

*Federally Qualified Health Center* has the same meaning given this term under §405.2401(b) of this chapter.

*Group of physicians (Group)* means a single Taxpayer Identification Number (TIN) with 2 or more eligible professionals, as identified by their individual National Provider Identifier (NPI), who have reassigned their Medicare billing rights to the TIN.

*Performance period* means the calendar year that will be used to assess the quality of care furnished compared to cost.

*Performance rate* means the calculated rate for each quality or cost measure such as the percent of times that a particular clinical quality action was reported as being performed, or a particular outcome was attained, for the applicable persons to whom a measure applies as described in the denominator for the measure.

*Physician* has the same meaning given this term under section 1861(r) of the Act.

*Physician assistant (PA), nurse practitioner (NP), and clinical nurse specialist (CNS)* have the same meanings given these terms under section 1861(aa)(5) of the Act.

*Physician Fee Schedule* has the same meaning given this term under part 410 of this chapter.

*Physician Quality Reporting System* means the system established under section 1848(k) of the Act.

*Risk score* means the beneficiary risk score derived from the CMS Hierarchical Condition Categories (HCC) model.

*Solo practitioner* means a single Taxpayer Identification Number (TIN) with one eligible professional who is identified by an individual National Provider Identifier (NPI) billing under the TIN.

*Taxpayer Identification Number (TIN)* has the same meaning given this term under §425.20 of this chapter.

*Value-based payment modifier* means the percentage as determined under §414.1270 by which amounts paid to a group or solo practitioner under the Medicare Physician Fee Schedule established under section 1848 of the Act are adjusted based upon a comparison

of the quality of care furnished to cost as determined by this subpart.

[77 FR 69368, Nov. 16, 2012, as amended at 79 FR 68005, Nov. 13, 2014; 80 FR 71382, Nov. 16, 2015]

#### **§414.1210 Application of the value-based payment modifier.**

(a) The value-based payment modifier is applicable:

(1) For the CY 2015 payment adjustment period, to physicians in groups with 100 or more eligible professionals based on the performance period described at §414.1215(a).

(2) For the CY 2016 payment adjustment period, to physicians in groups with 10 or more eligible professionals based on the performance period described at §414.1215(b).

(3) For the CY 2017 payment adjustment period and each subsequent calendar year payment adjustment period, to physicians in groups with 2 or more eligible professionals and to physicians who are solo practitioners based on the performance period for the payment adjustment period as described at §414.1215.

(4) For the CY 2018 payment adjustment period, to nonphysician eligible professionals who are physician assistants, nurse practitioners, clinical nurse specialists, and certified registered nurse anesthetists in groups with 2 or more eligible professionals and to physician assistants, nurse practitioners, clinical nurse specialists, and certified registered nurse anesthetists who are solo practitioners based on the performance period for the payment adjustment period as described at §414.1215.

(b) *Exceptions.* (1) Groups of physicians that are participating in the Medicare Shared Savings Program, the testing of the Pioneer ACO model, or other similar Innovation Center or CMS initiatives shall not be subject to any adjustments under the value-based payment modifier for CY 2015 and CY 2016.

(2) *Application of the value-based payment modifier to participants in the Shared Savings Program.*

(i) For the CY 2017 payment adjustment period and each subsequent calendar year payment adjustment period, the value-based payment modifier is

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applicable to physicians in groups with 2 or more eligible professionals and to physicians who are solo practitioners that participate in an ACO under the Shared Savings Program during the performance period for the payment adjustment period as described at § 414.1215. The value-based payment modifier for a group or solo practitioner that participates in an ACO under the Shared Savings Program during the performance period is determined based on paragraphs (b)(2)(i)(A) through (D) of this section.

(A) The cost composite is classified as “average” under § 414.1275(b).

(B) For groups and solo practitioners that participate in a Shared Savings Program ACO that successfully reports quality data as required by the Shared Savings Program under § 425.504 of this chapter, the quality composite score is calculated under § 414.1260(a) using quality data reported by the ACO for the performance period through the ACO GPRO Web interface as required under § 425.504(a)(1) of this chapter or another mechanism specified by CMS and the ACO all-cause readmission measure. Groups and solo practitioners that participate in two or more ACOs during the applicable performance period receive the quality composite score of the ACO that has the highest numerical quality composite score. For the CY 2018 payment adjustment period, the CAHPS for ACOs survey also will be included in the quality composite score. For the CY 2017 and 2018 payment adjustment periods, for groups and solo practitioners who participate in a Shared Savings Program ACO that does not successfully report quality data as required by the Shared Savings Program under § 425.504 and who meet the requirements to avoid the PQRS payment adjustment for CY 2018 by reporting to the PQRS outside the ACO, the quality composite is classified as “average” under § 414.1275(b).

