

Department of Health & Human Services
Centers for Medicare & Medicaid Services
7500 Security Boulevard,
Baltimore, Maryland 21244



October 12, 2021

Michael K. Smith
Secretary
Vermont Agency of Human Services

Ena Backus
Director of Health Care Reform
Vermont Agency of Human Services
280 State Drive—Center Building
Waterbury, VT 05671

Kevin Mullin
Chair
Green Mountain Care Board
144 State Street
Montpelier, VT 05602

SUBJECT: Temporary Waiver of Enforcement of the Vermont All-Payer Accountable Care Organization Model State Agreement ACO Scale Targets

Dear Secretary Smith, Ms. Backus and Mr. Mullin:

The Centers for Medicare & Medicaid Services (“CMS”) values its collaboration with the state of Vermont and the Green Mountain Care Board (the “GMCB”) in implementing the Vermont All-Payer Accountable Care Organization Model (the “Model”) over the past four years. This collaboration supports Vermont’s and CMS’s goals towards health care reform by reducing expenditures and improving health outcomes under the Model. While the Model has demonstrated a cumulative net Medicare spending reduction at the state level,¹ Vermont has failed to achieve the ACO Scale Targets described in section 6.a of the Vermont All-Payer Accountable Care Organization Model Agreement (the “State Agreement”) for Performance Years (PYs) 1 – 3 (2018-2020). For instance, by the end of PY 3, 47% of Vermont Medicare Beneficiaries and 45% of Vermont All-Payer Scale Target Beneficiaries were aligned to a Scale Target ACO Initiative, falling below the ACO Scale Targets of 79% and 58%, respectively, for that Performance Year. In addition, despite preliminary PY 4 (2021) data in Vermont’s Annual ACO Scale Targets and Alignment Report for PY 3 showing an overall improvement, CMS believes that Vermont will not meet the ACO Scale Targets for PY 4.

CMS now believes the ACO Scale Targets set forth in the State Agreement are unattainable for Vermont based on information not available when the State Agreement was drafted, including the significant increase in Medicare Advantage penetration. For example, as noted in the Annual ACO Scale Targets and Alignment Report for PY 3, due to the proximity of their residence to other states, many Vermont Beneficiaries were not attributed to the ACO due to primary care utilization outside the state. Indeed, in

¹ First Evaluation Report, Evaluation of the Vermont All-Payer Accountable Care Organization Model (Aug. 2021), available at: <https://innovation.cms.gov/data-and-reports/2021/vtapm-1st-eval-full-report>.

Vermont's Annual ACO Scale Targets and Alignment Report for PY3, submitted on June 30, 2021, Vermont explained that its inability to meet the PY3 ACO Scale Targets was due in part to this ACO attribution methodology, as well as minimal changes in the ACO's provider network from 2019 to 2020. Additionally, there has been increased penetration of Medicare Advantage into the Vermont insurance market, which is not a Scale Target ACO Initiative under section 6.b of the State Agreement.

We also now believe it was unnecessary to set the ACO Scale Targets as high as those set forth in the State Agreement, as the Model has already demonstrated savings for the Medicare program even though the state has consistently fallen short of those targets. Accordingly, CMS does not intend to place Vermont on a corrective action plan (CAP) or to terminate the Model at this time.

Therefore, the purpose of this letter is to notify Vermont that CMS is temporarily waiving enforcement of the ACO Scale Targets along with the related milestones and deadlines described by the following provisions of the State Agreement until the State Agreement is amended in writing or until December 31, 2022, whichever is earlier:

- **Section 6.a:** The requirement that the percentage of Vermont Medicare Beneficiaries and the percentage of Vermont All-Payer Scale Target Beneficiaries aligned to a Scale Target ACO Initiative meet or exceed the applicable percentages for a given Performance Year.
- **Section 6.k:** The requirement that failure to meet the ACO Scale Targets qualifies as a Triggering Event.
- **Section 21.d.iv:** The requirement that a Triggering Event may include circumstances in which Vermont fails to achieve the ACO Scale Targets for two consecutive Performance Years as set forth in Section 6.k.

All other terms and conditions of the State Agreement shall remain in full force and effect to include, without limitation, the requirement that the GMCB submit its "Annual ACO Scale Targets and Alignment Report" on or before June 30, 2022, in accordance with sections 6.j.ii and 15.a of the State Agreement. We look forward to our continued collaboration and work with the State to implement the goals of the Model in accordance with the terms of the State Agreement.

If you have any questions or concerns about the content of this letter, please contact VermontAllPayer@cms.hhs.gov.

Sincerely,

Amy Bassano, Deputy Director
Center for Medicare and Medicaid Innovation
Centers for Medicare & Medicaid Services

Date

cc:

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