

MEDICARE SHARED SAVINGS PROGRAM
ACO PARTICIPATION WAIVER DISCLOSURE

The Secretary of the U.S. Department of Health and Human Services has provided waivers of certain federal fraud and abuse laws that may otherwise limit innovation by ACOs participating in the Medicare Shared Savings Program (“MSSP”) (see “Final Waivers in Connection With the Shared Savings Program” (*See* 80 Fed. Reg. 66,726 (Oct. 29, 2015)) (the “Final Rule”). Lahey Clinical Performance Accountable Care Organization, LLC (“ACO”) is currently participating in the MSSP pursuant to a Participation Agreement with the Centers for Medicare & Medicaid Services (“CMS”). Pursuant to the Final Rule, the ACO seeks waiver protection for the arrangement described below:

The ACO, Lahey Clinic Performance Network, LLC (“LCPN”), Lahey Clinic Hospital, Inc. (“LHMC”), Northeast Hospital Corporation (“Beverly Hospital”), and Winchester Hospital are all members of Lahey Health System (“Lahey”). Congenial Healthcare, LLC (“Congenial”) is an ACO participant pursuant to the ACO’s Participating Practice Agreement. The ACO, Congenial, and other members of Lahey are parties to a Software Access Agreement (the “EHR Agreement”) and a Lahey Clinical Performance Network Participation Agreement (the “LCPN Agreement”). Under the EHR Agreement, Lahey will provide certain Congenial providers with subsidized access to the EPIC medical record system used by Lahey, which will (among other benefits) advance the management and coordination of care for Medicare fee-for-service beneficiaries by, for example, enhancing the accuracy of patient health information, facilitating the ready exchange of patient health information among ACO Participants, ACO Providers/Suppliers, and other providers/suppliers that have a role in coordinating and managing care for Medicare beneficiaries aligned with the ACO, reducing the provision of duplicative testing, and enhancing safety by maintaining complete and accurate medical records. In addition, Medicare beneficiaries will be better able to communicate with providers through use of a robust Patient Portal. Under the LCPN Agreement, LCPN will provide certain support to Congenial, as a LCPN risk unit, thereby permitting Congenial to develop care management and other infrastructure that will (among other benefits) encourage investment in infrastructure and redesigned care processes for high quality and efficient service delivery for patients, including Medicare beneficiaries.

On September 14, 2017, the ACO Board of Directors duly authorized the arrangement(s) described above and made a bona fide determination that each arrangement is reasonably related to the purposes of the MSSP for the reasons stated above.

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