



609.896.1766  
609.896.1347 (FAX)  
WWW.MSNJ.ORG  
INFO@MSNJ.ORG  
2 PRINCESS ROAD  
LAWRENCEVILLE, NJ 08648

June 17, 2011

Dr. Mandy Cohen  
Director of Stakeholder Engagement  
CMS Innovation Center  
[advpayaco@cms.hhs.gov](mailto:advpayaco@cms.hhs.gov)

**Re: Advanced Payment Initiative of the CMS Innovation Center**

Dear Dr. Cohen:

The Medical Society of New Jersey (MSNJ) appreciates this opportunity to provide comments on the Innovation Center's request for information on how it might design an advanced payment element to increase participation in the Medicare Shared Savings Program. MSNJ is a non-profit physician member organization with approximately 8,000 members. We are the largest physician organization in the state. Most of our members are in a solo or small practice.

MSNJ strongly supports the concept of advanced payment as a means to enable more physicians, especially those in small practices, to participate in accountable care organizations (ACOs). In fact, we believe that an advanced payment concept is essential for many physicians to be able to participate in an ACO as their access to capital is limited. We urge the Innovation Center to adopt more than one advance payment model and to make participation as flexible as possible. At the same time, we urge simplicity rather than more complexity as the ACO rule is already complex and will require significant capital and human resources to implement.

We ask that you consider the following suggestions:

- Develop More than One Advance Payment Model;
- Develop an Optional "Early Decision" Track; and
- Forbear on Recoupment Under Certain Circumstances.

**Develop More than One Advance Payment Model**

**More than one model for advance payment is necessary to address the different capital needs of potential ACO participants.**

MSNJ believes that start-up costs have been sorely underestimated and many new entrants to ACOs will simply not be able to participate. There are a number of examples of start-up costs that present barriers. For potential ACO participants that are lacking essential infrastructure, risk analysis skills, clinical and care coordination capability, an advance payment on the front end is necessary. This is particularly true for ACOs that lack information technology. In these situations we suggest that an up-front, lump sum, payment be made. The payment amount should be targeted to defray the identified need, but not more than would reasonably be expected to be achieved in savings.

Some potential ACO participants will have necessary infrastructure and be better able to absorb start-up costs, but not be adequately capitalized to implement care coordination. In these situations, potential ACO participants may wish to receive per/member per/month advance payment to absorb administration and management costs. Advance payment design should allow for such per/member per/month payments. Whether these funds are needed up-front, or on a monthly basis, is best judged by the potential ACO. The Innovation Center should consider advance payment in a lump-sum amount based on a per/member per/month analysis or paid monthly.

### **Develop an Optional Early Decision Track**

Since access to start-up costs may be crucial as to whether an ACO will go forward, we suggest that there be an optional early decision track for potential ACOs. This would allow ACOs who do not receive an early commitment on advance payment to consider other sources of capital or abandon their pursuit of an ACO. An applicant for an early decision on advance payment would have to demonstrate how they would use either up-front funds or monthly payments to achieve the goals of ACOs. With a commitment to an advance payment, the ACO would still have to file a successful application, but it may not be necessary to complete certain parts of the application that would be deemed complete or to have been satisfied through the successful advance payment process.

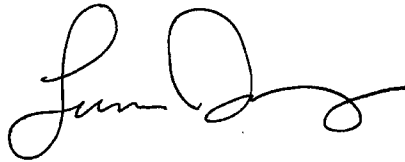
### **Forbear on Recoupment in Certain Circumstances**

Even with access to advance payment potential ACOs are assuming financial risk under the current ACO rule proposal. The premise of an advance payment on savings assumes that there will be savings beyond the 2% threshold necessary for ACOs to achieve any savings. MSNJ urges the Innovation Center to consult with CMS and consider whether there are circumstances where the Federal Government would forbear on recouping against the shared savings.

We are concerned that it may not be possible to accurately predict when savings will be achieved. Moreover, it is possible that savings will be achieved, but not within the three-year time frame. Recouping against advance payments could be devastating to an ACO that is providing higher quality care and contributing to better health, but may not yet have reached the calculated savings within three years. We urge that consideration be given to an extension of the three-year time frame during which no recoupment would be

made so long as quality goals were being achieved and the cost of care was not exceeding the regional cost average.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lawrence Downs". The signature is fluid and cursive, with a large initial "L" and "D".

Lawrence Downs, Esq.  
General Counsel  
Medical Society of New Jersey