



Repayment Mechanism Arrangements Guidance

April 2025 | Version 14



Disclaimers: The contents of this document do not have the force and effect of law and are not meant to bind the public in any way, unless specifically incorporated into a contract. This document is intended only to provide clarity to the public regarding existing requirements under the law. This communication material was prepared as a service to the public and is not intended to grant rights or impose obligations. It may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of either the written law or regulations. We encourage readers to review the specific statutes, regulations, and other interpretive materials for a full and accurate statement of its contents.

REVISION HISTORY – VERSION 14

Title of Section & Revisions/Changes Description (since last version)	Link to Section Affected
All Applicants: Additional guidance inserted into Section 2.1 to outline the Conditional Approval requirement for Letters of Credit and to clarify that Conditional Approval does not apply to other forms of repayment mechanisms.	Section 2.1
All Applicants: Additional guidance inserted into Section 2.3 to clarify that draft documentation submitted should be unsigned/non-finalized.	Section 2.3
Renewal and Early Renewal Applicants: Additional guidance inserted into Section 4.1 to clarify new repayment mechanisms being established must have a unique account number.	Section 4.1
Renewal and Early Renewal Applicants: Graphic inserted into Section 4.3.2 “Repayment Mechanism Amount” to visualize the two options for ACOs when choosing an amount.	Section 4.3.2
Renewal and Early Renewal Applicants: Additional guidance inserted into Section 4.3.3 to outline steps to be taken for escrow agreements with evergreen language.	Section 4.3.3
Renewal and Early Renewal Applicants: Additional guidance inserted to direct ACOs to verify current language requirements when extending a repayment mechanism for a new agreement period.	Section 4.3.4

Table of Contents

1	Introduction	5
2	Establishing a Repayment Mechanism	5
2.1	Select Repayment Mechanism Type and Financial Institution.....	6
2.1.1	Funds Placed in Escrow	7
2.1.2	Line of Credit	7
2.1.3	Surety Bond.....	8
2.2	Develop Draft Documentation	9
2.2.1	Utilize Repayment Mechanism Generator Tool in ACO-MS.....	9
2.2.2	Working with a Financial Institution	10
2.3	Submit Draft Documentation	12
2.4	Receive Feedback and Correct Deficiencies	12
2.4.1	Repayment Mechanism Amount Estimate	13
2.5	Final Repayment Mechanism Amount and Document.....	14
2.5.1	Calculation of Repayment Mechanism Amount.....	14
2.5.2	Locating Final Repayment Mechanism Amount in ACO-MS.....	14
2.5.3	Finalization of Repayment Mechanism	15
2.5.4	Submit Documentation via Traceable Carrier	16
3	Maintaining a Repayment Mechanism	16
3.1	Required Amount Increases	16
3.2	Changing Existing Repayment Mechanism	16
3.3	Repaying Shared Losses.....	17
3.4	Replenishment.....	17
4	Renewal and Early Renewal Applications	17
4.1	Establishing a New Repayment Mechanism for the New Agreement Period	17
4.2	Establishing a New Repayment Mechanism for Both the Current and New Agreement Periods.....	18
4.3	Utilizing an Existing Repayment Mechanism	18
4.3.1	Duration Requirement	18
4.3.2	Repayment Mechanism Amount	19
4.3.3	ACOs Electing to Participate in Prepaid Shared Savings	20
4.3.4	Repayment Mechanism Type Considerations for the Use of an Existing Repayment Mechanism	21
5	Cancellation of Repayment Mechanisms	21

5.1	ACO Request to Cancel.....	22
5.2	Cancellation Initiated by Financial Institution	22
6	Appendices A through F Links: Template Documents and Additional Resources.....	23

1 Introduction

Medicare Shared Savings Program (Shared Savings Program) Accountable Care Organizations (ACOs) that will participate in a two-sided model must establish a repayment mechanism to assure the Centers for Medicare & Medicaid Services (CMS) that they can repay shared losses and any prepaid shared savings, if applicable, for which they may be liable. Shared losses will be determined upon reconciliation for each performance year under which the ACO accepts performance-based risk ([42 CFR § 425.204\(f\)](#)).

CMS intends this guidance on repayment mechanism arrangements to aid Shared Savings Program ACOs in establishing and maintaining an adequate repayment mechanism. This guidance identifies common errors to avoid and helps ensure that ACOs submit a repayment mechanism that satisfies CMS requirements.

An ACO that will participate in a two-sided model must establish one or more of the following repayment mechanisms in an amount and by the deadline specified by CMS ([42 CFR § 425.204\(f\)\(2\)](#)):

- Escrow Agreement: An escrow account established with an insured institution.
- Line of Credit: A line of credit as evidenced by a letter of credit that the Medicare program could draw upon, established at an insured institution.
- Surety Bond: A surety bond issued by a company included on the [U.S. Department of the Treasury's List of Certified \(Surety Bond\) Companies](#).

