

§ 414.1360

1848(q)(5)(F) of the Act, performance in the improvement activities performance category comprises:

(1) 15 percent of a MIPS eligible clinician's final score for MIPS payment year 2019 and for each MIPS payment year thereafter.

(2) [Reserved]

(c) The following are the list of subcategories, of which, with the exception of Participation in an APM, include activities for selection by a MIPS eligible clinician or group:

(1) Expanded practice access, such as same day appointments for urgent needs and after-hours access to clinician advice.

(2) Population management, such as monitoring health conditions of individuals to provide timely health care interventions or participation in a QCDR.

(3) Care coordination, such as timely communication of test results, timely exchange of clinical information to patients or other clinicians, and use of remote monitoring or telehealth.

(4) Beneficiary engagement, such as the establishment of care plans for individuals with complex care needs, beneficiary self-management assessment and training, and using shared decision making mechanisms.

(5) Patient safety and practice assessment, such as through the use of clinical or surgical checklists and practice assessments related to maintaining certification.

(6) Participation in an APM.

(7) Achieving health equity, such as for MIPS eligible clinicians that achieve high quality for underserved populations, including persons with behavioral health conditions, racial and ethnic minorities, sexual and gender minorities, people with disabilities, people living in rural areas, and people in geographic HPSAs.

(8) Emergency preparedness and response, such as measuring MIPS eligible clinician participation in the Medical Reserve Corps, measuring registration in the Emergency System for Advance Registration of Volunteer Health Professionals, measuring relevant reserve and active duty uniformed services MIPS eligible clinician activities, and measuring MIPS eligible clinician volunteer participation in domestic or

42 CFR Ch. IV (10–1–24 Edition)

international humanitarian medical relief work.

(9) Integrated behavioral and mental health, such as measuring or evaluating such practices as: Co-location of behavioral health and primary care services; shared/integrated behavioral health and primary care records; cross training of MIPS eligible clinicians, and integrating behavioral health with primary care to address substance use disorders or other behavioral health conditions, as well as integrating mental health with primary care.

[81 FR 77537, Nov. 4, 2016, as amended at 83 FR 60079, Nov. 23, 2018]

§ 414.1360 Data submission criteria for the improvement activities performance category.

(a) For purposes of the transition year of MIPS and future years, MIPS eligible clinicians, subgroups, or groups must submit data on MIPS improvement activities in one of the following manners:

(1) *Via direct, login and upload, and login and attest.* For the applicable performance period, submit a yes response for each improvement activity that is performed for at least a continuous 90-day period during the applicable performance period.

(i) Submit a yes response for activities within the improvement activities inventory.

(ii) [Reserved]

(2) *Groups and virtual groups.* Beginning with the 2022 performance year, each improvement activity for which groups and virtual groups submit a yes response in accordance with paragraph (a)(1) of this section must be performed by at least 50 percent of the NPIs that are billing under the group's TIN or virtual group's TINs or that are part of the subgroup, as applicable; and the NPIs must perform the same activity during any continuous 90-day period within the same performance year.

(b) [Reserved]

[81 FR 77537, Nov. 4, 2016, as amended at 82 FR 53953, Nov. 16, 2017; 83 FR 60080, Nov. 23, 2018; 84 FR 63196, Nov. 15, 2019; 86 FR 65671, Nov. 19, 2021; 88 FR 79535, Nov. 16, 2023]

§ 414.1365 MIPS Value Pathways.

(a) *General.* (1) Beginning with the CY 2023 MIPS performance period/2025

MIPS payment year, CMS uses MVPs included in the MIPS final inventory of MVPs established by CMS through rulemaking to assess performance for the quality, cost, improvement activities, and Promoting Interoperability performance categories.

(2) [Reserved]

(b) *MVP/Subgroup registration.* (1) To report an MVP, an MVP Participant must register for the MVP, and if applicable, as a subgroup during a period that begins on April 1 and ends on November 30 of the applicable CY performance period or a later date specified by CMS. To report the CAHPS for MIPS survey associated with an MVP, a group, subgroup or APM Entity must complete their registration by June 30 of such performance period or a later date specified by CMS.

(2) At the time of registration, the MVP Participant must submit the following information, as applicable:

(i) Each MVP Participant must select an MVP, 1 population health measure included in the MVP, and any outcomes-based administrative claims measure on which the MVP Participant intends to be scored.

(ii) Each subgroup must submit a list of each TIN/NPI associated with the subgroup and a plain language name for the subgroup.

(iii) TINs must provide a description of each subgroup that is registered.

