KRIEG DEVAULT

Insights

Key Features of Medicare Access & CHIP Reauthorization Act of 2015

September 26, 2016

Medicare Access & CHIP Reauthorization Act of 2015[1]

On April 27, 2016, the Centers for Medicare and Medicaid Services ("CMS") issued a Notice of Proposed Rulemaking to implement parts of the Medicare Access & CHIP Reauthorization Act of 2015 ("MACRA"). MACRA is part of an initiative lead by the Department of Health and Human Services ("HHS") to improve health care quality and value.

MACRA repeals the current Sustainable Growth Rate Formula and pays clinicians based on the quality and value of care through a single framework called the Quality Payment Program ("QPP"). QPP is made up of two components: Merit-based Incentive Payments ("MIPS") and Alternative Payment Models ("APMs"). MIPS is intended to combine multiple quality improvement programs into one streamlined program while APMs allow for bonus payments based on participation in Advanced APMs.

MIPS Basics[2]

MIPS replaces three current quality and value programs—Physician Quality Reporting Program, Value Based Payment Modifier, and Medicare EHR Incentive Program (Meaningful Use)—with one program that provides clinicians with a single composite performance score ("CPS"). The CPS is calculated based on performance in four weighted categories: (1) Quality; (2) Resource Use; (3) Clinical Practice Improvement Activities; and (4) Advancing Care Information. Each category contains its own reporting measures and some categories allow clinicians to choose the measures and activities they will report to effectively demonstrate performance based on their specific practice.

- Quality (50% of CPS). This category replaces the Physician Quality Reporting Program. Under this category, physicians choose six measures to report, but must include one outcome or high-value measure and one crosscutting measure.
- Resource Use (10% of CPS). This category replaces the Value Modifier Program but would not impose reporting requirements on clinicians. Instead, the score would be based on claims and availability of sufficient volume.
- Clinical Practice Improvement Activities (15% of CPS). Clinicians choose to participate in clinical practice improvement activities from a list of more than 90 activities provided by CMS. Additionally, participation in Medical Homes earns a clinician "full credit" and participation in Advanced APMs earns a clinician half-credit in this category.

- Advancing Care Information (25% of CPS). This category replaces the Medicare EHR Incentive Program. Clinicians choose the reporting measures that best represent the technology use in their day-to-day practice.

MIPS will initially impact Medicare Part B eligible clinicians, specifically defined by HHS as physicians, physician assistants, nurse practitioners, clinical nurse specialists and certified registered nurse anesthetists in years one and two, but may expand in later years to include additional Medicare Part B eligible clinicians. However, there are three groups of clinicians that will not be subject to MIPS—clinicians in their first year of Medicare Part B participation, clinicians below the low patient threshold, and certain participants in Advanced APMs.

Each MIPS performance period is one full calendar year and begins on January 1, 2017, with the first payment year following in 2019. MIPS implements a positive, negative, or neutral payment adjustment for clinicians based on the clinician's CPS and the MIPS performance threshold. The adjustments start at 4% in 2019 and increase each year from 2019 to 2022, up to 9%.

APM Basics[3]

As part of MACRA, APMs are designed to improve payments for care through Medicare by incentivizing quality and value. Under MACRA, APMs include the CMS Innovation Center model, Medicare Shared Savings Program, Demonstration under the Health Care Quality Demonstration Program, and other Demonstrations required by federal law. Additionally, Advanced APMs are defined under MACRA as APMs that require participants to use certified EHR technology; base payments on quality measures similar to those in the MIPS quality performance category; and either require APM entities to bear more than nominal financial risk for monetary losses or the APM is a Medical Home Model expanded under CMMI authority.

Clinicians who participate in Advanced APMs may be eligible for rewards in addition to the MIPS program or may be exempt from MIPS. Qualifying APM participants are clinicians with a certain percentage of their payments or patients though an Advanced APM. Qualifying APM Participants are exempt from MIPS and receive 5% lump sum bonus payments in years 2019 through 2024 and a higher fee schedule for the year 2026 and beyond. The threshold of payments or patients through an eligible APM may eventually expand to include payments or patients reached through a combination of Medicare and other non-Medicare payers.

Clinicians who participate in MIPS only are eligible for the MIPS payment adjustments, beginning at 4% in 2019. Clinicians who participate in APMs are eligible for the MIPS payment adjustments, as well as APM specific rewards. Finally, clinicians who participate in Advanced APMs are eligible for APM specific rewards, as well as a 5% lump sum bonus.

QPP Participation Options for 2017[4]

On September 8, 2016, CMS announced four participation options available to clinicians for the first performance period in 2017.

- Option 1: Test the Program. This option allows clinicians to avoid a negative payment adjustment by submitting any data to the program. This flexible option is designed to allow clinicians to ensure their system is properly working.

- Option 2: Participate for Part of the Calendar Year. This option would allow clinicians to report information for a reduced number of days. Clinicians may elect their first performance period to begin later than January 1, 2017 but still qualify for a small positive payment adjustment.
- Option 3: Participate for the full Calendar Year. Clinicians who feel their practice is ready to undergo the full QPP may elect to participate in the full calendar year for the first year of the program. Under this option, the first performance period would begin on January 1, 2017 and clinicians would submit measures for the three reporting categories. Clinicians who participate under this option may see a modest payment adjustment, depending on their reported measures.
- Option 4: Participate in an Advanced APM. As an alternative to reporting the information under MIPs, clinicians may choose to participate in an advanced APM as part of the QPP. Qualifying Participants would qualify for a five percent incentive payment in 2019 and would not be subject to MIPS.

Medicare Part B Eligible Clinicians should be prepared to participate in the programs for the first performance year beginning on January 1, 2017 through one of the four options above. A Final Rule implementing the components of MACRA is expected in November 2016.

If you have any questions or require additional information regarding this matter or related compliance efforts, please contact Maggie Little at mlittle@kdlegal.com or by telephone at (317) 238-6355 or your regular Krieg DeVault attorney.

[1] *"MACRA: Delivery System Reform, Medicare Payment Reform," CMS.gov, https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Value-Based-Programs/MACRA-MIPS-and-APMs/MACRA-MIPS-and-APMs.html (last visited Sept. 15, 2016).*

[2] *"Quality Payment Program" Training Slides, CMS.gov, https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Value-Based-Programs/MACRA-MIPS-and-APMs/Quality-Payment-Program-MACRA-NPRM-slides-short-version.pdf (last visited Sept. 15, 2016).*

[3] *"Quality Payment Program" Training Slides, CMS.gov, https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Value-Based-Programs/MACRA-MIPS-and-APMs/Quality-Payment-Program-MACRA-NPRM-slides-short-version.pdf (last visited Sept. 15, 2016).*

[4] *Andy Slavitt, "Plans for the Quality Payment Program in 2017: Pick Your Pace," The CMS Blog, Sept. 8, 2016 https://blog.cms.gov/2016/09/08/QualityPaymentProgram-PickYourPace/.*