

[N.J. Rev. Stat. § 30:4D-8.5.]

§ 30:4D-8.5. Receipt and distribution of gainsharing payments; eligibility requirements; determination of benchmark period; distribution of savings; use of savings for expansion of services: Medical Assistance and Health Services Act

5. a. A certified Medicaid ACO shall be eligible to receive and distribute gainsharing payments only after having received approval from the department of its gainsharing plan, which approval may be requested by the ACO at the time of certification or at any time within one year of certification. An ACO may seek to amend its gainsharing plan at any time following the plan's initial approval by submitting amendments to the department for approval.

b. The department, with input from the Department of Health and utilizing outcome evaluation data provided by the Rutgers Center for State Health Policy, shall approve only those gainsharing plans that promote: improvements in health outcomes and quality of care, as measured by objective benchmarks as well as patient experience of care; expanded access to primary and behavioral health care services; and the reduction of unnecessary and inefficient costs associated with care rendered to Medicaid recipients residing in the ACO's designated area. The department and the Department of Health shall provide all data necessary to the Rutgers Center for State Health Policy for analysis in support of the department's review of gainsharing plans. Criteria to be considered by the department and the Department of Health in approving a gainsharing plan shall include, but are not limited to:

- (1) whether the plan promotes: care coordination through multi-disciplinary teams, including care coordination of patients with chronic diseases and the elderly; expansion of the medical home and chronic care models; increased patient medication adherence and use of medication therapy management services; use of health information technology and sharing of health information; and use of open access scheduling in clinical and behavioral health care settings;
- (2) whether the plan encourages services such as patient or family health education and health promotion, home-based services, telephonic communication, group care, and culturally and linguistically appropriate care;
- (3) whether the gainsharing payment system is structured to reward quality and improved patient outcomes and experience of care;
- (4) whether the plan funds interdisciplinary collaboration between behavioral health and primary care providers for patients with complex care needs likely to inappropriately access an emergency department and general hospital for preventable conditions;
- (5) whether the plan funds improved access to dental services for high-risk patients likely to inappropriately access an emergency department and general hospital for untreated dental conditions; and

(6) whether the plan has been developed with community input and will be made available for inspection by members of the community served by the ACO.

c. The gainsharing plan shall include an appropriate proposed time period beginning and ending on specified dates prior to the commencement of the demonstration project, which shall be the benchmark period against which cost savings can be measured on an annual basis going forward. Savings shall be calculated in accordance with a methodology that:

(1) identifies expenditures per recipient by the Medicaid fee-for-service program during the benchmark period, adjusted for characteristics of recipients and local conditions that predict future Medicaid spending but are not amenable to the care coordination or management activities of an ACO which shall serve as the benchmark payment calculation;

(2) compares the benchmark payment calculation to amounts paid by the Medicaid fee-for-service program for all such resident recipients during subsequent periods; and

(3) provides that the benchmark payment calculation shall remain fixed for a period of three years following approval of the gainsharing plan.

d. The percentage of cost savings identified pursuant to subsection c. of this section to be distributed to the ACO, retained by any voluntarily participating Medicaid managed care organization, and retained by the State, shall be identified in the gainsharing plan and shall remain in effect for a period of three years following approval of the gainsharing plan. The percentages shall be designed to ensure that:

(1) the State can achieve meaningful savings and support the ongoing operation of the demonstration project, and

(2) the ACO receives a sufficient portion of the shared savings necessary to achieve its mission and expand its scope of activities.

e. Notwithstanding the provisions of this section to the contrary, the department shall not approve a gainsharing plan that provides direct or indirect financial incentives for the reduction or limitation of medically necessary and appropriate items or services provided to patients under a health care provider's clinical care in violation of federal law.

f. Notwithstanding the provisions of this section to the contrary, a gainsharing plan that provides for shared savings between general hospitals and physicians related to acute care admissions utilizing the methodological component of the Physician-Hospital Collaboration Demonstration awarded by the federal Centers for Medicare & Medicaid Services to the New Jersey Care Integration Consortium, shall not be required to be approved by the department. The department shall not be under any obligation to participate in the Physician-Hospital Collaboration Demonstration.

g. The department shall consider using a portion of any savings generated to expand the nursing, primary care, behavioral health care, and dental workforces and services in the area served by the ACO.

h. A gainsharing plan submitted to the department for this ACO demonstration project shall contain an assessment of the expected impact of revenues on hospitals that agree to participate. The assessment shall include estimates for changes in both direct patient care reimbursement and indirect revenue, such as disproportionate share payments, graduate medical education payments, and other similar payments. The assessment shall include a review of whether participation in the demonstration project could significantly impact the financial stability of any hospital through rapid reductions in revenue and how this impact will be mitigated. The gainsharing plan shall include a letter of support from all participating hospitals in order to be accepted by the department.