American College of Emergency Physicians®

ADVANCING EMERGENCY CARE

ACTION ALERT

Seek Hardship Exemption from the Promoting Interoperability Category of MIPS

ACEP is recommending that clinicians apply for a hardship exemption to the Promoting Interoperability Category of the Merit-based Incentive Payment System (MIPS). One of the valid reasons for requesting this exemption is "Lack of control over the availability of CEHRT." We believe this would apply to most emergency medicine groups. Go to the request link at https://qpp.cms.gov/mips/exception-applications?py=2018 and scroll down to the "How do I Apply?" heading. Follow the instructions and submit your exemption request. There is no guarantee that CMS will approve the exemption request, but it is definitely worth applying for one.

This must be done by December 31, 2018.

For more information about the PI Category of MIPS and about possible exemptions, please review the frequently asked questions (FAQs) below.

1. What is the Promoting Interoperability Category of MIPS?

The Promoting Interoperability (PI) Category is one of four reporting categories of the CMS MIPS program (also known as the Quality Payment Program), relating to the use of certified electronic health record technology (CEHRT).

2. Who is automatically excluded from the PI category of MIPS?

Under MIPS, certain clinicians are automatically exempt from the PI category, including those who meet the definition of "hospital-based" at either the individual or group level:

- **Hospital-based clinician**: An individual clinician who furnishes *75% or more* of his/her Medicare Part B covered professional services in sites identified by Place of Service (POS) codes 21 (inpatient hospital), 22 (outpatient on-campus hospital), *or* 23 (emergency department).
  - A clinician who meets this definition and chooses to report to MIPS **at the individual level** is automatically exempt from the PI category.
- **Hospital-based group practice**: For a group practice to receive this designation, *all* MIPS-eligible clinicians associated with the practice must individually meet the definition of hospital-based. If a group of clinicians (determined at the Tax Identification Number (TIN) level) opts to participate in MIPS at the group level and meets this definition, **the group as a whole is automatically exempt** from the PI category.

3. How do I know whether or not I meet the definition of a hospital-based clinician?

Emergency physicians can verify their individual and group's status via the CMS QPP web site (https://qpp.cms.gov/participation-lookup). Look for the designation under the "Other Factors" section. If exempt as an individual, it will show "Hospital-based" as "Yes" under "Received as an individual." If exempt for a TIN, it will show "Hospital-based" as "Yes" under "Received as a group". Just pick a NPI in the group you are interested in and use the link to check the status. If your group does have the Hospital-based status, then you are all set. If not, you should review FAQ # 4.

4. If I'm part of a group that loses the "hospital-based" exemption status, what options do I have?

As stated above, if a TIN that decides to report as a group includes at least one MIPS eligible clinician that is determined to be a non-hospital based clinician, the entire TIN is classified as non-hospital-based, and is no longer exempt from the PI category of MIPS.

In this case, there two possible options.

1. ***RECOMMENDATION*:** Clinicians should try to apply for another Hardship Exemption for the PI category. One of the valid reasons for requesting this exemption is "Lack of control over the availability of CEHRT." We believe this would apply to most emergency medicine groups. Go to the request link at https://qpp.cms.gov/mips/exception-applications?py=2018 and scroll down to the "How do I Apply?" heading. Follow the instructions and submit your exemption request. This must be done by **December 31, 2018.** In order to receive this exemption, groups must attest to a lack of control over the availability of CEHRT in 1 or more locations where more than 50 percent of the patient encounters occurred. There is no guarantee that CMS will approve the exemption request, but it is definitely worth applying for one.

2. If groups do not receive a hardship exemption, then they would be required to submit PI data. However, clinicians are only required to report data from AMBULATORY-BASED CEHRT. Data from inpatient CEHRT, including a hospital-based emergency department CEHRT module, would NOT need to be reported and used in the calculations to determine the PI performance score. However, clinicians can *voluntarily* choose to report data from these sources, in which case that data would contribute to the TIN's PI score.

5. Why is this important and how does this affect me?

Under MIPS, clinicians receive a bonus or penalty based on their performance on four categories: Quality, Cost, Improvement Activities, and PI. For the 2018 performance year, the potential payment adjustments range between -5 and +5 percent. The adjustments individuals or groups receive in 2018 are applied to each professional service a clinician provides in 2020. Therefore, the adjustments can have a major effect on revenue. The PI category of MIPS represents 25 percent of a clinician's total MIPS score. Most emergency physicians are contracted by hospitals and often have little say in the CEHRT choices the hospital makes. Therefore, it may be challenging for groups who are not deemed "hospital-based" to meet all PI requirements. If you request a hardship exemption from CMS and it is granted, in most cases the 25 percent PI allocation would be re-distributed to the Quality Category of MIPS. It is much easier for emergency physicians to meet the quality reporting requirements of MIPS, especially if they choose to report through ACEP's quality clinical data registry, the Clinical Emergency Data Registry (CEDR).