

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

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Entity group does not perform). MIPS eligible clinicians, groups, or APM Entities may report additional improvement activities in accordance with § 414.1360.

(4) *Promoting interoperability.* The promoting interoperability performance category will be scored for the MIPS eligible clinician, group, or APM Entity as described in § 414.1375.

(d) *APM Performance Pathway performance category weights—*(1) *Performance category weights.* Subject to paragraph (d)(2) of this section, the performance category weights used to calculate the final score for a MIPS eligible clinician, group, or APM Entity reporting through the APM performance Pathway are:

- (i) Quality: 50 percent.
- (ii) Cost: 0 percent.
- (iii) Improvement Activities: 20 percent.
- (iv) Promoting Interoperability: 30 percent.

(2) *Reweightings MIPS performance categories.* If CMS determines, in accordance with § 414.1380(c)(2), that a different scoring weight should be assigned to the quality or promoting interoperability performance category, CMS will redistribute the performance category weights as follows:

- (i) If CMS reweights the quality performance category to 0 percent; Promoting Interoperability performance category is reweighted to 75 percent, and Improvement Activities performance category is reweighted to 25 percent.
- (ii) If CMS reweights the Promoting Interoperability performance category to 0 percent; Quality performance category is reweighted to 75 percent, and Improvement Activities performance category is reweighted to 25 percent.

(e) *Final score.* The final score is calculated for a MIPS eligible clinician, group, or APM Entity in accordance with § 414.1380(c).

[85 FR 85031, Dec. 23, 2020]

#### § 414.1370 APM scoring standard under MIPS.

(a) *General.* For the 2019 through 2022 MIPS payment years, the APM scoring standard is the MIPS scoring methodology applicable for MIPS eligible clinicians identified on the Participation

List for the performance period 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;

(2) The APM is designed such that APM Entities participating in the APM include at least one MIPS eligible clinician on a Participation List;

(3) The APM bases payment on quality measures and cost/utilization; and

(4) The APM is not either of the following:

(i) *New APMs.* An APM for which the first performance year begins after the first day of the MIPS performance period for the year.

(ii) *APM in final year of operation for which the APM scoring standard is impracticable.* An APM in the final year of operation for which CMS determines, within 60 days after the beginning of the MIPS performance period for the year, that it is impracticable for APM Entity groups to report to MIPS using the APM scoring standard.

(c) *APM scoring standard performance period.* The MIPS performance period under § 414.1320 applies for the APM scoring standard.

(d) *APM participant identifier.* The APM participant identifier for an eligible clinician is the combination of four identifiers:

(1) APM identifier (established for the APM by CMS);

(2) APM Entity identifier (established for the APM Entity by CMS);

(3) Medicare-enrolled billing TIN; and

(4) Eligible clinician NPI.

(e) *APM Entity group determination.* For the APM scoring standard, the APM Entity group is determined in the manner prescribed in § 414.1425(b)(1).

(1) *Full TIN APM.* In addition to the dates set forth in § 414.1425(b)(1), the APM Entity group includes an eligible clinician who is on a Participation List in a Full TIN APM on December 31 of the MIPS performance period.

(2) For purposes of calculating the APM Entity group score under the APM scoring standard, MIPS scores submitted by virtual groups will not be included.