(C) For the CY 2017 payment adjustment period, the value-based payment modifier adjustment will be equal to the amount determined under § 414.1275 for the payment adjustment period, except that if the ACO (or groups and solo practitioners that participate in the ACO) does not successfully report quality data as described in paragraph

(b)(2)(i)(B) of this section for the performance period, such adjustment will be equal to –4% for groups of physicians with 10 or more eligible professionals and equal to –2% for groups of physicians with two to nine eligible professionals and for physician solo practitioners. If the ACO has an assigned beneficiary population during the performance period with an average risk score in the top 25 percent of the risk scores of beneficiaries nationwide, and a group of physician or physician solo practitioner that participates in the ACO during the performance period is classified as high quality/average cost under quality-tiering for the CY 2017 payment adjustment period, the group or solo practitioner receives an upward adjustment of  $+3 \times$  (rather than  $+2 \times$ ) if the group has 10 or more eligible professionals or  $+2 \times$  (rather than  $+1 \times$ ) for a solo practitioner or the group has two to nine eligible professionals.

(D) For the CY 2018 payment adjustment period, the value-based payment modifier adjustment will be equal to the amount determined under § 414.1275 for the payment adjustment period, except that if the ACO (or groups and solo practitioners that participate in the ACO) does not successfully report quality data as described in paragraph (b)(2)(i)(B) of this section for the performance period, such adjustment will be equal to the downward payment adjustment amounts described at § 414.1270(d)(1). If the ACO has an assigned beneficiary population during the performance period with an average risk score in the top 25 percent of the risk scores of beneficiaries nationwide, and a group or solo practitioner that participates in the ACO during the performance period is classified as high quality/average cost under quality-tiering for the CY 2018 payment adjustment period, the group or solo practitioner receives an upward adjustment of  $+3 \times$  (rather than  $+2 \times$ ) if the group of physicians has 10 or more eligible professionals,  $+2 \times$  (rather than  $+1 \times$ ) for a physician solo practitioner or if the group of physicians has two to nine eligible professionals, or  $+2 \times$  (rather than  $+1 \times$ ) for a solo practitioner who is a nonphysician eligible professional or

if the group consists of nonphysician eligible professionals.

(E) For the CY 2017 payment adjustment period and each subsequent calendar year payment adjustment period, the value-based payment modifier for groups and solo practitioners that participate in an ACO under the Shared Savings Program during the applicable performance period is determined as described under paragraph (b)(2) of this section, regardless of whether any eligible professionals in the group or the solo practitioner also participate in an Innovation Center model during the performance period.

(F) For groups and solo practitioners that participate in a Shared Savings Program ACO that successfully reports quality data as required by the Shared Savings Program under §425.504 of this chapter, the same value-based payment modifier adjustment will be applied in the payment adjustment period to all groups based on size as specified under §414.1275 and solo practitioners that participated in the ACO during the performance period.

(ii) For the CY 2018 payment adjustment period and each subsequent calendar year payment adjustment period, the value-based payment modifier is applicable to nonphysician eligible professionals in groups with 2 or more eligible professionals and to nonphysician eligible professionals who are solo practitioners that participate in an ACO under the Shared Savings Program during the performance period for the payment adjustment period as described at §414.1215. The value-based payment modifier for nonphysician eligible professionals is determined in the same manner as for physicians as described under paragraphs (b)(2)(i)(A) through (D) of this section.

(3) *Application of the value-based payment modifier to participants in the Pioneer ACO Model and the Comprehensive Primary Care Initiative.* (i) For the CY 2017 payment adjustment period, the value-based payment modifier is waived under section 1115A(d)(1) of the Act for physicians in groups with 2 or more eligible professionals and for physicians who are solo practitioners that participate in the Pioneer ACO Model or the Comprehensive Primary Care (CPC) Initiative during the perform-

ance period for the payment adjustment period as described at §414.1215.

(ii) For the CY 2018 payment adjustment period, the value-based payment modifier is waived under section 1115A(d)(1) of the Act for physicians and nonphysician eligible professionals in groups with 2 or more eligible professionals and for physicians and nonphysician eligible professionals who are solo practitioners that participate in the Pioneer ACO Model or the Comprehensive Primary Care (CPC) Initiative during the performance period for the payment adjustment period as described at §414.1215.

