

**COMMONSPIRIT HEALTH
ACCOUNTABLE CARE ORGANIZATION AND CLINICALLY INTEGRATED NETWORK
ADMINISTRATIVE POLICY**

SUBJECT: MSSP Non- Avoidance of At-Risk Beneficiaries	POLICY NUMBER: Corporate Responsibility PH-008
EFFECTIVE DATE: July 1, 2021	ORIGINAL EFFECTIVE DATE: July 1, 2021
REPLACES: CHI Corporate Responsibility Policy No. 14, ACO Non-Avoidance of Medicare At-Risk Beneficiaries	Dignity Health Policy: Clinical Integration– Medicare Shared Savings Program Prevent Avoidance of At-Risk Beneficiaries

- Accountable Care Organizations (ACO) in the Medicare Shared Savings Program (MSSP)
- Clinically Integrated Networks (CIN)

PURPOSE

The purpose of this policy is to outline that the MSSP shall not avoid or underutilize care for at-risk patients in order to reduce costs and potentially increase Medicare savings payments to CommonSpirit Health. This includes denying or stinting on medically necessary services to at-risk patients.

POLICY

It is the policy of the MSSP to provide the appropriate level of and quality care to all beneficiaries aligned with the MSSP program and to ensure that the MSSP Related Individuals do not avoid at-risk beneficiaries.

1. Neither MSSP nor any of its Participants, Providers/Suppliers, or other individuals or entities performing functions or services related to MSSP activities shall intentionally act or fail to act in a manner that constitutes the avoidance of at-risk beneficiaries. In particular, no beneficiary shall be discharged based on their health status or risk to the program.
2. In the event the MSSP has reason to believe that any of its Participants, Providers/Suppliers, or other individuals or entities performing functions or services related to MSSP activities are engaging in the avoidance of at-risk beneficiaries, reasonable measures will be taken to ensure that such parties promptly cease any such avoidance activities.
3. CMS shall have the right to monitor and access the performance of the MSSP and its Participants, Providers/Suppliers, or other individuals or entities performing functions or services related to MSSP activities to identify any trends or patterns suggesting the avoidance of at-risk beneficiaries. MSSP will cooperate and facilitate this activity with CMS.

4. If Compliance Monitoring and Oversight activities, or any Compliance Investigation, determine that a MSSP Related Individual is avoiding at-risk beneficiaries, they will be subject to disciplinary action up to and including termination of employment and/or any contractual relationship with the program.

AFFECTED AREAS OR DEPARTMENTS

CommonSpirit Health Accountable Care Organizations participating in the MSSP

DEFINITIONS

Beneficiary: Medicare fee-for-service beneficiary attributed to the ACO by CMS.

Medicare Shared Savings Program (MSSP): Medicare Shared Savings Program, established under section 1899 of the Social Security Act.

MSSP Activities: Activities related to promoting accountability for the quality, cost, and overall care for a population of attributed Medicare fee-for-service Beneficiaries, including managing and coordinating care, encouraging investment in infrastructure and redesigned care processes for high quality and efficient service delivery; or carrying out any other obligation or duty of the ACO under the Medicare Shared Savings Program.

MSSP Participant: An ACO entity identified by a Medicare-enrolled billing TIN through which one or more providers/suppliers bill Medicare. The providers/suppliers must be included on the list of ACO participants that is required under 42 C.F.R. § 425.118.

MSSP Provider/Supplier: An individual or entity that: (1) is a provider or supplier under Medicare regulations; (2) is enrolled in Medicare; (3) bills for items and services furnished to Medicare fee-for-service beneficiaries during the agreement period under a Medicare billing number assigned to the TIN of an ACO participant; and (4) is included on the list of ACO providers/suppliers that is required under 42 C.F.R. §425.118.

MSSP Related Individual: ACO officers, directors, employees, Participant, Provider/Supplier, or any other individual or entity providing functions or services related to ACO Activities.

REFERENCES

- National Association of ACOs (NAACOS) ACO Compliance Program Policies and Procedures Manual - MSSP

STATUTORY/REGULATORY AUTHORITIES

- SSA 1899(d)(3) and FR 67950
- 42 C.F.R. §452.20. Definition of At-Risk Beneficiary
- 42 C.F.R. §425.316. Monitoring of ACO avoidance of at-risk beneficiaries