NEW YORK STATE | Department of Health | Medicaid Redesign Team

This webinar was presented to Pilot participants on September 30, 2016. Many of the contracting processes presented in this document are also applicable beyond the Pilot Program.

VBP Pilot Contracting Webinar

Demystifying Pilot Contracting

September 2016

Agenda

1. Overview of Pilot Contracts
2. Getting to Contracts
   - Modifying Existing Contracts
   - Creating New Contracts
3. Contracting Checklist
   - Organizations of Checklist
   - Utilization of Checklist
4. Q & A
5. Appendix

Overview of Pilot Contracts

Overview of Pilot Contracting Process

Where Pilots Fit:

- Pilots are a 2-year program where providers enter into a VBP level appropriate to their particular experience and organization in year 1, and transitioning to the next level in year 2.
  - The pilot program will support early adopters of VBP in an environment where lessons can be learned and shared.

Key Things to Know About Pilots:

- Contracts for Pilots are **not** inherently different from any other Managed Care contracts.
- The NYS VBP Roadmap, NYS DOH Provider Contract Guidelines for MCOs and IPAs, and the VBP Bootcamp Series Session 2, all provide an overview of required elements to meet the requirements of the VBP Pilot Program.

The easiest path to developing a VBP Pilot contract is through amendment of existing agreement(s) between payers and providers, where those exist.

VBP Pilot Contracting Process Overview

The contracting process for VBP Pilots includes the same steps that entities currently follow in developing any Managed Care agreements.

Pre-Negotiation

General definitions around population served, participating providers, time frame, covered services, payment types, etc.

Specifically:

- All DOH Mandated Elements
- Arrangement (TCGP, IPC, etc.)
- Level (1, 2 or 3)
- NPI list
- Contracting Entity(s)

Negotiation

- Baseline Budget(s)
- Savings/Risk Formula and levels
- Exclusions
- Reserves
- Administrative Functions (e.g., Credentialing)
- Claims submission
- Payments
- Terminations
- Dispute Resolutions
- Amendments

Post-Negotiation

- Contract Development and Execution
- Contract Approval for Pilot Program
- Results Reporting
- Contract/Performance Management
- Billing, Collections, and Reconciliation
- Network Support

Submission

All VBP contracts are subject to the Contract Risk Review Process outlined on pages 21-20 in the VBP Roadmap. Additional information may be requested by the State upon submission for tracking and support purposes.

Getting to Contracts

Modifying existing contracts

Creating new contracts

Process for Developing Contracts

There are two primary routes to developing a VBP Pilot contract, regardless of the type and/or level of contract:

1. Modification / Amendment of an existing arrangement between a specific provider contracting entity and a participating MCO

2. Creation of a new contract between participating parties

Modifying Existing Contracts

Modifying / Amending Existing Arrangements Between a Provider Contracting Entity and an MCO

Where a provider contracting entity (IPA, ACO, PC, PLLC) has an existing contract with a Medicaid MCO, those contracts will contain most of the “legal infrastructure” required for a VBP Pilot contract:

- The terms which will need to be modified will either consist of elements which are specifically:
    - mandated by DOH for VBP contracting purposes (e.g. type of arrangement; level of arrangement)

      - OR –

    - unique to this contract (e.g. the negotiated baseline budgets)

Modifying / Amending Arrangements – Roadmap Alignment

Modifying or amending an existing agreement to be used for a VBP Pilot requires ensuring that a limited number of elements are in alignment with the NYS VBP Roadmap, detailed over the next several pages:

1. VBP Arrangement type
2. Attribution
3. Risk Level
4. Initial Provider Network
5. Term of Years
6. Target Budget
7. Formulae for Shared Savings / Losses
8. Quality Measures

Modifying / Amending Arrangements – Roadmap Alignment

1. **<u>VBP Arrangement Type</u>**: All Pilots must adopt one of the arrangements specified in the VBP Roadmap, no 'off-menu' arrangements are permitted in the program. The arrangement type should be clearly identified in the agreement:
    - Total Care of General Population (TCGP)
    - Integrated Primary Care (IPC)
    - Maternity
    - Health and Recovery Plan (HARP)
    - HIV/AIDS
    - Managed Long-Term Care (MLTC)

2. **<u>Attribution</u>**: Covered lives must be assigned to contracts consistent with the methodologies described on Page 23 of the VBP Roadmap, which directs attribution by contract type, as follows:
    - For TCGP, IPC and HIV/AIDS: MCO-assigned Primary Care Physician
    - For Maternity: Obstetric professional
    - For HARP: Health Home
    - For MLTC: Home Care provider or Nursing Home

