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ONC Health IT Certification Program if a request to assist in ONC-ACB surveillance is received; and

(2) If requested, cooperated in good faith with ONC-ACB surveillance of his or her health information technology certified under the ONC Health IT Certification Program as authorized by 45 CFR part 170, subpart E, to the extent that such technology meets (or can be used to meet) the definition of CEHRT, including by permitting timely access to such technology and demonstrating its capabilities as implemented and used by the MIPS eligible clinician in the field.

(ii) *Support for health information exchange and the prevention of information blocking.* For the 2019, 2020, 2021, 2022, and 2023 MIPS payment years, the MIPS eligible clinician must attest to CMS that he or she—

(A) Did not knowingly and willfully take action (such as to disable functionality) to limit or restrict the compatibility or interoperability of certified EHR technology.

(B) Implemented technologies, standards, policies, practices, and agreements reasonably calculated to ensure, to the greatest extent practicable and permitted by law, that the certified EHR technology was, at all relevant times—

(1) Connected in accordance with applicable law;

(2) Compliant with all standards applicable to the exchange of information, including the standards, implementation specifications, and certification criteria adopted at 45 CFR part 170;

(3) Implemented in a manner that allowed for timely access by patients to their electronic health information; and

(4) Implemented in a manner that allowed for the timely, secure, and trusted bi-directional exchange of structured electronic health information with other health care providers (as defined by 42 U.S.C. 300jj(3)), including unaffiliated providers, and with disparate certified EHR technology and health IT vendors.

(C) Responded in good faith and in a timely manner to requests to retrieve or exchange electronic health information, including from patients, health

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care providers (as defined by 42 U.S.C. 300jj(3)), and other persons, regardless of the requestor's affiliation or technology vendor.

(iii) *Actions to limit or restrict the compatibility or interoperability of CEHRT.* Beginning with the 2024 MIPS payment year, the MIPS eligible clinician must attest to CMS that he or she—

(A) Did not knowingly and willfully take action (such as to disable functionality) to limit or restrict the compatibility or interoperability of certified EHR technology.

(B) [Reserved]

[81 FR 77537, Nov. 4, 2016, as amended at 82 FR 53955, Nov. 16, 2017; 83 FR 60080, Nov. 23, 2018; 86 FR 65673, Nov. 19, 2021; 88 FR 79535, Nov. 16, 2023; 89 FR 54717, July 1, 2024]

§ 414.1380 Scoring.

(a) *General.* MIPS eligible clinicians are scored under MIPS based on their performance on measures and activities in four performance categories. MIPS eligible clinicians are scored against performance standards for each performance category and receive a final score, composed of their performance category scores, and calculated according to the final score methodology.

(1) *Performance standards.* (i) For the quality performance category, measures are scored between zero and 10 measure achievement points. Performance is measured against benchmarks. Prior to the CY 2023 performance period/2025 MIPS payment year, measure bonus points are available for submitting high-priority measures and submitting measures using end-to-end electronic reporting. Measure bonus points are available for small practices that submit data on at least 1 quality measure. Beginning with the 2020 MIPS payment year, improvement scoring is available in the quality performance category.

(ii) For the cost performance category, measures are scored between 1 and 10 points. Performance is measured against a benchmark. Beginning with the 2025 MIPS payment year, improvement scoring is available in the cost performance category.

(iii) For the improvement activities performance category, each improvement activity is assigned a certain

number of points. The points for all submitted activities are summed and scored against a total potential performance category score of 40 points.

(iv) For the Promoting Interoperability performance category, each measure is scored against a maximum number of points. The points for all submitted measures are summed and scored against a total potential performance category score of 100 points.

(2) [Reserved]

(b) *Performance categories.* MIPS eligible clinicians are scored under MIPS in four performance categories.

(1) *Quality performance category—(i) Measure achievement points.* For the CY 2017 through 2022 performance periods/2019 through 2024 MIPS payment years, MIPS eligible clinicians receive between 3 and 10 measure achievement points (including partial points) for each measure required under §414.1335 on which data is submitted in accordance with §414.1325 that has a benchmark at paragraph (b)(1)(ii) of this section, meets the case minimum requirement at paragraph (b)(1)(iii) of this section, and meets the data completeness requirement at §414.1340 and for each administrative claims-based measure that has a benchmark at paragraph (b)(1)(ii) of this section and meets the case minimum requirement at paragraph (b)(1)(iii) of this section. Except as provided under paragraph (b)(1)(i)(C) of this section, beginning with the CY 2023 performance period/2025 MIPS payment year, MIPS eligible clinicians receive between 1 and 10 measure achievement points (including partial points) for each such measure. The number of measure achievement points received for each such measure is determined based on the applicable benchmark decile category and the percentile distribution. MIPS eligible clinicians receive zero measure achievement points for each measure required under §414.1335 on which no data is submitted in accordance with §414.1325. MIPS eligible clinicians that submit data in accordance with §414.1325 on a greater number of measures than required under §414.1335 are scored only on the required measures with the greatest number of measure achievement points. Beginning with the CY 2019 performance period/2021

MIPS payment year, MIPS eligible clinicians that submit data in accordance with §414.1325 on a single measure via multiple collection types are scored only on the data submission with the greatest number of measure achievement points.

