Is ACO a CIN?

Clinically Integrated Network (CIN) Status

Agenda

- ACO vs. CIN
- Is ACO presumed to be CIN
- What it takes to be a CIN

ACO vs. CIN

An ACO or Accountable Care Organization

Contracts with a payor such as Medicare for participation in a shared savings program and then recruits providers to join their ACO by signing provider participation agreements.

Medicare ACOs are tasked with achieving a Quadruple Aim: improve care outcomes, improve health outcomes, reduce cost and improve meaning in work.

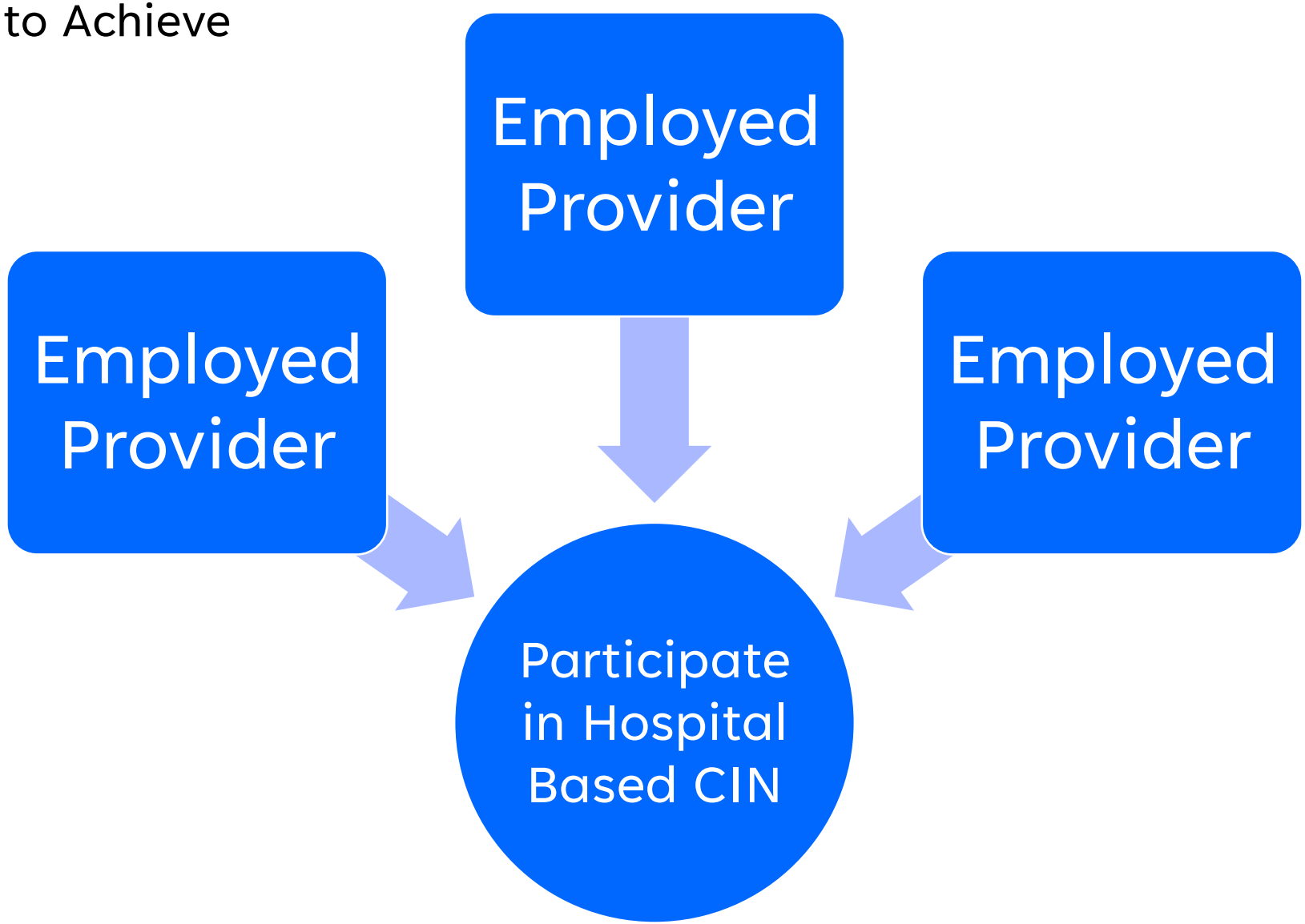
A CIN or Clinically Integrated Network

Partnership of physicians collaborating with hospitals to deliver evidence-based care, improve quality, efficiency, and coordination of care.

