The Fallacy of “Relief”: The Dangers of MIPS Extreme and Uncontrollable Circumstances Applications

written by Dave Halpert | June 26, 2020

Under the banner of “relief,” CMS has announced that clinicians will have the opportunity to file an Extreme and Uncontrollable Circumstances application to qualify for re-weighting in some or all components of the Merit-Based Incentive Payment System (MIPS). This possibility may sound intriguing, but don’t be fooled—those who take this route are overlooking the longer-term consequences of maintaining and expanding MIPS efforts.

MIPS Is Not Going Away

The day before releasing 2020 MIPS flexibility guidance, CMS announced the creation of the Office of Burden and Health Informatics, which has grown out of the Patients Over Paperwork initiative. In this notice (released less than 24 hours prior to the Extreme and Uncontrollable Circumstances guidance), CMS cited MIPS as one of its key accomplishments in reducing

burden, as it reduces the number of quality reporting programs from three to one.

Similar to CMS's approach with ACOs, this guidance should not be seen as a reprieve, but as safety net for a limited number of clinicians. In its announcement of the application process, CMS uses bold lettering to emphasize that "no qualifying events" have been identified as extreme or uncontrollable circumstances that are appropriate for an automatic re-weighting of MIPS components, even the COVID-19 Public Health Emergency (PHE). You should not expect a pass on MIPS in 2020, nor should you expect a delay of the MIPS Value Pathways (MVP) rules, set to be released later this year.

Although some may be tempted to file one of these applications, the reality is that this is actually a more dangerous tactic than maintaining full MIPS participation. Here's why:

It's easier to move forward than to stop and re-start.

Those who practice in larger organizations, especially those in multispecialty or academic settings, are continuously engaged in projects with EHR teams, quality departments, and providers in order to ensure that the care that's being delivered is being reflected downstream, whether it's for MIPS, a value-based care contract, or a clinical study. Participants understand that once the plug is pulled on a project, resuming that project is never as simple as "plugging it back in." Previously-assigned employees may be re-assigned to other projects (meaning that you're either short-staffed or need to bring others up to speed) and day-to-day processes are forgotten (costing you time and progress). Maintaining momentum

is critical to succeeding in any value-based care program, particularly one as complex as MIPS.

By submitting quality data, you give yourself a better chance to succeed in future years. Submitting quality data to CMS is going to contribute to measure benchmarking in subsequent years.

This is critical for success in the future. There has been a substantial decrease in the number of available measures, and newer measures have yet to be benchmarked. In practical terms, there are fewer opportunities to earn more than 3 points out of 10 for a measure, and the only way to improve your chances are to give CMS the data required to fully implement additional quality measures. Quality measure development is an expensive and laborious process, and so even though new measures are coming out, it will be years before the measures that have been removed are replaced and benchmarked. In the 2020 Measure Development Plan Annual Report, it is noted that CMS spent more than $26 million over the course of three years on agreements that yielded 32 new measures. By comparison, 42 measures from 2019 were deleted for 2020, with only three measures added. By putting your data into the mix, you give CMS the information it needs now in order to develop a fair benchmark for the measure in subsequent years.

By following our past advice and succeeding in MIPS strategically, you'll be able to succeed in any quality initiative.

CMS continues to reiterate its commitment to moving providers

into Alternate Payment Models, and MIPS is the last stop on the path to two-sided risk. Your successful (and continuous) participation in MIPS will be critical to ensuring that you can meet this challenge. This means utilizing all components in order to meet a comprehensive goal. Undertaking an Improvement Activity (IA) with corresponding quality and cost measures, recorded through optimal methods using your EHR, will lead to better scoring across the board without leaving your organization scrambling for resources. CMS has also pushed this methodology and actually intends to require it through the implementation of MIPS Value Pathways (MVPs).

Your decision (and your competition's decision) will be visible in CMS's Physician Compare website.

If a category of MIPS is not scored, that will be publicly visible in CMS's patient-facing Physician Compare site, which scores clinicians and group practices, using (among other things) MIPS scoring. Potential patients will see that one entity succeeded in a quality initiative in spite of a Public Health Emergency, whereas another did not. Patients will not see the rationale behind the "relief," and will infer for themselves why one organization was able to proceed and another was not. This extends directly to COVID 19, as CMS has created an Improvement Activity focused on clinical trials. Clinicians can participate in this IA (and be recognized for it on Physician Compare) by participating in a clinical trial, or by submitting patient data to a Clinical Data Registry for future study.

The deadline to submit the application is not until December 31, 2020.

With an opportunity to earn additional incentive payments, it's against your best interest to settle for "neutral." Furthermore, your application may be denied, or only partially accepted. Those who immediately file an application and pump the brakes on MIPS risk finding themselves at a dead end, finding that their participation is required, but that it's too late to fulfill certain requirements (e.g. continuous 90-day performance in Promoting Interoperability or Improvement Activities). In other words, the application itself comes with its own risks. Those who choose to control their own destiny are the only ones with the potential to earn incentives by demonstrating excellence.

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Image: Thomas Vogel