

**The Federal Trade Commission and the Antitrust Division of the Department of Justice
(the “Agencies”)**

**Frequently Asked Questions About Voluntary Expedited Review Under the
Statement of Antitrust Enforcement Policy Regarding ACOs Participating in the Medicare
Shared Savings Program (the “Policy Statement”)**

1. Who is eligible to seek voluntary review?

“Newly formed” ACOs that desire further antitrust guidance regarding their formation and planned operation can seek voluntary review. Newly formed ACOs are those ACOs that, as of March 23, 2010, had not yet signed or jointly negotiated any contracts with private payers, and have not yet participated in the Shared Savings Program. An ACO is not newly formed if it comprises only the same, or a subset of the same, providers that signed or jointly negotiated contracts with private payers on or before March 23, 2010. The ACO seeking voluntary review also must be a collaboration among otherwise independent providers and provider groups that intend to participate in the Shared Savings Program.

2. Where do I submit a request for voluntary review?

You must submit a request in writing to *both* Agencies, either by mail or electronically. If submitting by mail, send your request and cover sheet to both the Office of the Assistant Attorney General, Antitrust Division, Department of Justice, Main Justice Building, Room 3109, 950 Pennsylvania Avenue, NW, Washington, DC 20530 (for non-U.S. Postal Service deliveries, use ZIP code 20004) and the Federal Trade Commission, Bureau of Competition, Premerger Notification Office, Room 303, 600 Pennsylvania Avenue, NW, Washington, DC 20580. Because mail delivered to the Agencies by the U.S. Postal Service is subject to delay due to heightened security screening, please consider submitting your request and cover sheet electronically to both Agencies at the following email addresses: acorequest@usdoj.gov and acorequest@ftc.gov. If sending hard copies, the Agencies request that you send them by courier or overnight service, if possible.

3. What do I need to submit with my request for a voluntary review?

You should submit a letter requesting review along with a completed cover sheet available on the Agencies’ websites (<http://www.ftc.gov/opp/aco/index.shtml> and http://www.justice.gov/atr/public/health_care/aco.html). As soon as the Agencies notify you which Agency will be the reviewing Agency, you should submit the documents and information described in the Policy Statement to the reviewing Agency.

4. When may I submit a request for voluntary review?

You should submit a request before entering into the Shared Savings Program.

5. How do I know which Agency will conduct the review?

After receiving your request for a voluntary review along with a completed cover sheet, the Agencies will promptly determine and then notify you which Agency will be the reviewing Agency.

6. Will the documents and information I submit be treated as confidential?

The provisions regarding public access to review information, non-disclosure of competitively sensitive or business confidential information, and retention of review information set forth in 28 C.F.R. § 50.6 (2010) (U.S. Department of Justice business review letters) and 16 C.F.R. §§ 1.1-1.4 (2010) (Federal Trade Commission advisory opinions) will generally apply to the voluntary review process. ACOs should follow applicable Agency procedures governing the designation of competitively sensitive business information and other information the ACO wishes to request not be made public in connection with a voluntary review request. *See* 28 C.F.R. § 50.56 (DOJ procedures); 16 C.F.R. §§ 4.2, 4.9, and 4.10 (FTC procedures).

7. May I submit the required documents and information electronically?

Yes. The reviewing Agency will provide specific instructions to you for electronically transmitting the documents and information to the reviewing Agency.