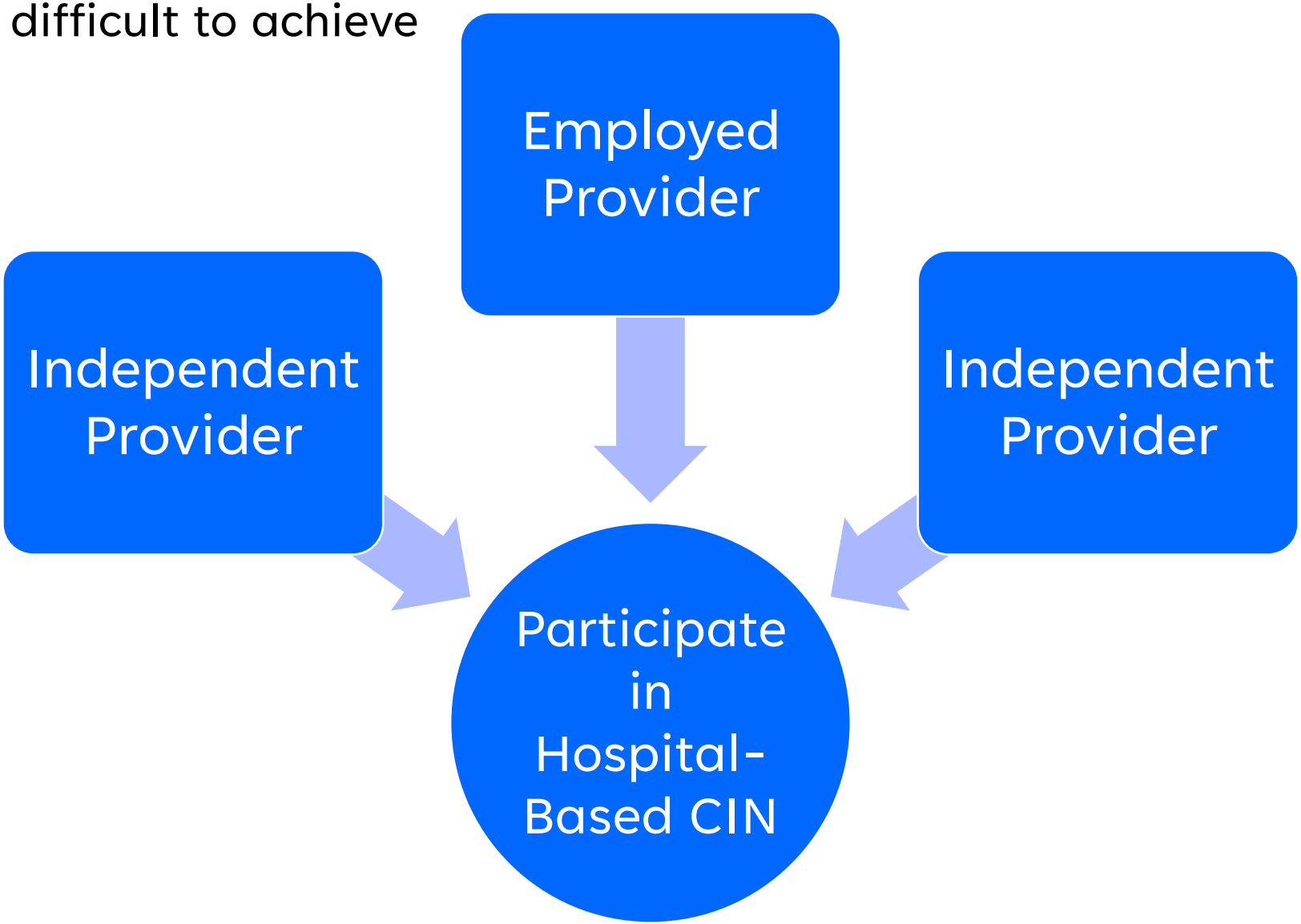
The CIN is the over-arching term for the network of providers, hospitals and other providers of care that is committed to improving the quality and efficiency of care for patients ***using common information technology to share all relevant data***.

