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# CMS Announces Request for Applications: BPCI Advanced Model Year 3

On April 24, 2019, the Centers for Medicare and Medicaid (“CMS”) released a Request for Applications (“RFA”) for the Bundled Payments for Care Improvement Advanced Model (“BPCI Advanced”) for its second cohort of applicants since the program’s inception.<sup>1</sup> BPCI Advanced is an initiative of CMS’ Center for Medicare and Medicaid Innovation, and is designed to increase participation in voluntary bundled payment models.<sup>2</sup> BPCI Advanced commenced for the first cohort of Participants on October 1, 2018, and the second cohort will begin participation on January 1, 2020 for Model Year 3.<sup>3</sup> As CMS does not anticipate issuing additional RFAs for Model Years 4 (2021) through 6 (2023), this may be the last opportunity for stakeholders to participate in BPCI Advanced as Conveners or Non-Convener Participants contracting with CMS. New applicants have until June 24, 2019 to apply. Additionally, current BPCI Advanced Participants have until June 1, 2019 to execute an optional amendment to the initial BPCI Advanced Agreement, which was recently released by CMS, as described below.

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## BPCI Advanced Model

With BPCI Advanced, CMS is testing an alternative payment model that uses bundled payments tied to stakeholder performance on quality measures as a means to incentivize financial accountability, care redesign, data analysis and feedback, as well as provider, caregiver, and patient engagement.<sup>4</sup> BPCI Advanced uses a retrospective bundled payment approach, meaning that stakeholders continue to receive customary fee-for-service (“FFS”) payments for all items and services within a given clinical episode, and the total non-excluded Medicare FFS expenditures are reconciled against a predetermined target price for that clinical episode.<sup>5</sup> On an annual basis, CMS pays stakeholders a Net Payment Reconciliation Amount (“NPR”) payment if the FFS expenditures for all episodes treated during the year are less than the targeted price for those episodes, or, if the FFS expenditures for all episodes treated during the year exceed the targeted price for those episodes, the stakeholders pay CMS a Repayment Amount.<sup>6</sup>

Some stakeholders may apply to become a “Participant,” which is an entity that enters into the BPCI Advanced Model Agreement with CMS. CMS requires all Participants to take on downside financial risk (*i.e.*, to agree to pay the Repayment Amount if actual FFS expenditures exceed targeted prices) from the outset, and classifies them into two categories: Convener Participants and Non-Convener Participants. Both categories of Participants may enter into relationships with downstream physicians and non-physician practitioners to share the NPR payment or to apportion responsibility for the Repayment Amounts, if any. There are, however, differences between Conveners and Non-Conveners, for which we provide a high-level summary below, and discuss more fully in our article of April 9, 2019, entitled “BPCI Advanced: Key Considerations for Prospective Model Participants” (available [here](#)).

<sup>1</sup> CMS, *BPCI Advanced: Applicant Res.* (last visited May 1, 2019), <https://innovation.cms.gov/initiatives/bpci-advanced/applicant-resources.html#applicant>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> CMS, *Request for Applications, BPCI Advanced for Model Year 3*, 3-4 (April 18, 2019), available at <https://innovation.cms.gov/Files/x/bpciadvanced-my3-rfa.pdf>.

<sup>5</sup> An overview of key features and program logistics of BPCI Advanced is available at the following link: <https://www.ropesgray.com/en/newsroom/alerts/2018/02/What-To-Know-About-CMS-New-Bundled-Payment-Model>.

<sup>6</sup> *Id.*

*Convener Participants:* Convener Participants must bear full financial risk to CMS on behalf of at least one acute care hospital (“ACH”) or physician group practice (“PGP”), and must enter into an agreement with a PGP or ACH that requires the PGP or ACH to adhere to the terms of the BPCI Advanced Model Agreement. CMS further classifies PGPs and ACHs participating in BPCI Advanced as “Downstream Episode Initiators” responsible for triggering the clinical episode for which the Convener Participant is ultimately financially responsible.

*Non-Convener Participants:* Only PGPs and ACHs may act as Non-Convener Participants. In these arrangements with CMS, the Non-Convener Participant bears full financial risk only for itself, and the Non-Convener Participant initiates the episode of care for which the Non-Convener Participant is responsible.<sup>7</sup>

**BPCI Advanced Model Year 3 Timeline.**<sup>8</sup> To apply to participate, applicants must submit their materials to CMS through the [BPCI Advanced Application Portal](#).<sup>9</sup> After CMS selects the applicants based on their submitted materials, the applicants must pass a required provider vetting process, in addition to law enforcement screenings before they can participate.

**April 24, 2019:** CMS posted the RFA, and the application submission period began for the second cohort of Participants.

**June 24, 2019:** The application period ends.

**June – July 2019:** CMS reviews applications.

**September 2019:** CMS distributes the Model Year 3 participation agreements to selected applicants.

**November 2019:** The selected applicants sign and submit the participation agreements in addition to their Participant profiles.