Pilot Specific Requirement

Modifying / Amending Arrangements – Roadmap Alignment

3. **Risk Level**: Each contract must identify the level of risk (as defined on Page 86 of the VBP Roadmap) which describes the type of financial incentives contained in the contract.
   - *Level 1*: FFS with Retrospective Reconciliation – Upside Only
   - *Level 2*: FFS with Retrospective Reconciliation – Up- and Downside
   - *Level 3*: Prospective Payments (PMPM or Bundled Payments) (fully capitated or prospectively paid bundles). These arrangements may also include additional risk mitigation strategies like risk corridors, stop loss, withholds, etc.

Modifying / Amending Arrangements – Roadmap Alignment

4. **Initial Provider Network**:

- The provider network (identified by NPIs) included in the Pilot must be identified as part of the contract, which likewise drives the attribution for the specific arrangement.
- This is consistent with the guidance in the VBP Roadmap (Page 54). Given that level 1 Pilots include only upside opportunity and contain no downside risk, even network providers with no previous experience in value-based contracting have no incremental risk by participating in level 1 Pilots.
- By extension, providers who do not have any value-based contracting experience may want to defer participation in higher level contracts until they have some experience working with a Level 1 contract.

5. **Term of Years**: Contracts for Pilots are expected to be for two years, with the initial commitment to move to (at least) Level 2 by the second year of the contract. As part of the incentive of the pilot program, the State will not be administering downward performance adjustments to MCOs engaged in agreements with providers for those specific contracts.

Modifying / Amending Arrangements – Roadmap Alignment

6. **Target Budget**: The State recommended process for establishing the target budget is described in pages 24 – 28 of the VBP Roadmap.

7. **Formulae for Shared Savings / Losses:** Contracts are expected to outline the criteria under which the distribution of shared savings / losses occurs and the methodology for calculating the amount of shared savings / losses that are attributed to the two parties.

8. **Quality Metrics**: All VBP contracts, including all VBP Pilot contracts, will be required to incorporate quality metrics as developed by the Clinical Advisory Groups (CAGs). These metrics have yet to be finalized, but expect to be available sufficiently in advance of performance evaluation at the end of Pilot year 1.

NOTE: the guideline methodology for calculating the impact of performance on Quality Metrics is explained on Pages 26-27 of the VBP Roadmap.

Creating New Contracts

Creating New Contracts

Creation of a new contract between participating parties:

- **Utilize a redacted / de-identified copy of a pre-existing agreement where possible:** Where a provider contracting entity OR a participating MCO has VBP contracts with a party different from its identified prospective “contracting partner” for the VBP Pilots, that party can / should offer a redacted / de-identified copy of such an agreement as a starting point for contract negotiations.
- **Meet business and legal standards to protect all parties’ interests:** Whether utilizing the approach described above, or “starting from scratch”, providers and MCOs approaching the creation of a new VBP Pilot contract will need to make sure the contracts they create meet both business and legal standards to protect their respective interests.
- **Appropriate legal representation:** Developing effective contracts will require both parties have appropriate legal representation.

Additional Contracting Elements

All contracts contain terms intended to define the nature of the agreement, and Managed Care contracts are no different in this regard than any other contract.

- In addition to the terms covered in the previous section, new contracts typically contain elements intended to identify:
  - Parties to the agreement
  - Responsibilities of the Parties
  - Rights of the Parties
  - Remedies for non-performance, including termination
  - Contract Administrative Rules
  - Stop Loss/Reserve Requirements/Withholds
  - Reporting Elements and Frequency
  - Payment Terms and Timing
  - Reconciliation Process and Timing
  - Dispute Resolution Processes
  - Termination With and Without Cause

Additional Contracting Elements

- A forthcoming Checklist contains numerous frequently occurring contracting elements.
- The Parties' legal counsels may use the checklist as a quick reference guide to help ensure completeness of a newly designed contract developed to support a VBP Pilot.
- The Checklist has been designed purely as a convenience, and should not be considered a definitive, authoritative, or mandated list of required contract elements.

Next Steps

- For providers and payers entering into a Level 1 contract in year 1, the deadline for VBP agreements is October 31st, 2016.
- For providers and payers entering into a Level 2 contract in year 1, the deadline for VBP agreements is November 30th, 2016.
- VBP contractors and payers should continue productive and collaborative discussions focusing on the details of their VBP agreements

Reminder: enrollment into the VBP Pilot Program is limited and will be governed primarily on a first-come-first-served basis.

Q & A