CIN Participation Structures

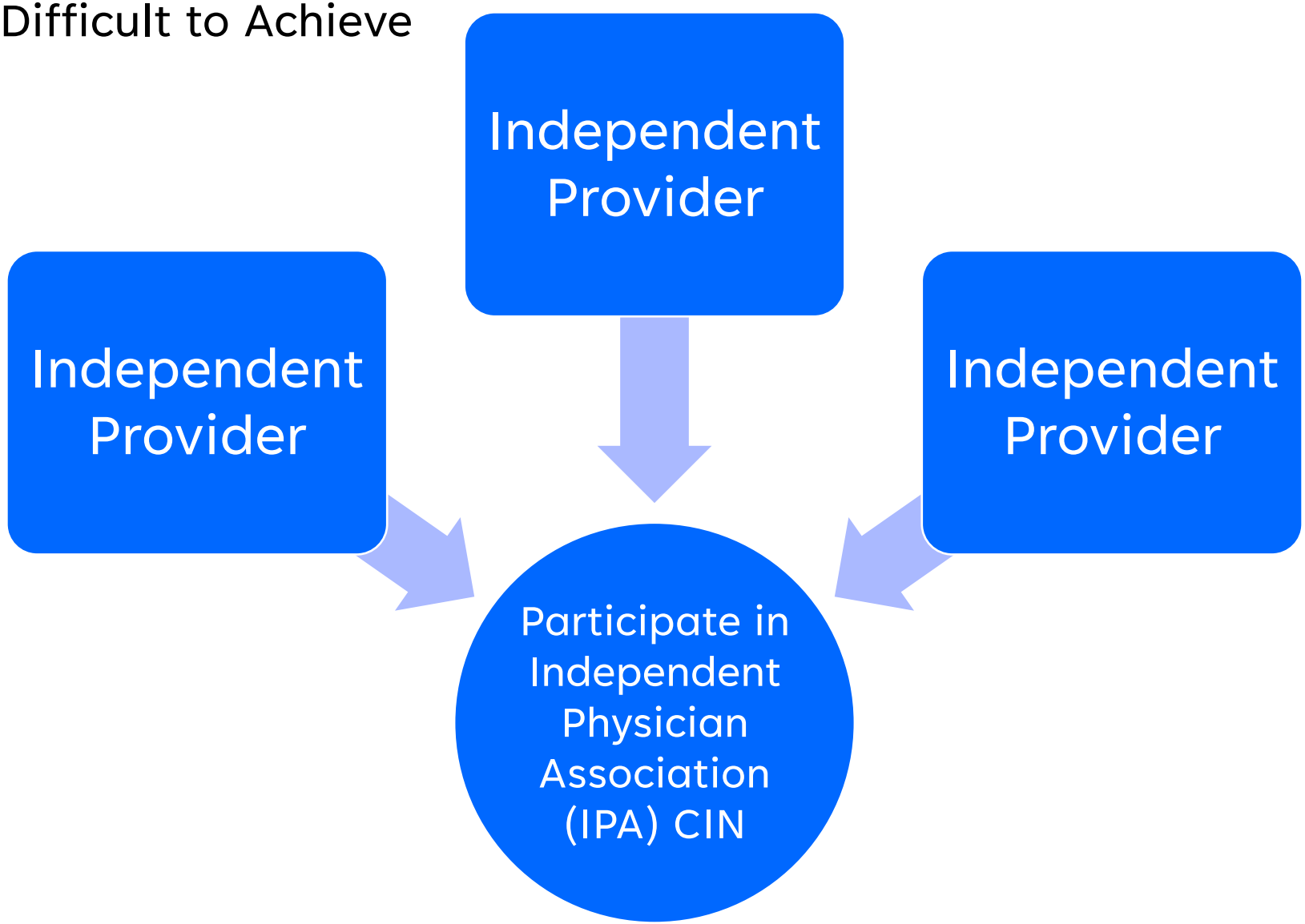
Easy to Achieve



More difficult to achieve



Very Difficult to Achieve



Pros & Cons of CIN

PROs

- Ability to jointly negotiate payer contracts for providers participating in network.
- Improved opportunities for team-based patient care due to technology integration and data sharing.