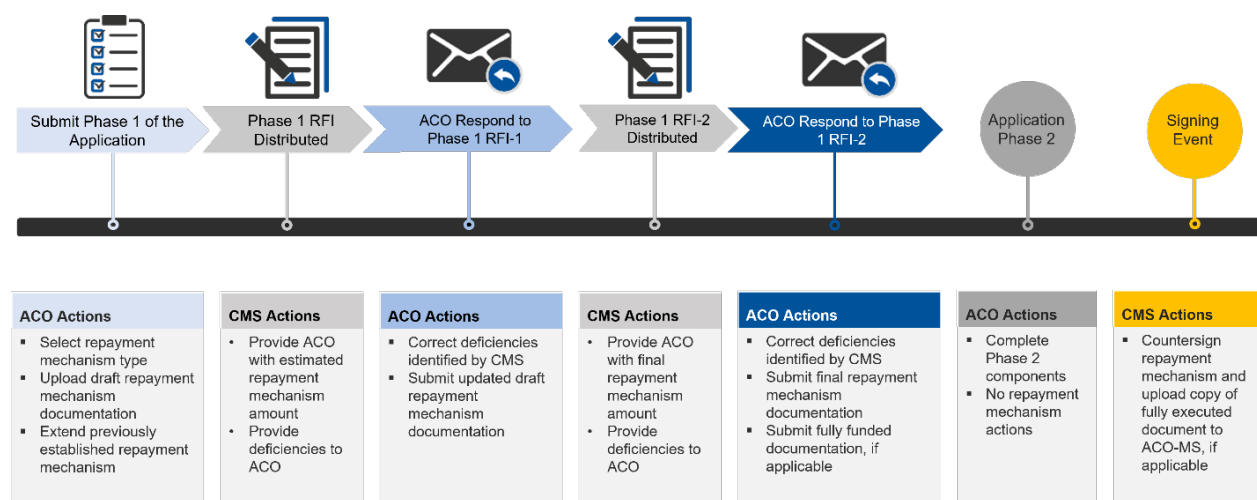
2 Establishing a Repayment Mechanism

To be eligible to participate in a two-sided risk model of the Shared Savings Program (Levels C, D, or E of the BASIC track, or the ENHANCED track), an ACO must demonstrate that it has established an adequate repayment mechanism prior to the start of the agreement period ([42 CFR § 425.204\(f\)\(3\)](#)). For participation options and eligibility criteria, refer to the [Application Reference Manual](#).

This section of the guidance details the process for establishing a repayment mechanism for the first time. Further details for each repayment mechanism type are also provided (refer to [Figure 1](#) for an overview of this process). For information on maintaining an existing repayment mechanism, refer to [Section 3](#) of this guidance.

The [Appendices](#) at the end of this guidance provide surety bond, letter of credit, and escrow agreement templates that meet the Shared Savings Program repayment mechanism requirements.

Figure 1. Repayment Mechanism Milestones of the Application Process



ACOs in the BASIC track's glide path that are transitioning from one-sided risk to two-sided risk must provide documentation of the repayment mechanism in accordance with the application process deadlines for repayment mechanisms for that year.

2.1 SELECT REPAYMENT MECHANISM TYPE AND FINANCIAL INSTITUTION

An ACO may elect to use a single repayment mechanism type or a combination of the designated repayment mechanism types, such as placing certain funds in escrow, obtaining a surety bond for a portion of funds, and providing a letter of credit for the remainder of the required repayment mechanism amount.

Escrow agreements and letters of credit must be established with an insured institution, while surety bonds must be issued by a company included on the U.S. Department of Treasury's List of Certified Companies.

Insured Institution

Insured institutions include those insured by either of the following:

- Federal Deposit Insurance Corporation (FDIC)
- National Credit Union Share Insurance Fund program

Refer to the Shared Savings Program December 2018 final rule, 83 FR 67937-67938.

Each repayment mechanism type must meet specific requirements as outlined in Steps 2.1.1–2.1.3.

2.1.1 Funds Placed in Escrow

ACOs can establish an escrow account with an insured institution. An escrow agreement template is provided in [Appendix A](#). Use of the template should minimize the potential need for revisions, but it does not guarantee CMS' approval.

Using escrow agreements that deviate from the language in the template may require additional review time and revision. CMS will sign only the approved escrow agreement; ancillary documents will not be signed.

Fully Funded: CMS requires the financial institution establishing the escrow funds to provide proof it has received the repayment mechanism funds necessary to satisfy the required amount. To meet this requirement, the financial institution must provide a signed letter on its letterhead with a statement indicating the funds are on deposit. This requirement must be met before CMS approves the repayment mechanism by the date which CMS requires the repayment mechanism documentation to be fully funded and fully executed.

Escrow Agreement Common Errors

1. The funds are not invested in a permissible type of investment: a money market account, treasury backed securities, or both. An interest-bearing money market deposit account may be used.
2. The financial institution has neither provided a signed letter on the financial institution letterhead nor included a statement indicating that the funds are on deposit in the escrow account. CMS requires the financial institution that established the funds placed in escrow to provide proof that the financial institution has received the repayment mechanism amount before the repayment mechanism is approved.

2.1.2 Line of Credit

ACOs can establish a line of credit at an insured institution, as evidenced by a letter of credit that the Medicare program can draw upon. A template letter of credit is provided in [Appendix B](#). Use of the template should minimize the potential need for revisions, but it does not guarantee CMS' approval.

Typically, if an ACO elects to establish a line of credit as their repayment mechanism, the original letter of credit and any subsequent amendments must be mailed to, and received by, CMS before the repayment mechanism is approved.

Documents should not be mailed to CMS until the repayment mechanism task is in a status of **"Conditional Approval"** in the ACO Management System (ACO-MS). Once a letter of credit is conditionally approved, the original document must be mailed to CMS via traceable carrier.