(iii) For purposes of the value-based payment modifier, a group or solo practitioner is considered to be participating in the Pioneer ACO Model or CPC Initiative if at least one eligible professional billing under the TIN in the performance period for the payment adjustment period as described at §414.1215 is participating in the Pioneer ACO Model or CPC Initiative in the performance period.

(4) *Application of the value-based payment modifier to participants in other similar Innovation Center models.* (i) For the CY 2017 payment adjustment period, the value-based payment modifier is waived under section 1115A(d)(1) of the Act for physicians in groups with 2 or more eligible professionals and for physicians who are solo practitioners that participate in other similar Innovation Center models during the performance period for the payment adjustment period as described at §414.1215.

(ii) For the CY 2018 payment adjustment period, the value-based payment modifier is waived under section 1115A(d)(1) of the Act for physicians and nonphysician eligible professionals in groups with 2 or more eligible professionals and for physicians and nonphysician eligible professionals who are solo practitioners that participate in other similar Innovation Center models during the performance period for the payment adjustment period as described at §414.1215.

(iii) For purposes of the value-based payment modifier, a group or solo practitioner is considered to be participating in a similar Innovation Center

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model if at least one eligible professional billing under the TIN in the performance period for the payment adjustment period as described at § 414.1215 is participating in the similar model in the performance period.

(c) *Group size and composition determination.* (1) The list of groups of physicians subject to the value-based payment modifier for the CY 2015 payment adjustment period is based on a query of PECOS on October 15, 2013. For each subsequent calendar year payment adjustment period, the list of groups and solo practitioners subject to the value-based payment modifier is based on a query of PECOS that occurs within 10 days of the close of the Physician Quality Reporting System group registration process during the applicable performance period described at § 414.1215. Groups are removed from the PECOS-generated list if, based on a claims analysis, the group did not have the required number of eligible professionals, as defined in paragraph (a) of this section, that submitted claims during the performance period for the applicable calendar year payment adjustment period. Solo practitioners are removed from the PECOS-generated list if, based on a claims analysis, the solo practitioner did not submit claims during the performance period for the applicable calendar year payment adjustment period.

(2) Beginning with the CY 2016 payment adjustment period, the size of a group during the applicable performance period will be determined by the lower number of eligible professionals as indicated by the PECOS-generated list or claims analysis.

(3) For the CY 2018 payment adjustment period, the composition of a group during the applicable performance period will be determined based on whether the group includes physicians, physician assistants, nurse practitioners, clinical nurse specialists, certified registered nurse anesthetists, and/or other types of nonphysician eligible professionals as indicated by the PECOS-generated list or claims analysis.

[77 FR 69368, Nov. 16, 2012, as amended at 78 FR 74820, Dec. 10, 2013; 79 FR 68005, Nov. 13, 2014; 80 FR 71382, Nov. 16, 2015; 81 FR 80555, Nov. 15, 2016]

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#### § 414.1215 Performance and payment adjustment periods for the value-based payment modifier.

(a) The performance period is calendar year 2013 for value-based payment modifier adjustments made in the calendar year 2015 payment adjustment period.

(b) The performance period is calendar year 2014 for value-based payment modifier adjustments made in the calendar year 2016 payment adjustment period.

(c) The performance period is calendar year 2015 for value-based payment modifier adjustments made in the calendar year 2017 payment adjustment period.

(d) The performance period is calendar year 2016 for value-based payment modifier adjustments made in the calendar year 2018 payment adjustment period.

[77 FR 69368, Nov. 16, 2012, as amended at 78 FR 74820, Dec. 10, 2013; 80 FR 71383, Nov. 16, 2015]

#### § 414.1220 Reporting mechanisms for the value-based payment modifier.

Solo practitioners and groups subject to the value-based payment modifier (or individual eligible professionals within such groups) may submit data on quality measures as specified under the Physician Quality Reporting System using the reporting mechanisms for which they are eligible.

[78 FR 74820, Dec. 10, 2013, as amended at 79 FR 68006, Nov. 13, 2014]

#### § 414.1225 Alignment of Physician Quality Reporting System quality measures and quality measures for the value-based payment modifier.

All of the quality measures for which solo practitioners and groups (or individual eligible professionals within such groups) are eligible to report under the Physician Quality Reporting System in a given calendar year are used to calculate the value-based payment modifier for the applicable payment adjustment period, as defined in § 414.1215, to the extent a solo practitioner or a group (or individual eligible professionals within such group) submit data on such measures.

[79 FR 68006, Dec. 13, 2014]