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Insights

CMS Issues Proposed Rule for Updates to the Quality Payment Program

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On June 30, 2017, CMS published a proposed rule with changes and policy updates to the Quality Payment Program ("QPP") for calendar year 2018. The QPP, established under the Medicare Access and CHIP Reauthorization Act of 2015 ("MACRA"), includes two pathways for participation, the Merit Based Incentive Payment System, ("MIPS") and Advanced Alternative Payment Models ("Advanced APMs"). Several changes and policies are proposed for each pathway, as detailed below.

During the first year of the QPP, known as the transition year, clinicians were offered flexible options for participation in the program through a "pick your pace" model. Now, CMS has issued changes and additional policies designed to continue that flexibility and to reduce the burden of participation for clinicians, while continuing toward the original goals of MACRA. In addition to the extension and modification of some of the transition year policies, the proposed rule introduces features that were not initially offered during the transition year, including virtual groups, facility based measurement, and improvement scoring. The proposed rule also adds a seventh strategic objective to the QPP for ensuring operational excellence and continued development of the program in the future.

MIPS

CMS is proposing a number of changes for the 2018 MIPS performance period and 2020 MIPS payment year, including changes to the four performance categories, described below.

- Quality Performance Category: The weight of the quality performance category score in the final score would be maintained at 60 percent for the 2020 MIPS payment year, rather than being reduced to 50 percent, as previously finalized. Additionally, the data completeness threshold for quality measures would be reduced to 50 percent for the 2018 MIPS performance period, and 60 percent for the 2021 MIPS payment year. Further, the performance period for this category would be increased to a full calendar year.
- Improvement Activities Category: Additional improvement activities would be added and existing improvement activities modified for inclusion in the Improvement Activity Inventory for the 2018 MIPS performance period and future periods. Additionally, CMS is seeking to expand the definition of how eligible clinicians are recognized as certified patient centered medical homes or comparable specialty practices.
- Advancing Care Information Category: MIPS eligible clinicians would be permitted to continue using EHR technology certified to the 2014 Edition for 2018 MIPS performance period; however, eligible clinicians would receive bonus points for successfully using EHR technology certified to the 2015 Edition. Further, the proposed rule includes hardship exceptions for small practices, as well as a proposal to implement many of the provisions of the 21st Century Cures Act.

- Cost Category: The cost performance category would continue to be weighted at zero percent of the final score for the 2020 MIPS payment year. Additionally, the 10 episode-based measures adopted for the 2017 MIPS performance period would not be adopted for the 2018 MIPS performance period. CMS will instead develop new episode-based measures with significant clinician input.
- Submission Mechanisms: Eligible clinicians would be offered additional flexibility for submission mechanisms so they are able to submit measures via as many mechanisms as necessary to meet the requirements of each category, rather than being restricted to one mechanism.
- Virtual Groups: Eligible clinicians would be permitted to form "virtual groups" as an additional MIPS participation option, composed of solo practitioners or groups with ten or less eligible clinicians, who combine "virtually" with another solo practitioner or group for a performance period of a year. The virtual group would report as a virtual group for all four performance categories and meet the same measures and requirements as non-virtual MIPS groups.
- Facility Based Measurement: Although CMS previously considered allowing eligible clinicians to use facility based measurements for the transition year, they are now proposing to include this option for facility based clinicians for the 2018 MIPS performance period.
- Eligibility and Exclusion Provisions: To reduce the burden on eligible clinicians practicing in rural areas, small practices or as solo practitioners, the low-volume threshold would be increased to less than or equal to $90,000 in Medicare Part B charges or 200 or fewer Medicare Part B enrolled beneficiaries. Additionally, the non-patient facing MIPS eligible clinicians definition would apply to virtual groups formed for participation in MIPS.
- Other Changes: CMS also proposes additional modifications to the scoring system finalized in the 2017 QPP Rule, as well as final score bonuses for small practices and other MIPS eligible clinicians treating complex patients. Additionally, CMS is proposing to provide performance feedback and public reporting of certain eligible clinician or group QPP information.

Advanced APMs

The proposed rule also includes additional policies and clarifications to the Advanced APMs pathway of the QPP, including

- Maintaining the revenue-based nominal amount standard for meeting the financial risk criterion to qualify as an Advanced APM at 8 percent of estimated average of the total Part A and Part B revenue of participating APM Entities, through payment year 2020;
- Detailing how eligible clinicians participating in certain Advanced APMs will be scored under the APM scoring standard to reduce the burden for MIPS APMs; and
- Modifying and clarifying the All Payer Combination Option methodology for allowing eligible clinicians to become Qualifying APM Participants ("QPs") through Medicare participation in Advanced APMs as well as participation in Other Advanced APM Payers.

While many of CMS' changes and policies for the second year of the QPP are designed to reduce the burden for providers, there will still likely be significant practice and operational implications for providers. CMS is seeking comments on the proposed rule, with a deadline of August 21, 2017. The proposed rule may be accessed here.

If you have any questions on this proposed rule or related regulatory matters, please contact your regular Krieg DeVault health care attorney.