(A) *Lack of benchmark or case minimum.*

(1) Except as provided in paragraphs (b)(1)(i)(A)(2) and (3) of this section, for the CY 2017 through 2022 performance periods/2019 through 2024 MIPS payment years, MIPS eligible clinicians receive 3 measure achievement points for each submitted measure that meets the data completeness requirement, but does not have a benchmark or meet the case minimum requirement. Beginning with the CY 2023 performance period/2025 MIPS payment year, MIPS eligible clinicians other than small practices receive 0 measure achievement points for each such measure, and small practices receive 3 measure achievement points for each such measure.

(2) The following measures are excluded from a MIPS eligible clinician's total measure achievement points and total available measure achievement points:

(i) Each submitted CMS Web Interface-based measure that meets the data completeness requirement, but does not have a benchmark or meet the case minimum requirement, or is redesignated as pay-for-reporting for all Shared Savings Program accountable care organizations by the Shared Savings Program; and

(ii) Each administrative claims-based measure that does not have a benchmark or meet the case minimum requirement.

(3) Beginning with the CY 2022 performance period/2024 MIPS payment year, MIPS eligible clinicians receive 7 measure achievement points for each submitted measure in its first year in MIPS and 5 measure achievement points for each submitted measure in its second year in MIPS that meets the data completeness requirement, but does not have a benchmark or meet the case minimum requirement.

(B) *Lack of complete data.* (1) Except as provided in paragraph (b)(1)(i)(B)(2) of this section, for each submitted

measure that does not meet the data completeness requirement:

(i) For the 2019 MIPS payment year, MIPS eligible clinicians receive 3 measure achievement points;

(ii) For the 2020 and 2021 MIPS payment years, MIPS eligible clinicians other than small practices receive 1 measure achievement point, and small practices receive 3 measure achievement points;

(iii) Beginning with the 2022 MIPS payment year, MIPS eligible clinicians other than small practices receive zero measure achievement points, and small practices receive 3 measure achievement points.

(2) MIPS eligible clinicians receive zero measure achievement points for each submitted CMS Web Interface-based measure that does not meet the data completeness requirement.

(C) *New measures.* Beginning with the CY 2022 performance period/2024 MIPS payment year, for each measure required under § 414.1335 on which data is submitted in accordance with § 414.1325 that has a benchmark at paragraph (b)(1)(ii) of this section, meets the case minimum requirement at paragraph (b)(1)(iii) of this section, and meets the data completeness requirement at § 414.1340, a MIPS eligible clinician receives between 7 and 10 measure achievement points (including partial points) for each such measure in its first year in MIPS and between 5 and 10 measure achievement points for each such measure in its second year in MIPS.

(ii) *Benchmarks.* Except as provided in paragraphs (b)(1)(ii)(B) and (C) of this section, benchmarks will be based on performance by collection type, from all available sources, including MIPS eligible clinicians and APMs, to the extent feasible, during the applicable baseline or performance period.

(A) Each benchmark must have a minimum of 20 individual clinicians or groups who reported the measure meeting the case minimum requirement at paragraph (b)(1)(iii) of this section and the data completeness requirement at § 414.1340 and having a performance rate that is greater than zero.

(B) CMS Web Interface collection type uses benchmarks from the cor-

responding reporting year of the Shared Savings Program.

(C) Beginning with the 2022 MIPS payment year, for each measure that has a benchmark that CMS determines may have the potential to result in inappropriate treatment, CMS will set benchmarks using a flat percentage for all collection types where the top decile is higher than 90 percent under the methodology at paragraph (b)(1)(ii) of this section.

(D) Beginning with the CY 2023 performance period/2025 MIPS payment year, CMS will calculate a benchmark for an administrative claims quality measure using the performance on the measures during the current performance period.

(iii) *Minimum case requirements.* Except as otherwise specified in the MIPS final list of quality measures described in § 414.1330(a)(1), the minimum case requirement is 20 cases.

(iv) *Topped out measures.* CMS will identify topped out measures in the benchmarks published for each Quality Payment Program year.

(A) For the 2020 MIPS payment year, each topped out measure specified by CMS through rulemaking receives no more than 7 measure achievement points, provided that the benchmark for the applicable collection type is identified as topped out in the benchmarks published for the 2018 MIPS performance period.

