DEPARTMENT OF HEALTH AND SOCIAL SERVICES
Division of Social Services

80000 Authorization and Regulation of Medicaid/CHIP Accountable Care Organizations

1.0 Authority and Purpose

1.1 This regulation is promulgated pursuant to Section 7931(e) of Title 29, **Delaware Code**.

1.2 Pursuant to 42 CFR 438.6(c)(1), states may require a Medicaid Managed Care Organization (MMCO) to implement value-based purchasing (VBP) models for provider reimbursement and to participate in Medicaid-specific delivery system reform initiatives.

1.3 Pursuant to 29 **Del.C.** §7931(c), the Division of Medicaid and Medical Assistance ("DMMA"), which is under the direction and control of the Secretary of the Department of Health and Social Services ("DHSS"), is responsible for the performance of all of the powers, duties, and functions specifically related to Medicaid. This includes regulation and administration of MMCO activity, such as contracting with Accountable Care Organizations (ACOs).

1.4 The purpose of these regulations is to set forth standards for the authorization and regulation of ACOs for Medicaid/CHIP beneficiaries in the State of Delaware to improve health outcomes while reducing costs through VBP arrangements which include downside financial risk for participating ACOs.

2.0 Definitions

"**Accountable Care Organization**" or "**ACO**" means a group arrangement in which health care practitioners (e.g., hospitals, physicians, other health care providers) agree to assume responsibility for the quality, outcomes and cost of health care for a designated group of Medicaid and/or CHIP beneficiaries.

"**ACO Contract**" means a contract formed between an ACO and an MMCO that includes payment via a value-based purchasing arrangement as defined by DHSS.

"**ACO Requirements**" means standards developed by DHSS outlining the qualifications needed for an ACO to participate in the program.

"**Value-Based Purchasing**" or "**VBP**" means a model for provider reimbursement that promotes value over volume, such as a shared savings or risk-based arrangement.

3.0 Formation and Existence

3.1 Each ACO seeking approval from DHSS shall demonstrate to the satisfaction of DHSS that:

3.1.1 The ACO is duly formed and validly existing under the laws of the State of Delaware.

3.1.2 The ACO has the necessary corporate or company power to perform its obligations under the ACO Requirements and to enter into ACO Contracts with MMCOs.

3.1.3 The ACO has taken all necessary corporate or company action to authorize the execution, delivery, and performance of ACO Contracts.

3.1.4 The execution and delivery of ACO Contracts, and the performance of the ACO's obligations under the ACO Contract, will not result in a violation of any provision of the ACO's certificate of incorporation, bylaws, or other governing instrument or document whether at the State or Federal level.

4.0 Duties and Obligations

4.1 Each ACO seeking approval from DHSS shall demonstrate to the satisfaction of DHSS that:

4.1.1 The ACO has an organizational/governance structure that will have sufficient authority to ensure the delivery of high quality, cost-effective care to its attributed Medicaid/CHIP members, as determined by DHSS.

4.1.2 The ACO has demonstrated the capability to offer a comprehensive array of coordinated primary care services, specialty care services, and the ability to provide access, either directly or through affiliations/ contractual relationships, to behavioral health, acute care, community and social support, long term care, and oral health providers, and other organizations as determined by DHSS or as required in the ACO Contract.

4.1.3 The ACO has a plan to support care coordination across the continuum of care, including services that address health-related social needs, within and outside the ACO.

4.1.4 The ACO has an electronic health records ("EHR") system in place and has the capability to exchange data with MMCOs and DHSS, and other designated entities such as the Delaware Health Information Network (DHIN).

4.1.5 The ACO has a plan in place to monitor, report, and improve patient health outcomes and quality.

4.1.6 The ACO attests that it will not limit beneficiary provider choice and access to providers that are outside the ACO.

4.1.7 Any additional requirements that DHSS determines necessary to meet the goals of improving health outcomes and patient experience, while reducing costs.

5.0 Authorization

5.1 If upon completion of its application, DHSS finds that the ACO has met the requirements therefor under this regulation, DHSS shall authorize the ACO to enter into an ACO Contract with the Delaware MMCOs for purposes of the Delaware Medicaid/CHIP managed care program.

5.2 DHSS's authorization of an ACO shall be limited to the ACO's business related to the Delaware Medicaid/CHIP managed care program and shall not authorize the ACO to conduct business that would otherwise require licensure under Title 18 of the Delaware Code.

5.3 The ACO shall at all times comply with the requirements set forth under this regulation. DHSS may immediately revoke the ACO's authorization in accordance with its policies or as a result of a breach thereof by the ACO, or upon the determination of DHSS that the ACO is no longer able to meet the duties and obligations.

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