Centers for Medicare & Medicaid Services

7500 Security Blvd
Mail Stop: C5-15-12
Baltimore, MD 21244

Once in a status of conditional approval, the repayment mechanism task in [ACO-MS](#) will prompt the ACO for tracking information to close out the tasks. This requirement is exclusive to letters of credit and must be met before CMS approves the repayment mechanism.

Letter of Credit Common Errors

1. The ACO used the term “purportedly” when describing the documentation needed from CMS to demand payment under the letter of credit signed by an authorized signatory. The issuing institution should ensure the signature is legitimate, such as by calling the authorized CMS official for verification.
2. The letter of credit includes a sanctioned entity clause. The letter of credit should not use a sanctioned entity clause, as this could prevent payment to CMS if the ACO becomes a sanctioned entity. The clause must be removed in its entirety or modified to exclude from the definition of “sanctioned entity” any entity sanctioned by or debarred from a federal health care program.
3. Documentation of only the availability of a line of credit was provided and is not acceptable, because the funds would not be encumbered for the purpose of the ACO repaying shared losses or prepaid shared savings to CMS based on the ACO’s participation in the Shared Savings Program.
4. The ACO or issuing institution submitted a final letter of credit that requires revision and is requesting CMS’ signature to cancel. CMS will not provide a signature to cancel a non-approved repayment mechanism.
5. The ACO elected to use auto-renewal and populated the auto-renewal clause with incorrect dates. The ACO should follow the guidance language within the sample letter of credit’s auto-renewal clause for each date input.

2.1.3 Surety Bond

ACOs can establish a surety bond issued from a company included on the [U.S. Department of the Treasury’s List of Certified \(Surety Bond\) Companies](#). A template surety bond is provided in [Appendix C](#). Use of the template should minimize the potential need for revisions, but it does not guarantee CMS’ approval.

Surety Bond Common Errors

1. The surety bond does not contain a statement that the Surety agrees to not contest the amount owed as reflected in the documents provided by CMS to the ACO.
2. The surety bond does not contain a statement that the surety will remain liable for any and all indebtedness of the Principal to the Obligor which accrued prior to the effective date of cancellation or termination of the bond.
3. The surety bond does not contain a statement that the Obligor is to receive prompt notice if there is a lapse in Bond coverage or if there is any change in the amount of the Bond.
4. The surety bond includes a statement that the surety's aggregate liability shall not be cumulative, and the surety's liability shall be limited to the stated penal sum of the bond.
5. The ACO elected to use auto-renewal and populated the auto-renewal clause with incorrect dates. The ACO should follow the guidance language within the sample surety bond's auto-renewal clause for each date input.

2.2 DEVELOP DRAFT DOCUMENTATION

2.2.1 Utilize Repayment Mechanism Generator Tool in ACO-MS

A Repayment Mechanism Generator is available in ACO-MS. The tool combines input from the ACO, data housed within ACO-MS, and available repayment mechanism templates to create a first draft of repayment mechanism documentation. This is an optional step, but CMS strongly encourages ACOs to utilize the generator to help assist in creating a repayment mechanism that contains all the required components for CMS to approve the repayment mechanism.

To locate and use the generator:

1. Navigate to the RM Generator tab on the My ACOs homepage. (The generator can also be accessed within the application task in the repayment mechanism section.)
2. Select the "Generate New RM Document" icon. ACOs will be able to select the repayment mechanism type of the document they are generating.
3. Fill in fields specific to the type elected as prompted. Help icons are present on each section of the generator to define all requested fields.

After completing the generator fields, the draft repayment mechanism will be saved under the RM Generator tab. Under the RM Generator tab, the ACO can select the three-dot icon to the right of the created document. The ACO can then choose to either edit, preview, download, or delete the draft repayment mechanism. ACOs can take the draft repayment mechanism to their respective financial institutions for review prior to submitting the draft for CMS review.

Note: The RM Generator is not currently designed for repayment mechanisms to cover multiple agreement periods and does not contain the ability to draft amendments or riders.

2.2.2 Working with a Financial Institution

ACOs are strongly encouraged to submit repayment mechanism documentation in draft form to CMS for review. Draft documentation should not include the final amount before it is available or executed signatures. Once all non-finalization deficiencies have been addressed, CMS will notify the ACO that the repayment mechanism documents can be finalized and submitted with an ACO-MS status of “**Ready for Finalization**.” If an ACO submits a finalized repayment mechanism arrangement for review and CMS requires any changes to the submitted documentation, it may delay the establishment of the ACO’s repayment mechanism.

There are general terms that need to be met across all repayment mechanism types. ACOs should share the following definitions with the chosen financial institution to assist the ACO with meeting repayment mechanism requirements:

- **Liable Party:** The ACO must be the liable party for the repayment mechanism. Therefore, the ACO Legal Entity Name (LEN) detailed in the ACO Management System (ACO-MS) must be listed on the repayment mechanism. Do not list any other entity in conjunction or on behalf of the ACO LEN within the repayment mechanism.
- **Beneficiary/Recipient/Obligee of Repayment Mechanism:** CMS must be designated as the sole beneficiary.

