

(B) Beginning with FY 2026, the hospital's Total Performance Score divided by 110; and

(iii) The linear exchange function slope.

(c) *Methodology to calculate the value-based incentive payment adjustment factor.* The value-based incentive payment adjustment factor for each discharge is determined by subtracting the applicable percent as specified in §412.160 from the value-based incentive payment percentage and then adding that difference to one.

[77 FR 53674, Aug. 31, 2012, as amended at 88 FR 59333, Aug. 28, 2023]

§412.163 Process for making hospital-specific performance information under the Hospital Value-Based Purchasing (VBP) Program available to the public.

(a) CMS will make information available to the public regarding the performance of each hospital under the Hospital VBP Program.

(b) To ensure that a hospital has the opportunity to review and submit corrections for the information to be made public under this section, CMS will provide each hospital with confidential hospital-specific reports and discharge level information used in the calculation of its performance with respect to each measure, condition, and domain, and the calculation of its Total Performance Score.

(c) Hospitals will have a period of 30 days after CMS provides the information specified in paragraph (b) of this section to review and submit corrections for the information.

(d) CMS will post the information specified in paragraph (b) for each hospital on the the *Hospital Compare* website, which can be accessed via the Care Compare website at <https://www.medicare.gov/care-compare/>.

[50 FR 12741, Mar. 29, 1985, as amended at 86 FR 45520, Aug. 13, 2021]

§412.164 Measure selection under the Hospital Value-Based Purchasing (VBP) Program.

(a) CMS will select measures, other than measures of readmissions, for purposes of the Hospital VBP Program. The measures will be selected from the measures specified under section

1886(b)(3)(B)(viii) of the Act (the Hospital Inpatient Quality Reporting Program).

(b) CMS will post data on each measure on the *Hospital Compare* website, which can be accessed via the Care Compare website at <https://www.medicare.gov/care-compare/>, for at least 1 year prior to the beginning of a performance period for the measure under the Hospital VBP Program.

(c)(1) *Updating of measure specifications.* CMS uses rulemaking to make substantive updates to the specifications of measures used in the Hospital VBP Program. CMS announces technical measure specification updates through the QualityNet website (<https://qualitynet.cms.gov>) and listserv announcements.

(2) *Measure retention.* All measures selected under paragraph (a) of this section remain in the measure set unless CMS, through rulemaking, removes or replaces them.

(3) *Measure removal factors*—(i) *General rule.* CMS may remove or replace a measure based on one of the following factors:

(A) *Factor 1.* Measure performance among hospitals is so high and unvarying that meaningful distinctions and improvements in performance can no longer be made (“topped out” measures), defined as: statistically indistinguishable performance at the 75th and 90th percentiles; and truncated coefficient of variation ≤ 0.10 .

(B) *Factor 2.* A measure does not align with current clinical guidelines or practice.

(C) *Factor 3.* The availability of a more broadly applicable measure (across settings or populations) or the availability of a measure that is more proximal in time to desired patient outcomes for the particular topic.

(D) *Factor 4.* Performance or improvement on a measure does not result in better patient outcomes.

(E) *Factor 5.* The availability of a measure that is more strongly associated with desired patient outcomes for the particular topic.

(F) *Factor 6.* Collection or public reporting of a measure leads to negative unintended consequences other than patient harm.

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(G) *Factor 7.* It is not feasible to implement the measure specifications.

(H) *Factor 8.* The costs associated with a measure outweigh the benefit of its continued use in the program.

(ii) *Application of measure removal factors.* CMS assesses the benefits of removing a measure from the Hospital VBP Program on a case-by-case basis.

(iii) *Patient safety exception.* Upon a determination by CMS that the continued requirement for hospitals to submit data on a measure raises specific patient safety concerns, CMS may elect to immediately remove the measure from the Hospital VBP measure set. CMS will, upon removal of the measure—

(A) Provide notice to hospitals and the public at the time CMS removes the measure, along with a statement of the specific patient safety concerns

that would be raised if hospitals continued to submit data on the measure; and

(B) Provide notice of the removal in the FEDERAL REGISTER.

[77 FR 53674, Aug. 31, 2012, as amended at 83 FR 41704, Aug. 17, 2018; 86 FR 45520, Aug. 13, 2021; 88 FR 59333, Aug. 28, 2023]

§ 412.165 Performance scoring under the Hospital Value-Based Purchasing (VBP) Program.

(a) *Points awarded based on hospital performance.* (1) CMS will award points to hospitals for performance on each measure for which the hospital reports the applicable minimum number of cases during the applicable performance period. The applicable minimum number of cases are set forth as follows:

TABLE 1 TO PARAGRAPH (a)(1)—MINIMUM CASE NUMBER REQUIREMENTS FOR HOSPITAL VBP PROGRAM

Measure short name	Minimum number of cases
Person and Community Engagement Domain	
HCAHPS	Hospitals must report a minimum number of 100 completed Hospital Consumer Assessment of Healthcare providers and Systems (HCAHPS) surveys.
Clinical Outcomes Domain	
MORT-30-AMI	Hospitals must report a minimum number of 25 cases.
MORT-30-HF	Hospitals must report a minimum number of 25 cases.
MORT-30-PN (updated cohort)	Hospitals must report a minimum number of 25 cases.
MORT-30-COPD	Hospitals must report a minimum number of 25 cases.
MORT-30-CABG	Hospitals must report a minimum number of 25 cases.
COMP-HIP-KNEE	Hospitals must report a minimum number of 25 cases.
Safety Domain	
CAUTI	Hospitals have a minimum of 1,000 predicted infections as calculated by the Centers for Disease Control and Prevention (CDC).
CLABSI	Hospitals have a minimum of 1,000 predicted infections as calculated by the CDC.
Colon and Abdominal Hysterectomy SSI.	Hospitals have a minimum of 1,000 predicted infections as calculated by the CDC.
MRSA Bacteremia	Hospitals have a minimum of 1,000 predicted infections as calculated by the CDC.
CDI	Hospitals have a minimum of 1,000 predicted infections as calculated by the CDC.
SEP-1	Hospitals must report a minimum number of 25 cases.
Efficiency and Cost Reduction Domain	
MSPB	Hospitals must report a minimum number of 25 cases.

(2) CMS will award from 1 to 9 points for achievement to each hospital whose performance on a measure during the applicable performance period meets or exceeds the achievement threshold but is less than the benchmark for that measure.

(3) CMS will award from 0 to 9 points for improvement to each hospital whose performance on a measure during the applicable performance period exceeds the improvement threshold but is less than the benchmark for that measure.