

August 21, 2017

Seema Verma, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Room 445–G, Hubert H. Humphrey Building
200 Independence Avenue SW.,
Washington, DC 20201

Dear Administrator Verma:

On behalf of the undersigned physician organizations, we write the Centers for Medicare & Medicaid Services (CMS) regarding the low-volume threshold changes proposed in the “Medicare Program; CY 2018 Updates to the Quality Payment Program (QPP)” [proposed rule](#) published by the CMS in the June 30, 2017, *Federal Register*.

The 2017 QPP final rule excluded individual Merit-based Incentive Payment System (MIPS) eligible clinicians or groups with \leq \$30,000 in Part B allowed charges or \leq 100 Part B beneficiaries during the low-volume threshold determination period that occurs during the performance period and a prior period. In this regulation, CMS proposes to increase the threshold to exclude individual MIPS eligible clinicians or groups with \leq \$90,000 in Part B allowed charges OR \leq 200 Part B beneficiaries during the low-volume threshold determination period that occurs during the performance period and a prior period. CMS proposes this, citing the recognition that small and rural practices face unique dynamics and challenges such as fiscal limitations and workforce shortages. This proposal would exclude approximately 134,000 additional clinicians from the current and estimated excluded 700,000 clinicians. CMS estimates this would mean that only 37 percent of individual MIPS eligible clinicians and groups would be in MIPS based on the low-volume threshold exclusion.

We appreciate that CMS recognizes the unique challenges of small practices in complying with MIPS requirements. Some of our practices that bill less than \$90,000 in Part B allowed charges or treat less than 200 Part B beneficiaries will greatly appreciate not being subject to MIPS requirements or potential payment cuts.

However, we are concerned that CMS is not offering flexibility for exempted practices to, if they choose, opt-into the MIPS for the 2018 performance period.

Many of our members have begun participating in MIPS in the 2017 performance period based on the current 2017 MIPS low-volume thresholds of \$30,000 in allowed charges and 100 Part B beneficiaries. By significantly raising the low-volume threshold and prohibiting those below the threshold from opting into and having their payments adjusted under MIPS, CMS is preventing practices that are above the threshold in 2017 but below the proposed threshold in 2018 from continuing to participate in MIPS and potentially receiving positive MIPS payment adjustments in future years. Of greater concern is that this proposal stalls these exempted practices in making progress towards value-based payment, which is contrary to the Congressional intent of MACRA.

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Furthermore, and of concern, the proposed changes in the low-volume thresholds thwart impacted practices from participating in virtual groups, which Congress expressly established in MACRA for solo and small groups to aggregate their data—to remove any methodology biases due to their potential small number of Medicare beneficiaries. Congress included language establishing virtual groups to provide a plausible mechanism for solo and small group practices to participate and compete in the MIPS pathway against larger groups that would inherently benefit from larger numbers of beneficiaries, upon which CMS would calculate their evaluation.

Though the 2018 QPP proposed rule eventually recognizes the need for practices to be able to opt-into the MIPS program in the 2019 performance year, we respectfully demand that the agency offer a MIPS opt-in pathway for practices that are otherwise excluded from MIPS based on the low-volume threshold exclusions in the 2018 performance period. We do not understand why CMS concedes the need to offer an opt-in in future performance years but does not offer it for performance period 2018. We strongly assert that practices of any size should, if they wish, participate fully in MIPS independently or via virtual groups. We remind the agency that the 2017 final QPP rule offers partial QPs the ability to opt into the MIPS program and that eligible clinicians already have the opportunity to opt-in, albeit without being subject to a payment adjustment. Thus, precedence and agency experience already exists for an opt-in policy.

Excluding these practices in the 2018 performance period then potentially subjecting them to future years, where the MIPS cost component could be included, would put low-volume threshold practices at a significant disadvantage compared to practices that have experience with the 2017 and 2018 MIPS performance periods. Many physicians prepared for and participated in the 2017 MIPS performance period and will want to participate in the 2018 MIPS performance period. Needlessly ejecting them from the 2018 performance period by raising the low-volume threshold is entirely counter to the concept of increasing physician participation, understanding, and comfort with the MIPS payment pathway. Furthermore, CMS changing the low-volume threshold in the second year of the QPP program creates further uncertainty and instability with the program since practices may now assume further low-volume threshold changes in future years.

We appreciate your time and attention to this matter. If you or your staff have any questions about this or if we can provide any other assistance, please contact Robert Bennett, AAFP Manager of Federal Regulatory Affairs, at 202-232-9033 or rbennett@aafp.org.

Sincerely,

American Academy of Family Physicians
American College of Physicians
American Osteopathic Association