Centers for Medicare & Medicaid Services
7500 Security Boulevard
Mail Stop C5-15-12
Baltimore, MD 21244

- **Inception Date:** The inception date, generally included within escrow agreement and surety bond documentation, must reflect the date the ACO enters into a Participation Agreement with CMS.
 - The inception date (also known as the Participation Agreement start date) can be viewed by navigating to the ACO’s Performance Year tab in [ACO-MS](#) and locating the agreement period start date row for the applicable program year column.
- **Duration:** The repayment mechanism must be in effect for the duration of the ACO’s participation under a two-sided model plus 12 months following the conclusion of the agreement period ([42 CFR § 425.204\(f\)\(6\)](#)). For an ACO that is establishing a repayment mechanism to meet this requirement, the repayment mechanism must satisfy one of the following criteria:
 - Option 1: The repayment mechanism covers the entire duration of the ACO’s participation under a two-sided model plus 12 months following the conclusion of the agreement period; or
 - Option 2: The repayment mechanism covers a term of at least the first two performance years in which the ACO is participating under a two-sided model and provides for automatic, annual 12-month extensions of the repayment mechanism such that the

repayment mechanism will eventually remain in effect for the duration of the agreement period plus 12 months following the conclusion of the agreement period.

- ACOs may use clauses providing for the automatic, annual extension of a repayment mechanism that begins on the initial expiration date. The initial term of the repayment mechanism must cover at least the first two performance years in which the ACO is participating under a two-sided model. The automatic extension must provide for automatic, annual 12-month extensions of the repayment mechanism beginning on the initial expiration date under a two-sided model such that the repayment mechanism will eventually remain in effect for the duration of the agreement period plus 12 months following the conclusion of the agreement period (refer to [42 CFR §§ 425.204\(f\)\(6\)\(i\)\(B\)](#) and [425.204\(f\)\(6\)\(ii\)\(B\)](#)).
- Notice of Non-extension and Early Termination: If an automatic extension clause is utilized, it should state that the financial institution will notify CMS at least 90 days in advance if it elects not to extend the repayment mechanism or if it wishes to terminate the repayment mechanism before it expires.
- **Evergreen Clause:** The current escrow agreement template contains language that allows the escrow account to remain open indefinitely, commonly referred to as “evergreen language.”
- **Replenishment:** Repayment mechanism must allow for replenishment within 90 days if any portion of the repayment mechanism is used to repay shared losses owed or prepaid shared savings determined to be owed to CMS, as detailed in [42 CFR § 425.204\(f\)\(5\)](#).
- **Condition for Calling Funds:** The repayment mechanism documentation should indicate that CMS will make a demand for repayment mechanism funds if the ACO fails to pay in full any shared losses (and any prepaid shared savings, if applicable) it owes to CMS as a result of participation in the Shared Savings Program, citing the regulations at 42 CFR Part 425. For examples, refer to [Appendix A](#) (escrow agreement template), [Appendix B](#) (letter of credit template), and [Appendix C](#) (surety bond template).
- **Demand Letter:** Repayment mechanism documentation should allow for payment to CMS in response to a written notice from CMS, sometimes referred to as a demand letter.
- **Account Fees:** Account fees or other fees associated with establishing, maintaining, or canceling a repayment mechanism are the responsibility of the ACO and cannot be paid out of the principal or penal sum for the repayment mechanism.

Note: Regarding applicability of state laws, CMS did not preempt any state laws or state law requirements in the final rule establishing the Shared Savings Program. To the extent that state law affects an ACO’s operations, CMS expects the ACO to comply with those requirements as an entity authorized to conduct business in the state. Refer to the [Shared Savings Program November 2011 Final Rule, 76 FR 67802, 67816](#).

Before submitting draft documentation in [ACO-MS](#), review [Appendix E: New Repayment Mechanism Checklist](#) or [Appendix F: Renewing ACO Repayment Mechanism Checklist](#) to ensure all required elements are included.

2.3 SUBMIT DRAFT DOCUMENTATION

ACOs applying to, re-entering into, or transitioning to a two-sided model must submit documentation demonstrating the adequacy of the repayment mechanism. These ACOs should submit draft repayment mechanism documentation during the initial submission period of the application process or the annual change request cycle.

Tips for Success



If an ACO submits a final repayment mechanism arrangement for review and CMS requires any changes to the submitted documentation, it may delay the establishment of the ACO's repayment mechanism. Draft documentation is not expected to include the final amount before it is available or executed signatures prior to finalization of the repayment mechanism document.

Published Resource Available



Upcoming deadlines can be found on the Shared Savings Program [Application Types and Timeline webpage](#).

Initial applicants will be prompted to submit a repayment mechanism within their application upon selecting a two-sided model. Renewal and Early Renewal applicants should refer to [Section 4](#) of this guidance for additional information.

Currently participating ACOs transitioning into a two-sided model will need to submit a Participation Options Change Request (POCR) selecting a two-sided track. This will create a repayment mechanism task on the ACO dashboard.

Within the repayment mechanism task in [ACO-MS](#), select the repayment mechanism type that matches the draft documentation and upload a copy of the draft documentation. Once the ACO submission period closes, CMS will review the ACO's repayment mechanism documentation.

2.4 RECEIVE FEEDBACK AND CORRECT DEFICIENCIES

The Request for information (RFI) periods during the application and change request cycle provide the ACOs opportunities to update and correct repayment mechanism deficiencies.

Deficiencies will be issued through [ACO-MS](#), and ACOs must respond to them there.

Draft documentation will receive signature-related deficiencies until final documentation is received because ACOs should not have the required signatures completed until all other deficiencies have been resolved. ACOs will continue to receive signature-related deficiencies at each RFI until final signed documentation is uploaded to [ACO-MS](#).

Tips for Success



If applicable, CMS uploads a document to the repayment mechanism task within [ACO-MS](#) with comments and edits to assist the ACO.