(c) *MVP reporting requirements*—(1) *Quality.* Except as provided in paragraph (c)(1)(i) of this section, an MVP Participant must select and report, if applicable, 4 quality measures, including 1 outcome measure (or, if an outcome measure is not available, 1 high priority measure), included in the MVP, excluding the population health measure required under paragraph (c)(4)(ii) of this section.

(i) Paragraph (c)(1) introductory text of this section does not apply to a small practice that reports on an MVP that includes fewer than 4 Medicare Part B claims measures, provided that the small practice reports each such measure that is applicable.

(ii) [Reserved]

(2) *Cost.* An MVP Participant is scored on the cost measures included in the MVP that they select and report.

(3) *Improvement activities.* An MVP Participant who reports an MVP, must report one of the following:

(i) Two medium-weighted improvement activities;

(ii) One high-weighted improvement activity;

(iii) Participation in a certified or recognized patient-centered medical home (PCMH) or comparable specialty practice, as described at §414.1380(b)(3)(ii).

(4) *Foundational layer*—(i) Promoting interoperability. An MVP Participant is required to meet the Promoting Interoperability performance category reporting requirements described at §414.1375(b).

(A) For the CY 2023 and 2024 performance periods/2025 and 2026 MIPS payment years, an MVP Participant that is a subgroup is required to submit its affiliated group's data for the Promoting Interoperability performance category.

(B) [Reserved]

(ii) *Population health measures.* Each MVP Participant is scored on 1 population health measure in accordance with paragraph (d)(1) of this section.

(d) *MVP scoring*—(1) *General.* An MVP Participant that is not an APM Entity is scored on measures and activities included in the MVP in accordance with paragraphs (d)(1) through (3) of this section. An MVP Participant that is an APM Entity is scored on measures and activities included in the MVP in accordance with §414.1317(b).

(2) *Performance standards.* Unless otherwise indicated in this paragraph (d), the performance standards described at §414.1380(a)(1)(i) through (iv) apply to the measures and activities included in the MVP.

(3) *Performance categories.* An MVP Participant is scored under MIPS in four performance categories.

(i) *Quality performance category.* Except as provided in paragraphs (d)(3)(i)(A)(1) and (d)(3)(i)(B) of this section, the quality performance category score for MVP Participants is calculated in accordance with §414.1380(b)(1) based on measures included in the MVP.

(A) *Population health measures.* Except as provided in paragraph

(d)(3)(i)(A)(I) of this section, each selected population health measure that does not have a benchmark or meet the case minimum requirement is excluded from the MVP participant's total measure achievement points and total available measure achievement points.

(I) A subgroup is scored on each selected population health measure based on its affiliated group score, if available. If the subgroup's affiliated group score is not available, each such measure is excluded from the subgroup's total measure achievement points and total available measure achievement points.

(2) [Reserved]

(B) *Outcomes-based administrative claims measures.* MVP Participants receive zero measure achievement points for each selected outcomes-based administrative claims measure that does not have a benchmark or meet the case minimum requirement.

(I) A subgroup is scored on each selected outcomes-based administrative claims measure based on its affiliated group score, if available. If the subgroup's affiliated group score is not available, each such measure will receive zero measure achievement points.

(2) [Reserved]

(ii) *Cost performance category.* The cost performance category score is calculated for an MVP Participant using the methodology at § 414.1380(b)(2)(i) through (v) and the cost measures included in the MVP that they select and report.

(A) A subgroup is scored on each cost measure included in the MVP that it selects and reports based on its affiliated group score for each such measure, if available. If the subgroup's affiliated group score is not available for a measure, the measure is excluded from the subgroup's total measure achievement points and total available measure achievement points, as described under § 414.1380(b)(2)(i) through (v).

(B) [Reserved]

(iii) *Improvement activities performance category.* The improvement activities performance category score is calculated based on the submission of high- and medium-weighted improvement activities. MVP Participants will receive 20 points for each medium-

weighted improvement activity and 40 points for each high-weighted improvement activity required under § 414.1360 on which data is submitted in accordance with § 414.1325 or for participation in a certified or recognized patient-centered medical home (PCMH) or comparable specialty practice, as described at § 414.1380(b)(3)(ii).

(iv) *Promoting interoperability performance category.* The Promoting Interoperability performance category score is calculated for an MVP Participant using the methodology at § 414.1380(b)(4), except as provided in paragraph (d)(3)(iv)(A) of this section.

(A) If a subgroup does not submit its affiliated group's data for the Promoting Interoperability performance category, the subgroup will receive a score of zero for the Promoting Interoperability performance category.

(B) [Reserved]

(e) *Final score calculation.* The final score is calculated for an MVP Participant using the methodology at § 414.1380(c), unless otherwise indicated in this paragraph (e).

