



Policy Title: Beneficiary Freedom of Choice			
Department Responsible: Compliance and Privacy	Policy Number: 1.85	THN's Effective Date: April 10, 2017	Next Review/Revision Date: September 30, 2019
Title of Person Responsible: Chief Compliance Officer	THN Approval Council: Compliance and Privacy Committee	Date Approved: April 10, 2017	Revision Approval Council: Policy Review Committee

PURPOSE: The purpose of this guidance is to protect NGACO Beneficiary's freedom to choose a health care provider.

DEFINITIONS:

Term	Definition
ACO Participant	An entity identified by a Medicare-enrolled billing TIN through which one or more ACO providers/suppliers bill Medicare, that alone or together with one or more other ACO participants compose an ACO, and that is included on the list of ACO participants that is required under 42 C.F.R. § 425.118.
ACO Provider/Supplier	An individual or entity that: (1) is a provider or supplier under Medicare regulations; (2) is enrolled in Medicare; (3) bills for items and services furnished to Medicare fee-for-service beneficiaries during the agreement period under a Medicare billing number assigned to the TIN of an ACO participant; and (4) is included on the list of ACO providers/suppliers that is required under 42 C.F.R. § 425.118.
Beneficiary	Individual who is enrolled in Medicare.
Next Generation Beneficiary	A Beneficiary who is aligned to the ACO for a given Performance Year using the methodology set forth in Appendix B and has not subsequently been excluded from the aligned population of the ACO.

POLICY:

Neither the THN nor any Next Generation Participant, Preferred Provider, or other individuals or entities performing functions or services related to ACO Activities shall commit any act or omission, nor adopt any policy, that inhibits Next Generation Beneficiaries from exercising their freedom to obtain health services from providers and suppliers who are not Next Generation Participants or Preferred Providers.

PROCEDURE:

1. Beneficiaries must be given the option to obtain health services from providers and suppliers who are not Next Generation Participants or Preferred Providers.
2. This prohibition shall not apply to referrals made by employees or contractors who are operating within the scope of their employment or contractual arrangement with the employer or contracting entity, provided that the employees and contractors remain free to make referrals without restriction or limitation if a Next Generation Beneficiary expresses a preference for a different provider or supplier, or the referral is not in the Next Generation Beneficiary's best medical interests in the judgment of the referring party.
3. The ACO may communicate to Next Generation Beneficiaries the benefits of receiving care with the ACO. All such communications shall be deemed Descriptive ACO Materials and Activities. CMS may provide the ACO with scripts, talking points or other materials explaining these benefits.



REFERENCE DOCUMENTS/LINKS:

- SEC. 1802. [42 U.S.C. 1395a] (a) BASIC FREEDOM OF CHOICE
- Next Generation ACO Model Participation Agreement 2017 (First Amended and Restated Participation Agreement for 2016 Starters), Section V, Beneficiary Freedom of Choice, subsection G.1 & G.2, Page 26.

PREVIOUS REVISION/REVIEW DATES:

Date	Reviewed	Revised	Notes
April 10, 2017	N/A	N/A	New Policy