**December 2019:** The selected Participants must submit all deliverables for Quarter 1 2020 to CMS. *(The required deliverables include the following: Participant Profile due about 60 days prior to the start of the Model year; the Care Redesign Plan due about 30 days before the start of the Model Year; and the Quality Payment Program List and Financial Arrangement list, which are both due about 30 days before the start of the quarter.)*<sup>10</sup>

**January 1, 2020:** Model Year 3 begins and the second cohort of Participants starts providing services through the BPCI Advanced.

<sup>7</sup> CMS, *General FAQs – BPCI Advanced Model Year 3*, Question 4 (Apr. 2019), <https://innovation.cms.gov/Files/x/bpciadvanced-general-faq.pdf>.

<sup>8</sup> CMS, *Application Road Map – Model Year 3* (last visited May 1, 2019), <https://innovation.cms.gov/Files/x/bpci-advanced-my3-app-roadmap.pdf>. CMS notes all dates are subject to change.

<sup>9</sup> CMS, *BPCI Advanced: Applicant Resources* (May 1, 2019), <https://innovation.cms.gov/initiatives/bpci-advanced/applicant-resources.html#applicant>.

<sup>10</sup> CMS, *General FAQs – BPCI Advanced Model Year 3*, Question 29 (Apr. 2019), <https://innovation.cms.gov/Files/x/bpciadvanced-general-faq.pdf>.

## Model Year 3 Changes

The RFA released by CMS includes certain changes to BPCI Advanced for Model Year 3 compared to Model Years 1 and 2. Specifically, more clinical episodes are available for Model Year 3 (37 instead of 29)<sup>11</sup> and stakeholders have more flexibility with respect to quality measures. CMS may permit Participants to choose either the Administrative Quality Measures Set, which contains the quality measures used in 2018 and 2019, or an Alternate Quality Measures Set.<sup>12</sup> The Alternative Quality Measures will include both claims-based and registry-based (*i.e.*, a tailored set of quality measures for each specialty specific clinical episode) measures, as opposed to only claims-based measures used for the Administrative Quality Measures.<sup>13</sup> CMS will use the same calculation methodology to assess the quality measures, regardless of the quality measure set selected by new Participants. CMS aims to release the Alternate Quality Measures for Model Year 3 prior to June 24, 2019, when the application period ends.<sup>14</sup>

In addition to the changes reflected in the RFA for Model Year 3, CMS has offered current Participants the option to amend their existing BPCI Advanced Model Agreements. The recently released amendment—which would be effective upon execution (and presumably will be incorporated automatically into the model agreements for new Participants in Model Year 3)—includes the following changes:

- Elimination of the 50 percent cap on NPRA sharing payments, which some believed weakened the financial incentive for PGPs and ACHs to act as a Convener Participant;
- Changes to allow Convener Participants with Downstream Episode Initiators to avoid the need for a Secondary Repayment Source (which must consist of funds held in escrow or a letter of credit) if all of the Participant's Downstream Episode Initiators enter into agreements allowing CMS to collect Repayment Amounts owed by the Convener Participant through reduction of Medicare payments otherwise owing to the Downstream Episode Initiators;
- Elimination of the one-year reapplication waiting period for Participants who terminate the agreement early;
- Changes to the reporting mechanism through which CMS tracks participation in the Quality Payment Program, to allow all eligible clinicians participating in BPCI Advanced (including physicians and non-physician practitioners) to be assessed for quality payment determinations and scored under the Advanced Payment Model Scoring Standard. A more in-depth discussion of the Quality Payment Program and links to related resources are available [here](#).
- Expansion of the existing Telehealth Payment Policy Waiver to allow Medicare payment for telehealth services regardless of whether the service is furnished to a BPCI Advanced beneficiary located in a telehealth originating site, provided that the telehealth service is furnished to a BPCI Advanced beneficiary in his or her home or place of residence during a BPCI Advanced Clinical Episode by an eligible provider.

CMS sent Participants the amendment, which Participants must sign by June 1, 2019 if they wish to take advantage of the recent changes.

If you have any questions concerning BPCI Advanced, please contact any member of Ropes & Gray's [Health Care](#) practice, or your regular Ropes & Gray advisor.

<sup>11</sup> The added clinical episodes for Model Year 3 include Bariatric Surgery; Inflammatory Bowel Disease; Seizures; Transcatheter Aortic Valve Replacement; and Major Joint Replacement of the lower extremity. CMS, *General FAQs – BPCI Advanced Model Year 3*, Question 10 (Apr. 2019) <https://innovation.cms.gov/Files/x/bpciadvanced-general-faq.pdf>.

<sup>12</sup> CMS, *Request for Applications, BPCI Advanced for Model Year 3*, Appendix B (Apr. 18, 2019), <https://innovation.cms.gov/Files/x/bpciadvanced-my3-rfa.pdf>.

<sup>13</sup> *Id.*

<sup>14</sup> *BPCI Advanced*, (May 1, 2019), <https://innovation.cms.gov/initiatives/bpci-advanced>.