(1) *MVP performance category weights.* For an MVP Participant that is not an APM Entity, the final score is calculated using the performance category weights described at § 414.1380(c)(1). For an MVP Participant that is an APM Entity, the final score is calculated using the performance category weights described at § 414.1317(b).

(2) *Reweighting MVP performance categories—(i) General reweighting.* For an MVP Participant that is not an APM Entity, in accordance with paragraph (e)(2)(iii) of this section, a scoring weight different from the weights described at § 414.1380(c)(1) will be assigned to a performance category, and its weight as described at § 414.1380(c)(1) will be redistributed to another performance category or categories, in the circumstances described at § 414.1380(c)(2)(i)(A)(2) through (9) and § 414.1380(c)(2)(i)(C). For an MVP Participant that is an APM Entity, the performance category weights will be redistributed in accordance with § 414.1317(b).

(ii) *Subgroups.* For an MVP Participant that is a subgroup, any reweighting applied to its affiliated

group will also be applied to the subgroup. In addition, for the CY 2023 performance period/2025 MIPS payment year, if reweighting is not applied to the affiliated group, the subgroup may receive reweighting in the following circumstances independent of the affiliated group:

(A) A subgroup may submit an application to CMS demonstrating that it was subject to extreme and uncontrollable circumstances and receive reweighting in accordance with §414.1380(c)(2)(i)(A)(6) and (c)(2)(i)(C)(2). In the event that a subgroup submits data for a performance category, the scoring weight described at §414.1380(c)(1) would be applied and its weight would not be redistributed.

(B) A subgroup will receive reweighting if CMS determines, based on information known to the agency prior to the beginning of the relevant MIPS payment year, that data for the subgroup are inaccurate, unusable or otherwise compromised due to circumstances outside of the control of the subgroup and its agents, in accordance with §414.1380(c)(2)(i)(A)(9) and (c)(2)(i)(C)(10).

(iii) *Reweighting scenarios.* For an MVP Participant that is not an APM Entity, a scoring weight different from the weights described at §414.1380(c)(1) will be assigned to a performance category, and its weight as described at §414.1380(c)(1) will be redistributed to another performance category or categories, in accordance with §414.1380(c)(2)(ii). For an MVP Participant that is an APM Entity, the performance category weights will be redistributed in accordance with §414.1317(b).

(3) *Facility-based scoring.* If an MVP Participant, that is not an APM Entity or a subgroup, is eligible for facility-based scoring, a facility-based score also will be calculated in accordance with §414.1380(e).

(4) *Complex patient bonus.* A complex patient bonus will be added to the final score for an MVP Participant in accordance with §414.1380(c)(3).

(i) For subgroups, the affiliated group's complex patient bonus will be added to the final score.

(ii) [Reserved]

[86 FR 65671, Nov. 19, 2021, as amended at 87 FR 70227, Nov. 18, 2022; 88 FR 79535, Nov. 16, 2023]

§414.1367 APM performance pathway.

(a) *General.* Beginning with the 2023 MIPS payment year, the APM Performance Pathway is a MIPS scoring methodology available to MIPS eligible clinicians identified on the Participation List or Affiliated Practitioner List of an APM Entity participating in a MIPS APM.

(b) *Criteria for MIPS APMs.* MIPS APMs are those in which:

(1) APM Entities participate in the APM under an agreement with CMS or through a law or regulation; and

(2) The APM bases payment on quality measures and cost/utilization.

(c) *MIPS performance category scoring in the APM Performance Pathway—*(1) *Quality.* Except as provided in paragraphs (c)(1)(i) and (ii) of this section, the quality performance category score is calculated for a MIPS eligible clinician, group, or APM Entity group in accordance with §414.1380(b)(1) based on the APM Performance Pathway quality measure set established by CMS through rulemaking for a MIPS payment year.

(i) Each submitted measure that does not have a benchmark or meet the case minimum requirement is excluded from the MIPS eligible clinician, group, or APM Entity group's total measure achievement points and total available measure achievement points.

(ii) Any measure that is identified as topped out is not subject to the scoring cap described at §414.1380(b)(1)(iv).

(2) *Cost.* The cost performance category weight is zero percent for MIPS eligible clinicians who are scored through the APM Performance Pathway.

(3) *Improvement activities.* The improvement activities performance category score is calculated for a MIPS eligible clinician, group, or APM Entity group in accordance with §414.1380(b)(3) based on the activities required by the MIPS APM that are included in the MIPS final inventory of improvement activities described in §414.1355(a) (excluding any such activities that the MIPS eligible clinician, group, or APM