TASK STATUS	DESCRIPTION	ACO ACTION
RFI	<p>Draft documentation does not adhere to the requirements for repayment mechanisms. Deficiencies will be identified in the task.</p> <p>Note: Deficiencies for requirements will be issued until they are resolved. This provides ACOs with a full list of requirements that must be met. For example:</p> <ul style="list-style-type: none"> All draft documentation will receive a deficiency for the repayment mechanism amount at Phase 1 RFI-1, because only an estimated amount is available in ACO-MS at that time. ACOs will continue to receive this deficiency until the final amounts are released at Phase 1 RFI-2 and the amount is correctly included on the submitted documentation. Draft documentation may receive signature related deficiencies until final documentation is received, because ACOs should not have the required signatures completed until all other deficiencies have been resolved. ACOs will continue to receive signature-related deficiencies at each RFI until final signed documentation is uploaded to ACO-MS. 	Address the deficiencies within draft documentation and resubmit in ACO-MS.

2.4.1 Repayment Mechanism Amount Estimate

CMS will estimate the amount of an ACO's repayment mechanism based on available data with the release of Phase 1 RFI-1. For detailed information on how repayment mechanism amounts are calculated, refer to [Section 2.5.1](#) of this guidance. The final repayment mechanism amount will not be released until Phase 1 RFI-2. The estimate provided at Phase 1 RFI-1 provides ACOs with an initial estimate as to what their final amount could be if no changes are made to the participant list. This amount should only be used as a reference point and not used to finalize a repayment mechanism.

ACOs can find information about the repayment mechanism amount in [ACO-MS](#) on the Application Cycle subtab or within the Revenue tab of the *Participation Options Report* within the Reporting tab in ACO-MS.

IMPORTANT!



The Phase 1 RFI-1 estimate will factor in all ACO participants on an ACO's participant list at the close of the initial submission deadline. Any participants added during Phase 1 RFI-1 will be factored into the final amount provided at Phase 1 RFI-2. Any deletions of ACO participants during Phase 1 RFI-2 **will not** be factored into the final amount. Therefore, any ACO participants that the ACO does not want factored into the final amount should be deleted from the participant list during Phase 1 RFI-1 response period.

2.5 FINAL REPAYMENT MECHANISM AMOUNT AND DOCUMENT

2.5.1 Calculation of Repayment Mechanism Amount

The repayment mechanism amount must be equal to the lesser of the following, in accordance with [42 CFR § 425.204\(f\)\(4\)\(ii\)](#):

- One-half (0.5) percent of the total per capita Medicare Parts A and B fee-for-service (FFS) expenditures for its assigned beneficiaries, based on expenditures and the number of assigned beneficiaries for the most recent calendar year for which 12 months of data are available; or
- One percent of the total Medicare Parts A and B FFS revenue of its ACO participants, based on revenue for the most recent calendar year for which 12 months of data are available, and based on the ACO's number of assigned beneficiaries for the most recent calendar year for which 12 months of data are available.

CMS will determine an estimate of the number and population of beneficiaries who will be assigned to the ACO based on the most recent calendar year for which 12 months of data are available. In determining the benchmark-based amount, CMS will use the estimated assigned beneficiary population to project the ACO's total per capita Medicare Parts A and B FFS expenditures for the most recent calendar year for which 12 months of data are available. In determining the revenue-based amount, CMS will project ACO participants' total Medicare Parts A and B FFS revenue based on claims for all Medicare FFS beneficiaries furnished services by ACO participants during this same calendar year. In calculating the repayment mechanism amount, CMS will multiply the projected amount of total per capita Medicare Parts A and B FFS expenditures (used in determining the benchmark-based amount) and the projected amount of ACO participants' total Medicare Parts A and B FFS revenue expressed as a per beneficiary value (used in determining the revenue-based amount) by an estimated number of assigned beneficiaries.

2.5.2 Locating Final Repayment Mechanism Amount in ACO-MS

The dollar amount funded by the repayment mechanism must be at least the amount specified in the communication of the final amount by CMS. The final repayment mechanism amount will be released with Phase 1 RFI-2. ACOs can find the final repayment mechanism amount in

[ACO-MS](#) on the Application Cycle subtab or within the Revenue tab of the *Participation Options Report* within the Reporting tab. For more information about the *Participation Options Report*, refer to the Data Dictionary, which will be available in the Application Cycle subtab (via the information bubble).

2.5.3 Finalization of Repayment Mechanism

Once the ACO has resolved any deficiencies in the draft repayment mechanism documentation identified by CMS and the final repayment mechanism amount is available, ACOs will receive a “Ready for Finalization” notification. This disposition signifies that the ACO may finalize and upload final documentation via [ACO-MS](#). Final documentation is due during Phase 1 RFI-2.

The type of repayment mechanism selected will determine the signatory requirements of the ACO. CMS requires an ACO to sign the final surety bond, escrow agreement, and/or amendment to a letter of credit documentation. An original letter of credit does not require an ACO signature. If a digital signature is used to execute repayment mechanism documentation, a copy of the digital signature audit report is to accompany the repayment mechanism.

