

Subgroup means a subset of a group which contains at least one MIPS eligible clinician and is identified by a combination of the group TIN, subgroup identifier, and each eligible clinician's NPI.

Submission type means the mechanism by which the submitter type submits data to CMS, including, but not limited to:

- (1) Direct;
- (2) Log in and upload;
- (3) Log in and attest;
- (4) Medicare Part B claims; and
- (5) CMS Web Interface (except as provided in paragraph (5)(i) of this definition, for the CY 2017 through CY 2022 performance periods/2019 through 2024 MIPS payment years).

(i) For the CY 2021 through CY 2024 performance periods/2023 through 2026 MIPS payment years, submission types include the CMS Web Interface for APM Entities reporting through the APM Performance Pathway in accordance with §414.1367.

(ii) [Reserved]

Submitter type means the MIPS eligible clinician, group, Virtual Group, APM Entity, or third party intermediary acting on behalf of a MIPS eligible clinician, group, Virtual Group, or APM Entity, as applicable, that submits data on measures and activities under MIPS.

Third party intermediary means an entity that CMS has approved under §414.1400 to submit data on behalf of a MIPS eligible clinician, group, virtual group, subgroup, or APM Entity for one or more of the quality, improvement activities, and Promoting Interoperability performance categories.

Threshold Score means the percentage value that CMS determines for an eligible clinician based on the calculations described in §414.1435 or §414.1440.

Topped out non-process measure means a measure where the Truncated Coefficient of Variation is less than 0.10 and the 75th and 90th percentiles are within 2 standard errors.

Topped out process measure means a measure with a median performance rate of 95 percent or higher.

Virtual group means a combination of two or more TINs assigned to one or more solo practitioners or to one or more groups consisting of 10 or fewer

eligible clinicians, or both, that elect to form a virtual group for a performance period for a year.

[81 FR 77537, Nov. 4, 2016, as amended at 82 FR 53950, Nov. 16, 2017; 83 FR 60075, Nov. 23, 2018; 84 FR 63194, Nov. 15, 2019; 85 FR 54872, Sept. 2, 2020; 85 FR 85029, Dec. 28, 2020; 86 FR 65670, Nov. 19, 2021; 86 FR 73159, Dec. 27, 2021; 87 FR 70227, Nov. 18, 2022]

§414.1310 Applicability.

(a) *Program implementation.* Except as specified in paragraph (b) of this section, MIPS applies to payments for covered professional services furnished by MIPS eligible clinicians on or after January 1, 2019.

(b) *Exclusions.* (1) For a year, a MIPS eligible clinician does not include an eligible clinician who:

(i) Is a Qualifying APM Participant (as defined at §414.1305);

(ii) Is a Partial Qualifying APM Participant and does not elect to participate in MIPS as a MIPS eligible clinician; or

(iii) Does not exceed the low volume threshold.

(A) Beginning with the 2021 MIPS payment year, if an individual eligible clinician or group exceeds at least one, but not all, of the low-volume threshold criteria and elects to participate in MIPS as a MIPS eligible clinician, the individual eligible clinician or group is treated as a MIPS eligible clinician for the applicable MIPS payment year. For such solo practitioners and groups that elect to participate in MIPS as a virtual group (except for APM Entity groups in MIPS APMs), the virtual group election under §414.1315 constitutes an election under this paragraph (b)(1)(iii)(A) and results in the solo practitioners and groups being treated as MIPS eligible clinicians for the applicable MIPS payment year.

(B) For the 2021 and 2022 MIPS payment years, if an APM Entity group in a MIPS APM exceeds at least one, but not all, of the low-volume threshold criteria and elects to participate in MIPS as a MIPS eligible clinician, the APM Entity group is treated as a MIPS eligible clinician for the applicable MIPS payment year. For such APM Entity groups in MIPS APMs, only the APM Entity group election can result in the APM Entity group being treated

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as MIPS eligible clinicians for the applicable MIPS payment year.

(2) Eligible clinicians, as defined at § 414.1305, who are not MIPS eligible clinicians, as defined at § 414.1305, have the option to voluntarily report measures and activities for MIPS.

(c) *Treatment of new Medicare-enrolled eligible clinicians.* New Medicare-enrolled eligible clinician, as defined at § 414.1305, will not be treated as a MIPS eligible clinician until the subsequent year and the performance period for such subsequent year.

(d) *Clarification.* In no case will a MIPS payment adjustment factor (or additional MIPS payment adjustment factor) apply to payments for items and services furnished during a year by a eligible clinician, including an eligible clinician described in paragraph (b) or (c) of this section, who is not a MIPS eligible clinician, including an eligible clinician who voluntarily reports on applicable measures and activities under MIPS.

(e) *Requirements for groups.* (1) Except as provided under §§ 414.1315(a)(2), 414.1317(b), 414.1318(b), and 414.1370(f)(2) each MIPS eligible clinician in the group receives a final score based on the group's combined performance assessment.

(2) For individual MIPS eligible clinicians to participate in MIPS as a group, all of the following requirements must be met:

(i) Groups must meet the definition of a group at all times during the applicable performance period.

(ii) Individual eligible clinicians that elect to participate in MIPS as a group must aggregate their performance data across the group's TIN, and for the Promoting Interoperability performance category, must aggregate the performance data of all of the MIPS eligible clinicians in the group's TIN for whom the group has data in CEHRT.

(iii) Individual eligible clinicians that elect to participate in MIPS as a group will have their performance assessed at the group level across all four MIPS performance categories.

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(iv) Groups must adhere to an election process established by CMS, as applicable.

[81 FR 77537, Nov. 4, 2016, as amended at 83 FR 60076, Nov. 23, 2018; 84 FR 63195, Nov. 15, 2019; 85 FR 85030, Dec. 28, 2020; 86 FR 65670, Nov. 19, 2021]

§ 414.1315 Virtual groups.

(a) *Eligibility.* (1) For a MIPS payment year, a solo practitioner or a group of 10 or fewer eligible clinicians may elect to participate in MIPS as a virtual group with at least one other such solo practitioner or group. The election must be made prior to the start of the applicable performance period and cannot be changed during the performance period. A solo practitioner or group may elect to be in no more than one virtual group for a performance period, and, in the case of a group, the election applies to all MIPS eligible clinicians in the group.

(2) Except as provided under § 414.1370(f)(2), each MIPS eligible clinician in the virtual group receives a MIPS payment adjustment factor and, if applicable, an additional MIPS payment adjustment factor based on the virtual group's combined performance assessment.

(b) *Election deadline.* The election deadline is December 31 of the calendar year preceding the applicable performance period.

(c) *Election process.* For the 2020 MIPS payment year and future years, the virtual group election process is as follows:

(1) *Stage 1: Virtual group eligibility determination.* (i) For the 2020 MIPS payment year, the virtual group eligibility determination period is an assessment period of up to 5 months beginning on July 1 and ending as late as November 30 of the calendar year preceding the applicable performance period, and that includes a 30-day claims run out.

(ii) Beginning with the 2021 MIPS payment year, the virtual group eligibility determination period is the first segment of the MIPS determination period.

(2) *Stage 2: Virtual group formation.* (i) Solo practitioners and groups that elect to participate in MIPS as a virtual group must establish a formal