce the downside risk for smaller provider groups.

With the introduction of a downside risk component into the MSSP Track 1 program, CMS is hoping to create a stepping stone into the world of financial risk sharing for providers, which may lead to an increase in overall Advanced APM participation in future years. Requiring the minimum level of risk sharing will create a migration path for existing MSSP Track 1 participants into two-sided risk-sharing arrangements and could entice providers who have not yet participated in a two-sided arrangement.

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