

The Controversial Draft Medicare ACO Regulations: Analysis, Comments and Recommended Action

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Reaction to the proposed rules issued by the U.S. Centers for Medicare & Medicaid Services (CMS), and published in the *Federal Register* on April 7, 2011, to implement the Medicare Shared Savings Program (MSSP) has reportedly been harsh and critical. In what may have been intended as a preemptory move to stimulate interest in accountable care organization (ACO) participation despite the negative reaction to the proposed ACO MSSP rules, the Center for Medicare and Medicaid Innovation announced on May 17 a parallel track ACO initiative called "Pioneer ACO." Nonetheless, stakeholders in the accountable care movement are advised to continue to pay close attention to the pending ACO MSSP rules. While it is true that the "devil is in the details," the framework of the regulations provides insight and guidance for any organization in the midst of, or planning, a strategic realignment focused on clinical integration and the delivery of accountable care. Regardless of whether a hospital, health system, physician group or other provider presently intends to participate in the MSSP, understanding the MSSP regulations is important to any ACO formation, whether with Medicare or a private insurer. It is believed that many of the concepts being vetted and developed as part of the ACO MSSP rulemaking process will ultimately end up being incorporated into private market ACOs. It is in this context that McDermott Will & Emery is releasing this *White Paper* on the proposed MSSP ACO regulations. When (if) CMS issues a final rule, this publication will be updated. In the interim we hope you find this [White Paper](#) to be a useful and valuable resource and strategic planning tool.

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[Please click here to view the entire White Paper in Adobe PDF format.](#)

(Adobe Acrobat Reader required, available for free download [here](#))

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McDermott Will & Emery's health care lawyers can assist in the submission of comments regarding the proposed waivers or on any of the above topics.

For assistance, please contact your regular McDermott lawyer or any of the authors listed on this *White Paper*.

McDermott will be distributing additional newsletters on other issues related to the new accountable care organization regulations. Access our five-part webcast series, '[Accountable Care: Strategy & Structure](#)'.

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