The status of the repayment mechanism task signals the next action the ACO needs to take to establish a repayment mechanism. The following table describes the task status and corresponding ACO action:

TASK STATUS	DESCRIPTION	ACO ACTION
Ready for Finalization	Draft documentation only contains deficiencies related to the finalization of the documents (e.g., execution dates, signatures, account numbers, removal of draft references). Remaining finalization deficiencies will be identified in the task.	Prepare final documentation inclusive of all finalization requirements and submit in ACO-MS.
Conditional Approval	<p>Previously submitted digital documentation is conditionally approved, however, the original documents must be received by CMS before approval can be issued.</p> <p>This status only applies to letters of credit. Other repayment mechanism types will move directly from "Ready for Finalization" to "Approval" status once all requirements have been met.</p>	Submit original paper copies to CMS and respond within ACO-MS with the corresponding traceable carrier tracking information.

2.5.4 Submit Documentation via Traceable Carrier

If the ACO has received conditional approval of the repayment mechanism, pending delivery of original documentation to CMS, this means that the original documentation must be received by CMS to be fully approved. When sending original documentation along with the cover sheet found in [Appendix E](#) to CMS at the address below via a traceable carrier (e.g., FedEx, UPS, DHL). In addition, provide the tracking information via ACO-MS.

Centers for Medicare & Medicaid Services
7500 Security Boulevard
Mail Stop C5-15-12
Baltimore, MD 21244

If CMS has not requested original documentation as part of the conditional approval of your repayment mechanism, no additional action is required.

3 Maintaining a Repayment Mechanism

3.1 REQUIRED AMOUNT INCREASES

According to [42 CFR § 425.204\(f\)\(4\)\(iii\)](#), CMS recalculates the ACO's repayment mechanism amount for the second and each subsequent performance year in the agreement period, based on the certified ACO participant list for the relevant performance year, except that the number of assigned beneficiaries used in the calculations is the number of beneficiaries assigned to the ACO at the beginning of the relevant performance year under [42 CFR § 425.400\(a\)\(2\)\(i\)](#) (for ACOs under preliminary prospective assignment with retrospective reconciliation) or [42 CFR § 425.400\(a\)\(3\)\(i\)](#) (for ACOs under prospective assignment).

An ACO may be required to increase its repayment mechanism during its agreement period if the recalculated repayment mechanism amount exceeds the existing repayment mechanism amount by \$1,000,000, as calculated by CMS.

In this case, CMS will provide notice to the ACO in writing via [ACO-MS](#) that the amount of its repayment mechanism must be increased to the recalculated repayment mechanism amount.

The ACO has 90 days from the date of receipt of the written notice to submit documentation for CMS' approval showing that the amount of its repayment mechanism has been increased to the amount specified by CMS.

3.2 CHANGING EXISTING REPAYMENT MECHANISM

If an ACO with an established repayment mechanism would like to update terms of the arrangement or replace the arrangement with a new repayment mechanism during the agreement period, the ACO must submit a Request to Edit Repayment Mechanism Task in [ACO-MS](#) for CMS' review. Refer to the *ACO-Initiated Request to Edit Repayment Mechanism Task in ACO-MS* tip sheet, located in the Knowledge Library of [ACO-MS](#).

3.3 REPAYING SHARED LOSSES

The amount of shared losses incurred by an ACO, as determined upon annual financial reconciliation, may be more or less than the repayment mechanism amount.

An ACO may choose to cover the shared losses with alternative funds and not the established repayment mechanism.

The ACO may also choose to cover the shared losses with the existing repayment mechanism. However, if the amount of the repayment mechanism is not sufficient to cover the total amount owed by the ACO, the ACO will be required to repay any remaining balance using alternative funding sources.

If necessary, CMS may require the ACO to extend the duration of the repayment mechanism to ensure the ACO fully repays CMS any shared losses for each of the performance years of the agreement period (refer to [42 CFR § 425.204\(f\)\(6\)\(iii\)](#)).

3.4 REPLENISHMENT

After the repayment mechanism has been used to repay any portion of shared losses owed or prepaid shared savings determined to be owed to CMS, the ACO is required to replenish the amount of funds used within 90 days, pursuant to [42 CFR § 425.204\(f\)\(5\)](#). The resulting amount available of the repayment mechanism must be at least the amount specified by CMS in accordance with [42 CFR § 425.204\(f\)\(4\)](#). If it is not possible to replenish the existing arrangement (for example, because it was terminated), the ACO is required to establish one or more new repayment mechanism(s) to support its participation in the Shared Savings Program.

4 Renewal and Early Renewal Applications

The ACO must submit repayment mechanism documentation to CMS showing it has an adequate repayment mechanism as part of the renewal or early renewal application pursuant to [42 CFR § 425.204\(f\)\(3\)\(iv\)](#). The repayment mechanism applicable to the new agreement period may be the existing repayment mechanism currently in use with required modifications or a new repayment mechanism. For existing Escrow Agreements, the agreement inception date on the amendment must match the original escrow agreement inception date. For Letter of Credit, amendments must reference the original letter of credit number. For Surety Bonds, riders must reference the original surety bond number.

Once the ACO submits a renewal or early renewal application, any pending edit repayment mechanism task will be withdrawn in [ACO-MS](#). You will be required to complete your repayment mechanism updates within the Repayment Mechanism task created during Phase 1 of the application cycle.

4.1 ESTABLISHING A NEW REPAYMENT MECHANISM FOR THE NEW AGREEMENT PERIOD

Renewing or early renewing ACOs may elect to establish a new repayment mechanism for their new agreement period. Refer to [Section 2](#) of this guidance for additional information.