CONs

- Cost of common technology
- Cost of staff to manage and implement requirements
- Risk of non-compliance

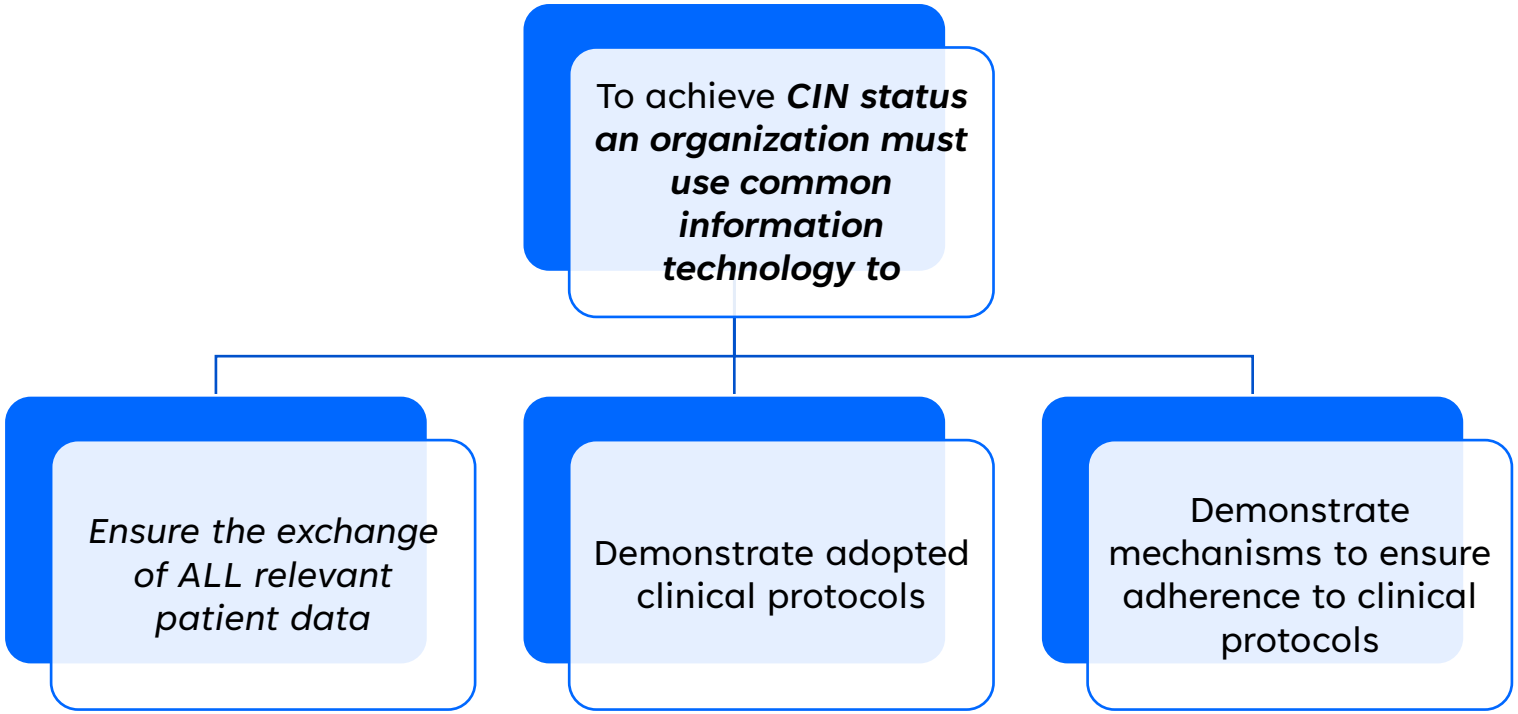
CIN Status = Joint Negotiation of Payer Contracts

If deemed a CIN, the organization may jointly negotiate contracts with payers on behalf of healthcare providers.

The antitrust laws generally preclude providers and provider organizations from engaging in joint negotiations with payers.

However, long-standing DOJ-FTC antitrust policy statements provide guidance on how clinically or financially integrated ***provider networks that meet certain criteria may engage in certain joint activities and avoid per se condemnation*** under Section 1 of the Sherman Act, which prohibits contracts, combinations, and conspiracies "in restraint of trade or commerce."

