

## Accountable Care Organizations Are Finally Here

The much anticipated final federal regulations on accountable care organizations (ACOs) were published on October 20, 2011. The Affordable Care Act created ACOs to deliver seamless, high quality care to traditional fee-for-service Medicare beneficiaries while reducing the cost of care to those beneficiaries. If successful, ACOs will receive a portion of the shared savings they achieve for the Medicare program.

The Garfunkel Wild ACO Workgroup is in the process of analyzing these final regulations, and we will be hosting a webinar in the near future to discuss ACO participation and other ways providers can move towards collaborative care.

In reviewing the final regulations, it is clear CMS took public comments to their proposed regulations seriously and made significant changes that should strengthen the ACO program. Some of these changes include:

- Allowing ACOs to participate in an upside shared savings track (without being subject to downside losses) for the first three years of participation
- Expanding the definition of participants eligible to form ACOs to include federally qualified health centers ("FQHCs")
- Reducing by about half the number of quality measures ACOs have to report
- Permitting ACOs to share in first dollar saved once a minimum savings rate is achieved
- Creating more flexibility for start dates for ACOs beginning in 2012
- Removing EHR readiness as a condition of participation
- Revising the process of assigning beneficiaries to ACOs from a pure retrospective process to a prospective process that includes retroactive adjustments

Also published with the CMS final regulations were interim final regulations published by the Office of Inspector General addressing the waiver of the application of federal fraud and abuse laws; a final policy statement issued by the Federal Trade Commission and Department of Justice outlining the agencies' antitrust enforcement policies for ACOs, and an IRS Fact Sheet regarding tax exempt organizations participating in the Medicare Shared Savings program.

Please visit our website [www.garfunkelwild.com](http://www.garfunkelwild.com) to see the published regulations and statements including a side by side summary published by CMS comparing the proposed and final CMS regulations.

Stay tuned for information regarding GW's upcoming webinar.

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If you have any questions, please contact the GW attorney with whom you regularly consult.

## About Garfunkel Wild, P.C.

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