A new repayment mechanism being established for a new agreement period must contain a different account number than the ACO's existing repayment mechanism. Additionally, the issuance date, agreement period start date, and/or execution dates must be updated to reflect the new agreement period.

If choosing this option, the ACO should select to utilize a new repayment mechanism for its next agreement period within the repayment mechanism task of the renewal application in [ACO-MS](#).

4.2 ESTABLISHING A NEW REPAYMENT MECHANISM FOR BOTH THE CURRENT AND NEW AGREEMENT PERIODS

A renewing or early renewing ACO may elect to establish a new repayment mechanism for both the current and new agreement period. If electing this option, the ACO is encouraged to contact the Shared Savings Program Helpdesk (SSP Helpdesk) by clicking the SSP Helpdesk icon (located within the [ACO-MS](#) banner) or emailing SharedSavingsProgram@cms.hhs.gov to discuss options specific to the ACO.

4.3 UTILIZING AN EXISTING REPAYMENT MECHANISM

A renewing or early renewing ACO is permitted to use its existing repayment mechanism, with edits (if required), to establish its ability to repay any shared losses incurred or prepaid shared savings determined to be owed for performance years in the new agreement period (refer to [42 CFR § 425.204\(f\)\(3\)\(iv\)-\(v\)](#)).

If choosing this option, and if the ACO currently has a surety bond or letter of credit, the ACO should select to amend an existing repayment mechanism for its next agreement period within the repayment mechanism task of the renewal application in [ACO-MS](#). Amendment(s) to modify the existing repayment mechanism's duration and amount (if applicable) should be uploaded in lieu of a new repayment mechanism if selecting this option.

If choosing this option, and if the ACO currently has an escrow agreement, the ACO should select to utilize an existing repayment mechanism for its next agreement period. If the current escrow agreement includes evergreen language—meaning it contains language that allows the escrow account to remain open indefinitely—the ACO should upload a letter stating an updated confirmation of deposit will be provided after final amounts are released, if necessary.

4.3.1 Duration Requirement

Renewal and early renewal applicants that wish to use an existing repayment mechanism to establish its ability to repay any shared losses incurred or prepaid shared savings determined to be owed for performance years in the new agreement period must amend the duration of the current repayment mechanism to meet one of the following criteria in accordance with [42 CFR § 425.204\(f\)\(6\)\(ii\)](#):

- Option 1: The duration of the existing repayment mechanism is extended by an amount of time that covers the duration of the new agreement period plus 12 months following the conclusion of the new agreement period; or
- Option 2: The duration of the existing repayment mechanism is extended, if necessary, to cover a term of at least the first two performance years of the new agreement period and

provides for automatic, annual 12-month extensions of the repayment mechanism such that the repayment mechanism will eventually remain in effect for the duration of the new agreement period plus 12 months following the conclusion of the new agreement period.

Refer to [Section 2.2](#) of this guidance for further details regarding automatic extension clauses applicable to renewing ACOs.

4.3.2 Repayment Mechanism Amount

If the renewing or early renewing ACO wishes to use its existing repayment mechanism to establish its ability to repay any shared losses incurred and prepaid shared savings determined to be owed for performance years in the new agreement period, the amount of the repayment mechanism is calculated by CMS in accordance with [42 CFR § 425.204\(f\)\(4\)\(ii\)](#), per [42 CFR § 425.204\(f\)\(4\)\(iv\)\(A\)](#). The final repayment mechanism amount required for the new agreement period will be provided at Phase 1 RFI-2. Refer to [Section 2.5.1](#) of this guidance for more information about the calculation and [Section 2.5.2](#) of this guidance for information on where to find the amount in [ACO-MS](#).

The renewing or early renewing ACO can utilize one of the following options for the amount:

- Option 1: If the current agreement period's existing repayment mechanism amount is higher than the new agreement period's final calculated repayment mechanism amount, the ACO can choose to maintain the existing repayment mechanism at the higher amount for the duration of the new agreement period plus 12 months following the conclusion of the new agreement period. This will lock in the existing repayment mechanism amount for the duration of the new agreement period plus 12 months, with no opportunity to lower the repayment mechanism amount.
- Option 2: The ACO may establish a new repayment mechanism in the amount detailed in [ACO-MS](#) as the final repayment mechanism amount for the new agreement period start date for the entire five-year agreement period plus 12 months following the conclusion of the new agreement period, and maintain the existing repayment mechanism through financial reconciliation for the current performance year. With this option, the ACO would have two repayment mechanisms at the same time for the new agreement period's first year.

Existing Repayment Mechanism: \$500,000			
New Required Amount: \$200,000			
Option 1		Option 2	
ACO extends existing repayment mechanism for new agreement period		ACO establishes new repayment mechanism for new agreement period	
Year 1	\$500,000	\$500,000	\$200,000
Year 2	\$500,000	\$200,000	
Year 3	\$500,000	\$200,000	

Start of new agreement period

Completion of year 1 reconciliation

Example: For the current agreement period, an ACO has an existing \$500,000 repayment mechanism. The final required amount for the new agreement period is \$200,000. The ACO can choose to either keep the existing \$500,000 repayment mechanism for the entire duration of the new agreement period plus 12 months following the conclusion of the new agreement period, or the ACO can choose to establish a new \$200,000 repayment mechanism and maintain the existing \$500,000 repayment mechanism until financial reconciliation for the current performance year occurs. In other words, during the new agreement period's first year, the ACO would have two repayment mechanisms for a total of \$700,000 until financial reconciliation for the current performance year occurs, after which the \$500,000 repayment mechanism can be cancelled.