How Achieve CIN Status?



ACOs and CIN Status

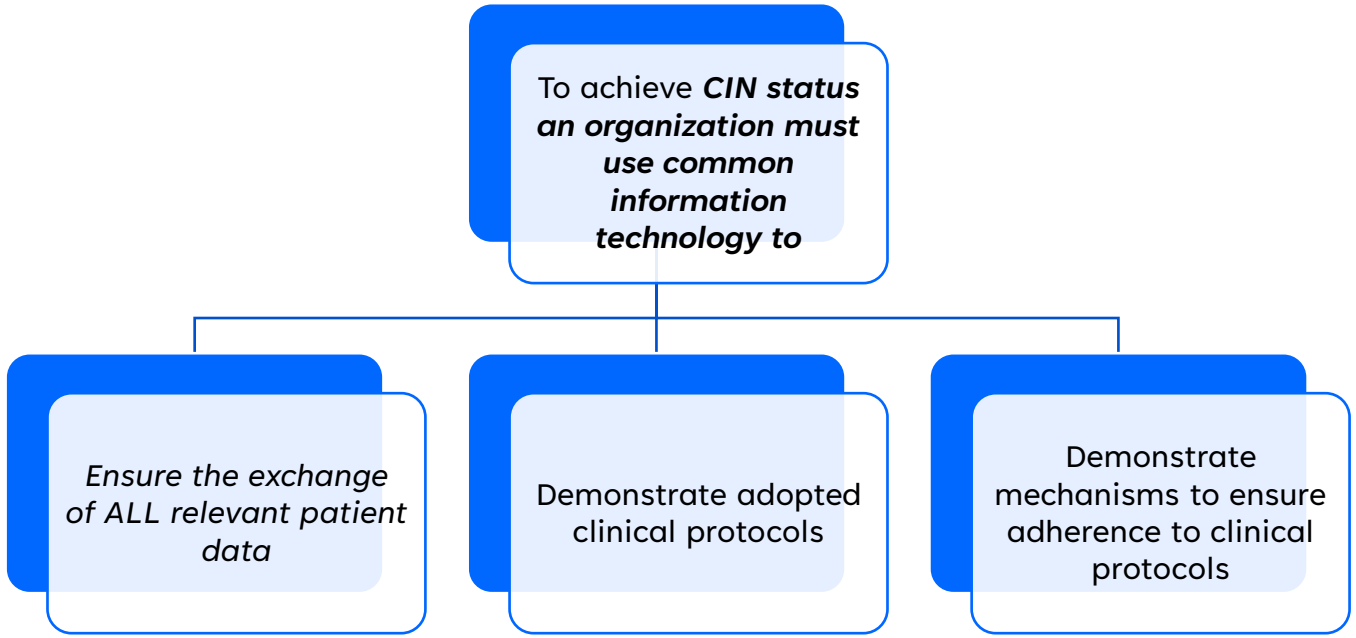
A 2011 ACO Statement was released that specified that the DOJ and FTC ***will not automatically treat as presumptively unlawful joint negotiations with payers by accountable care organizations (ACOs)*** if the negotiations are reasonably necessary to an ACO's primary purpose of improving health care delivery and the ACO meets the Centers of Medicare and Medicaid Services' (CMS) eligibility criteria and "uses the same governance and leadership structures and clinical and administrative processes it uses in the Shared Savings Program to serve patients in commercial markets."

On Friday, February 6, 2023, the Department of Justice (DOJ) announced the withdrawal of the 2011 Statement of Antitrust Enforcement Policy Regarding Accountable Care Organizations Participating in the Medicare Shared Savings Program (2011 ACO Statement). The 2011 ACO Statement was jointly issued by the DOJ and the Federal Trade Commission (FTC). ***The DOJ has characterized the withdrawn statements as "outdated" and as no longer "reflective of market realities".*** The FTC, however, has not yet withdrawn the statements.

How Achieve CIN Status?

Many provider networks have relied on participation in the MSSP as an ACO as a way to demonstrate clinical integration. The DOJ's withdrawal of the 2011 ACO Statement signals potential increased antitrust scrutiny of ACOs and other provider networks and risk bearing organizations. ***Continuing to rely on the withdrawn guidance by the DOJ that the FTC has yet to withdraw presents risk.***

In the absence of the 2011 ACO Statement, the best strategy is to independently demonstrate CIN status via the use of shared technology.



