

**Frequently Asked Questions for
DSRIP Performing Provider Systems
Completing Applications for Certificates of Authority
For Accountable Care Organizations**

These Frequently Asked Questions (FAQs) will provide guidance to Performing Provider Systems (PPSs) that intend to submit an application for a Certificate of Authority for an Accountable Care Organization (ACO) pursuant to Article 29-E of the Public Health Law (PHL) and associated regulations, 10 NYCRR Part 1003, in conjunction with a Delivery System Reform Incentive Payment (DSRIP) Program Project Plan application. The regulations, effective December 31, 2014, are available at http://www.health.ny.gov/regulations/recently_adopted/docs/2014-12-31_accountable_care_organizations.pdf. These FAQs, which are available at http://www.health.ny.gov/health_care/medicaid/redesign/aco, will be further updated as additional questions arise.

1. Q: What is an ACO Certificate of Authority?

A: An ACO is an organization of clinically integrated health care providers that work together to provide, manage, and coordinate health care (including primary care) for a defined population; with a mechanism for shared governance; the ability to negotiate, receive, and distribute payments; and accountability for the quality, cost, and delivery of health care to the ACO's patients and that has been issued a certificate of authority by the Department of Health (Department). See PHL Article 29-E and 10 NYCRR Part 1003. For purposes of this document, the term "ACO" shall be used to refer to the applicant seeking a certificate of authority rather than one that has already received such certificate, as defined in 10 NYCRR § 1003.2(a). A Certificate of Authority issued by the Department provides the ACO certain legal protections, subject to satisfaction of the criteria and responsibilities set forth in the regulations.

2. Q: What activities will be covered by an ACO Certificate of Authority required by a PPS?

A: An application for an ACO Certificate of Authority (ACO application) may be requested by a PPS only with respect to DSRIP projects as set forth in the DSRIP Project Plan application and the activities necessary to carry out an approved Project Plan application. Potential applicants should consult with their attorneys to determine whether their DSRIP activities warrant submission of an ACO application.

3. Q: What activities may not be covered by an ACO Certificate of Authority issued in conjunction with a DSRIP Project Plan application?

A: An ACO Certificate of Authority will not be issued in conjunction with a DSRIP Project Plan application for activities that are not necessary to carry out a Project

Plan approved pursuant to such application. Further, an ACO Certificate of Authority will not apply to any Medicare or non-governmental commercial transactions or activities. An ACO seeking a Certificate of Authority for non-DSRIP activities will need to submit a separate ACO application to the Department, as set forth on the Department's website at http://www.health.ny.gov/health_care/medicaid/redesign/aco.

4. Q: Who may submit an ACO application?

A: Only the PPS Lead Applicant may submit an ACO application in conjunction with a DSRIP Project Plan application. Any other ACO application must be separately submitted to the Department at acobl@health.ny.gov, as set forth on the Department's website at http://www.health.ny.gov/health_care/medicaid/redesign/aco, and those applications may be submitted and will be reviewed on a rolling basis.

5. Q: Where are ACO application forms found?

A: An ACO application form is available on the Department's website at http://www.health.ny.gov/health_care/medicaid/redesign/aco.

6. Q: How would the PPS Lead Applicant complete Section II of the ACO Application?

A: Under Section I (General Information), Part A, of the ACO application, a PPS Lead Applicant should mark the box indicating that the application is submitted in conjunction with a DSRIP Project Plan application, and enter "PPS Lead Applicant" in response to the question under Question 3 of Part D (Application Lead Contact). The remaining questions in the section should be completed as well.

7. Q: When should a PPS Lead Applicant complete Section VI of the ACO application?

A: Section VI of the application should be completed by ACOs interested in requesting state action immunity for their ACO activities related to their DSRIP Project Plans. In completing such section, it may be helpful for the PPS Lead Applicant to refer to the *Frequently Asked Questions for DSRIP Performing Provider Systems Completing Certificate of Public Advantage Applications* issued by the Department and available on the DSRIP website.

8. Q: How should the PPS Lead Applicant complete Section VII of the ACO Application?

A: An authorized representative of the PPS Lead Applicant may execute the certification if the PPS Lead Applicant is the ACO or a participant thereof and he

or she can attest to the assurances required therein; otherwise, the chief executive officer, president, chairman of the board, or other authorized representative of the ACO must do so.

9. Q: Where should a PPS Lead Applicant submit completed ACO applications?

A: A completed ACO application can be submitted to DSRIPapp@health.ny.gov with “ACO Application” in the subject line.

10. Q: Is an ACO application a public document available pursuant to the Freedom of Information Law, referred to as “FOIL”?

A: New York’s Freedom of Information Law generally requires the Department to make records available in response to a request unless an exception applies. The ACO application affords applicants the opportunity to identify any such records that may fall within an exception submitted as part of the application, and the Department will evaluate whether the exception applies.

11. Q: May the Department ask for additional information in its review process which is not included in the ACO application?

A: Yes, the Department may request additional documentation or information to assist in its review of an ACO application, and the request should be responded to within the time frame identified by the Department in its request. Any delay in responding to such requests could delay the determination. In addition, any application that remains incomplete 90 days after receiving a request from the Commissioner for additional information may be denied. See 10 NYCRR § 1003.3(a).

12. Q: When can a PPS Lead Applicant expect to hear if its ACO application is approved?

A: An ACO application submitted by a PPS Lead Applicant on or before December 22, 2014, should expect to be notified of the Department’s determination by April 1, 2015. An ACO application submitted by a PPS Lead Applicant on or before February 1, 2015, should expect to be notified of the Department’s determination by June 30, 2015. Applications may be submitted after February 1, 2015, and will be reviewed expeditiously on a rolling basis, but notification of the Department’s determination may not be made until after June 30, 2015. However, if the application does not sufficiently respond to the questions in the application, leading the Department to request a substantial amount of additional documentation or information, or if the Department’s requests for additional documentation or information are not responded to in a timely fashion, notification of the Department’s determination of the application may not be made by the referenced dates.

13.Q: Where can questions concerning ACO applications be directed?

A: Questions should be submitted by email to DSRIPapp@health.ny.gov with “ACO” in the subject line.

14.Q. Can a PPS Lead Applicant submit ACO applications on behalf of more than one ACO?

A: Yes, provided that each ACO application is submitted only with respect to DSRIP projects and activities.

15.Q. Why would a PPS Lead Applicant submit an ACO application on behalf of an ACO?

A: A PPS Lead Applicant may submit an ACO application in conjunction with a DSRIP Project Plan application with respect to DSRIP projects, as explained in the response to Question 2. An ACO Application may not be requested by a PPS Lead Applicant for activities that are not necessary to carry out such Project Plan. An ACO seeking a Certificate of Authority for non-DSRIP activities will need to submit a separate ACO application to the Department, as set forth in the response to Question 3.