4.3.3 ACOs Electing to Participate in Prepaid Shared Savings

If an ACO has an outstanding balance of prepaid shared savings after the calculation of shared savings or losses for the final performance year of an agreement period in which an ACO receives prepaid shared savings, and the ACO fails to repay any outstanding amount of prepaid shared savings following a request from CMS, CMS will recoup any outstanding balance of prepaid shared savings from the ACO's repayment mechanism.

CMS requires an approved Repayment Mechanism for ACOs electing to participate in prepaid shared savings to enable CMS to make a demand for repayment mechanism funds if the ACO fails to pay in full any shared losses and any prepaid shared savings determined to be owed to CMS as a result of participation in the Shared Savings Program (e.g., defining "debt" to include both shared losses and any prepaid shared savings determined to be owed to CMS). These ACOs have the option of either establishing a new repayment mechanism with the additional required language or amending their current repayment mechanism to include it.

While this additional language is only required for ACOs participating in prepaid shared savings, the additional language can be included as part of draft submissions before a final decision regarding participation has been made. ACOs who do not receive prepaid shared savings are allowed to include this language.

4.3.4 Repayment Mechanism Type Considerations for the Use of an Existing Repayment Mechanism

- **Escrow Agreement:** Renewal and early renewal applicants using an existing escrow agreement may work with the financial institution to make any required changes.
 - Many escrow agreements now contain language that allows the escrow account to remain open indefinitely, commonly referred to as “evergreen language.” Confirm if the existing escrow agreement contains this language before using an amendment to extend the duration of the agreement.
 - If an existing escrow agreement does not contain evergreen language, the applicant may use an amendment to replace the duration of the agreement with the evergreen language.
 - The Escrow Agent may demonstrate a required increase in the repayment mechanism amount without the use of an amendment to the escrow agreement. Please refer to [Section 2.1.1](#) of this guidance for more information regarding fully funding the account.
 - If the required amount for the new agreement period is lower than the currently established amount, please refer to [42 CFR § 425.204\(f\)\(4\)\(iv\)](#). ACO options are also outlined in [Section 4.3.2](#) above.
- **Letter of Credit:** Renewal and early renewal applicants updating an existing letter of credit may work with the financial institution to submit an amendment.
- **Surety Bond:** Renewal and early renewal applicants updating an existing surety bond may work with the insurance company to submit a rider.

5 Cancellation of Repayment Mechanisms

An ACO is required to maintain its repayment mechanism for the duration of the ACO's participation under a two-sided model plus 12 months following the conclusion of the agreement period in accordance with 42 CFR § 425.204(f)(6). An ACO is required to maintain its repayment mechanism after the termination of its participation in the Shared Savings Program until CMS determines the amount of any shared losses or prepaid shared savings owed and collects that amount from the ACO or until the repayment mechanism expires. CMS will notify ACOs regarding cancellation opportunities when an existing repayment mechanism is no longer required (if applicable).

A repayment mechanism may be terminated at the earliest of the following conditions, in accordance with [42 CFR § 425.204\(f\)\(6\)\(iv\)](#):

- The ACO has fully repaid CMS any shared losses or prepaid shared savings owed for each of the performance years of the agreement period under a two-sided model.
- CMS has exhausted the amount reserved by the ACO's repayment mechanism and the arrangement does not need to be maintained to support the ACO's participation under the Shared Savings Program.
- CMS determines that the ACO does not owe any shared losses or prepaid shared savings under the Shared Savings Program for any of the performance years of the agreement period.

5.1 ACO REQUEST TO CANCEL

If an ACO establishes a new repayment mechanism to replace an existing repayment mechanism, CMS will cancel the originally established repayment mechanism at the request of the ACO, but only after the replacement repayment mechanism has been approved by CMS.

ACOs should send requests to cancel a repayment mechanism to CMS by emailing SharedSavingsProgram@cms.hhs.gov.

CMS evaluates the request and determines whether a repayment mechanism is no longer required, pursuant to [42 CFR § 425.204\(f\)\(6\)\(iv\)](#). CMS will complete the required documentation and notify the Financial Institution and ACO of the cancellation.

5.2 CANCELLATION INITIATED BY FINANCIAL INSTITUTION

If CMS receives a notice of cancellation or non-extension/renewal from a financial institution regarding a repayment mechanism established to support an ACO's participation in the Shared Savings Program, CMS will contact the ACO to discuss the required next steps for the ACO to maintain compliance, if applicable.

IMPORTANT!



Pursuant to [42 CFR § 425.204\(f\)\(6\)](#), the repayment mechanism must be in effect for the duration of the ACO's participation under a two-sided model plus 12 months following the conclusion of the agreement period. ACO's are subject to compliance action, including involuntary termination of their participation agreement, if an approved repayment mechanism is not in place in accordance with [42 CFR § 425.204\(f\)](#).

6 Appendices A through F Links: Template Documents and Additional Resources

Please access the referenced documents using the following URLs:

- [Appendix A: Escrow Agreement Template](#)
- [Appendix B: Letter of Credit Template](#)
- [Appendix C: Surety Bond Template](#)
- [Appendix D: Repayment Mechanism Documentation Cover Sheet](#)
- [Appendix E: New Repayment Mechanism Checklist](#)
- [Appendix F: Renewing ACO Repayment Mechanism Checklist](#)