CIN Checklist

Use of common information technology

Exchange of Patient Data

- Use of common information technology to ensure exchange ***of all relevant patient data***.
  - Single EHR
  - EHRs connected to central data repository

Clinical Protocols

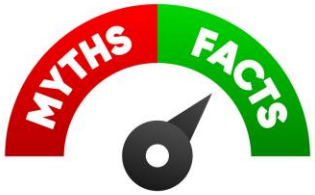
- Development and adoption of clinical protocols.
  - Evidence-Based Medicine such as quality measures
    - Medicare Quality Payment Program (QPP)
    - HEDIS/NCQA

QPP Measures

HEDIS Measures

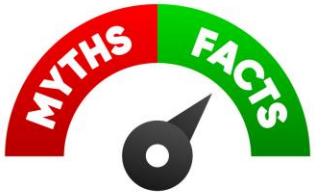
Mechanisms

- Mechanisms to ensure adherence to protocols and Review of Care.
  - Scorecards
  - Feedback reports
  - Collegial interventions



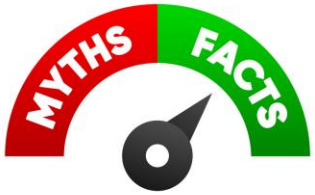
Myth: The use of a Health Information Exchange (HIE) by the CIN meets the requirement of common information technology sharing ALL relevant patient data.

Fact: It does not meet the requirement of common information technology to share ALL relevant patient data as HIEs only integrate limited data sets.



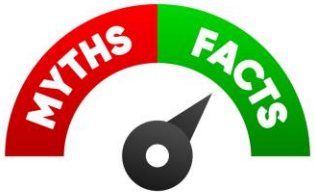
Myth: The use of different vendors of certified EHR by all ACO participants (clinics) meets the definition of common information technology.

Fact: It does not meet the requirement of common information technology to share ALL relevant patient data.



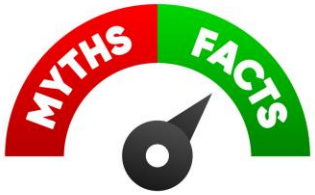
Myth: It is more difficult for employed physicians to achieve CIN status?

Fact: It is easier as all on the same EHR or connected EHRs.



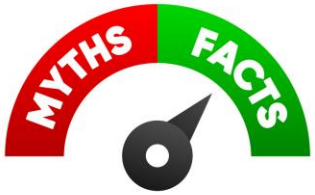
Myth: The return on investment of a CIN is always worth the cost of common technology.

Fact: Except for very large networks that achieve CIN status easily for their employed providers, the return on investment (joint negotiation of contracts) of higher negotiated payer rates rarely outweighs the cost of common technology and related CIN functions.



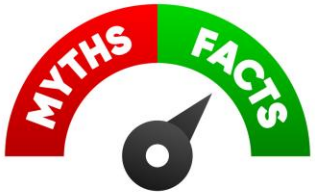
Myth: CINs require a hospital to participate.

Fact: While many CINS include a hospital, it is not required.



Myth: CINs may only make patient referrals within their network.

Fact: Providers participating in a CIN may refer to an provider in or out-of-network and must honor patient choice.

