



## Medicare ACO REACH Program Financial Guarantee - Surety Bonds

Performance Year 2026 will provide ACO REACH organizations with the opportunity to explore the effective utilization of surety bonds.

### Why are ACO REACH Surety Bonds difficult to underwrite?

The ACO REACH bond obligation is vastly different from most financial guarantee bonds. The runout on the claims and required tail period creates an overlap of liability and the potential for stacking those liability amounts, which makes it a difficult risk to underwrite and, historically, has created a harder surety market. The addition of Enhanced Primary Care Capitation (EPCC) further complicated matters. Even if an ACO was successful and achieved positive Shared Savings, the EPCC may have offset those earnings, creating a negative Total Monies Owed (TMO) and putting the surety at risk. Then, if a successful ACO took Provisional Settlement, the outstanding liability for the entire EPCC remained on the balance sheet through Final Settlement. Since the Financial Guarantee (FG) Amount and the EPCC are both 4%, the full bond amount was exposed moving into the subsequent Performance Year (PY), creating a Probable Maximum Loss (PML) of 100% before even considering the new PY. In the following example, the ACO achieved Shared Savings of 6%:

Benchmark (FG Amount = 4%)	100%	\$100,000,000
Q4 Gross Shared Earnings	6%	\$6,000,000
EPCC Amount Due to CMS	-4%	-\$4,000,000
Q4 TMO to ACO (if no provisional settlement)	2%	@2,000,000 (no risk to surety)
Provisional Settlement Paid to ACO	6%	\$6,000,000
Final Settlement TMO Due to CMS	-4%	-\$4,000,000 (100% PML)

### What can I expect for the ACO REACH Surety market in PY2026?

CMS has updated its requirements for Provisional Settlement of PY2025. It will now be based on TMO, including the repayment of EPCC. While it will detract from the cash inflow during Provisional Settlement for successful ACOs, it will make the bond risk much more attractive to the surety marketplace. It shifts the underwriting focus from a true financial guarantee to a more performance-based obligation, which means a history of success in the program and actuarial projections showing positive TMO will go a long way in securing surety credit and will create a softer surety market heading into 2026. CMS is also allowing a discounted PY2026 FG Amount for ACOs taking Provisional Settlement - from 4% to 3.75%.

ACOs should begin exploring their options once the PY2024 Final Settlement and PY2025 Q2 Benchmark reports are released in August. Rate and collateral relief could be on the horizon for ACOs that demonstrate positive TMO through the second quarter and have the ability to make payments (or are due money) at Final Settlement.

## How do I change surety providers or financial guarantee type?

CMS is expected to maintain its positions regarding Financial Guarantee Amounts, Provisional Settlement, and Surety Bond Releases for PY2026. Their stance regarding the replacement and release of Surety Bonds creates significant barriers to changing these types of instruments. Even if the ACO provides a new FG instrument for PY2026, CMS will hold the PY2025 FG instrument without release until Final Settlement, unless the replacement FG instrument is backdated to January 1 of the prior PY. For surety bonds, backdating to the prior year results in premium for the prior year. Below are the scenarios regarding surety bonds:

- 1 | If an ACO elects Provisional Settlement of PY2025, has a positive TMO or pays any debt owed, and maintains the same surety bond, the amount can be adjusted to reflect only the PY2026 FG amount of 3.75% of PY2026 BM.
- 2 | If an ACO elects Provisional Settlement of PY2025, has positive TMO or pays any debt owed, and provides a new bond, the new bond amount will reflect the PY2026 FG amount (3.75% of PY2026 BM), however CMS will not release the PY2025 FG instrument until Final Settlement of PY2025, unless the new bond is backdated to January 1, 2025.
- 3 | If an ACO does not elect Provisional Settlement of PY2025 and maintains the same bond, the amount is increased to cover the total of the PY2026 FG amount (4% of PY2025 BM) plus the PY2025 FG amount (4% of PY2026 BM).
- 4 | If an ACO does not elect Provisional Settlement of PY2025 and provides a new bond, the new bond amount will reflect the PY2026 FG amount (4% of PY2026 BM), and CMS will not release the PY2025 FG instrument until Final Settlement of PY2025, unless the new bond is backdated to January 1, 2025.

While it can be cumbersome, it is possible to replace a PY2025 FG with a backdated surety bond, even mid-term, especially if an ACO is achieving a positive TMO through Q2 of PY2025 and projecting to finish the year with a positive TMO. The surety may be willing to provide a reduced rate for the backdated term for which the risk is relatively known. Once the backdated bond is in place, it becomes the FG instrument of record, and Scenario 1 (above) would be applicable for PY2026 if the ACO has elected Provisional Settlement. In the following example, the ACO has posted cash escrow to CMS for PY2025 and elected Provisional Settlement:

### PY2025 FG amount = \$5,000,000

Cash Escrow	Cost = \$0	Collateral = \$5,000,000
Replacement Bond = \$5,000,000	Cost at 1% = \$50,000	Collateral = \$0

### PY2026 FG amount = \$7,500,000

Increase Bond = \$7,500,000	Cost at 2% = \$150,000	Collateral = \$0
-----------------------------	------------------------	------------------

For a total cost of \$200,000, the ACO can recover the \$5,000,000 cash collateral from CMS and avoid increasing its deposit by \$2,500,000. The arbitrage on those funds, even if invested conservatively, would easily cover the cost of the surety bond\*

\* Premium rates and collateral amounts are estimates only. Not all ACOs will qualify for these terms.

## Want to learn more?



### Robin Anstutz

Surety Senior Account Executive  
773-666-6460  
ramstutz@risk-strategies.com