

§ 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 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.

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

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§ 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