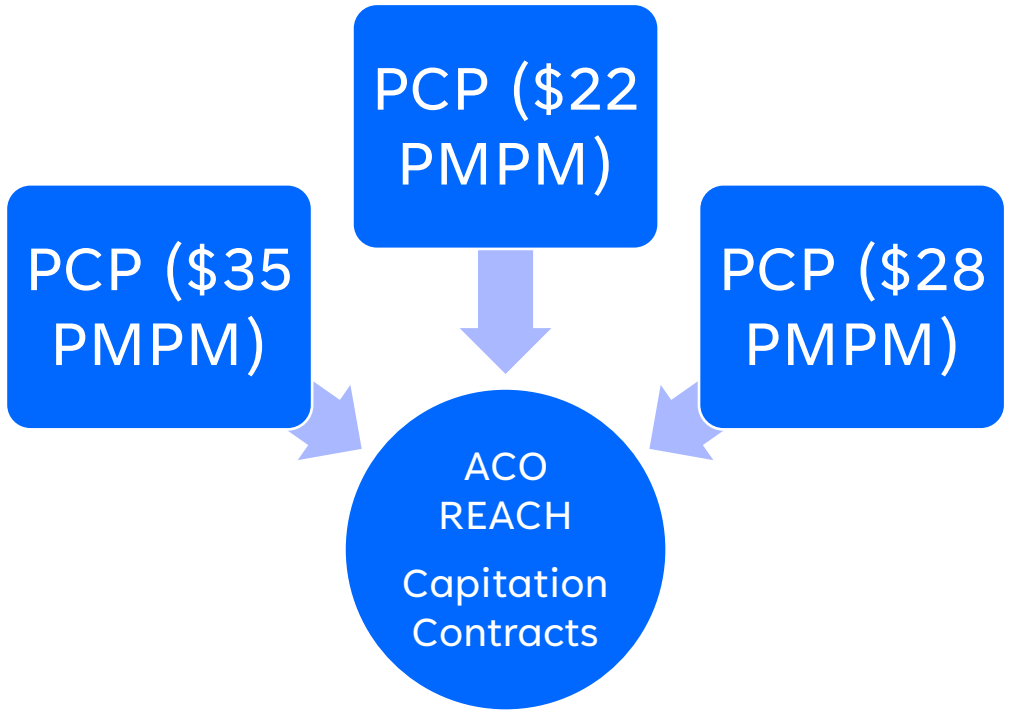


Myth: CINs and IPAs are the same.

Fact: CINs and IPAs are NOT the same as most IPAs do not have the common technology and other requirements to achieve CIN status.

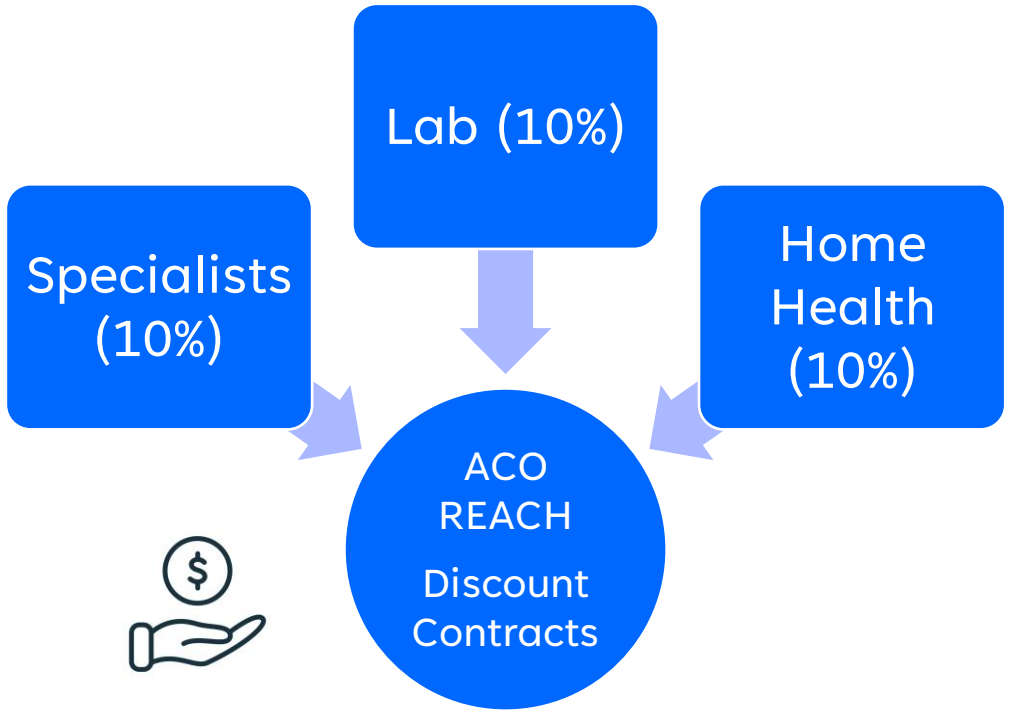
ACO REACH Negotiation Opportunities

Negotiate capitation payments with primary care physicians (PCPs) based on prior performance.



ACO REACH Negotiation Opportunities

Negotiate discounts with preferred providers such as ancillary services or specialists



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