(B) Beginning with the 2021 MIPS payment year, each measure (except for measures in the CMS Web Interface) for which the benchmark for the applicable collection type is identified as topped out for 2 or more consecutive years receives no more than 7 measure achievement points in the second consecutive year it is identified as topped out, and beyond.

(v) *Measure bonus points.* MIPS eligible clinicians receive measure bonus points for the following measures, except as otherwise required under § 414.1335, regardless of whether the measure is included in the MIPS eligible clinician's total measure achievement points.

(A) *High priority measures.* Subject to paragraph (b)(1)(v)(A)(I) of this section, for the CY 2017 through 2021 MIPS performance periods/2019 through 2023

MIPS payment years, MIPS eligible clinicians receive 2 measure bonus points for each outcome and patient experience measure and 1 measure bonus point for each other high priority measure. Beginning in the 2021 MIPS payment year, MIPS eligible clinicians do not receive such measure bonus points for CMS Web Interface measures. Beginning in the 2022 performance period/2024 MIPS payment year, MIPS eligible clinicians will no longer receive these measure bonus points.

(B) *End-to-end electronic reporting.* Subject to paragraph (b)(1)(v)(B)(I) of this section, for the CY 2017 through 2021 MIPS performance periods/2019 through 2023 MIPS payment years, MIPS eligible clinicians receive 1 measure bonus point for each measure (except claims-based measures) submitted with end-to-end electronic reporting for a quality measure under certain criteria determined by the Secretary.

(1) *Limitations.* (i) For the 2019 through 2023 MIPS payment years, the total measure bonus points for measures submitted with end-to-end electronic reporting cannot exceed 10 percent of the total available measure achievement points.

(ii) Beginning with the 2021 MIPS payment year, MIPS eligible clinicians that collect data in accordance with §414.1325 on a single measure via multiple collection types receive measure bonus points only once.

(iii) Beginning in the 2024 MIPS payment year, MIPS eligible clinicians will no longer receive measure bonus for submitting using end-to-end electronic reporting.

(C) *Small practices.* Beginning with the 2021 MIPS payment year, MIPS eligible clinicians in small practices receive 6 measure bonus points if they submit data to MIPS on at least 1 quality measure.

(vi) *Improvement scoring.* Improvement scoring is available to MIPS eligible clinicians that demonstrate improvement in performance in the current MIPS performance period compared to performance in the performance period immediately prior to the current MIPS performance period based on measure achievement points.

(A) Improvement scoring is available when the data sufficiency standard is met, which means when data are available and a MIPS eligible clinician has a quality performance category achievement percent score for the previous performance period and the current performance period.

(1) Data must be comparable to meet the requirement of data sufficiency which means that the quality performance category achievement percent score is available for the current performance period and the previous performance period and quality performance category achievement percent scores can be compared.

(2) Quality performance category achievement percent scores are comparable when submissions are received from the same identifier for two consecutive performance periods.

(3) If the identifier is not the same for 2 consecutive performance periods, then for individual submissions, the comparable quality performance category achievement percent score is the highest available quality performance category achievement percent score associated with the final score from the prior performance period that will be used for payment for the individual. For group, virtual group, and APM Entity submissions, the comparable quality performance category achievement percent score is the average of the quality performance category achievement percent score associated with the final score from the prior performance period that will be used for payment for each of the individuals in the group.

(4) Improvement scoring is not available for clinicians who were scored under facility-based measurement in the performance period immediately prior to the current MIPS performance period.

(B) The improvement percent score may not total more than 10 percentage points.

(C) The improvement percent score is assessed at the performance category level for the quality performance category and included in the calculation of the quality performance category score as described in paragraph (b)(1)(vii) of this section.

(1) The improvement percent score is awarded based on the rate of increase

in the quality performance category achievement percent score of MIPS eligible clinicians from the previous performance period to the current performance period.

(2) An improvement percent score is calculated by dividing the increase in the quality performance category achievement percent score from the prior performance period to the current performance period by the prior performance period quality performance category achievement percent score multiplied by 10 percent.

(3) An improvement percent score cannot be lower than zero percentage points.

(4) Beginning with the CY 2018 performance period/2020 MIPS payment year, we will assume a quality performance category achievement percent score of 30 percent if a MIPS eligible clinician earned a quality performance category score less than or equal to 30 percent in the previous year.

(5) The improvement percent score is zero if the MIPS eligible clinician did not fully participate in the quality performance category for the current performance period.

(D) For the purpose of improvement scoring methodology, the term “quality performance category achievement percent score” means the total measure achievement points divided by the total available measure achievement points, without consideration of measure bonus points or improvement percent score.

(E) For the purpose of improvement scoring methodology, the term “improvement percent score” means the score that represents improvement for the purposes of calculating the quality performance category score as described in paragraph (b)(1)(vii) of this section.

(F) For the purpose of improvement scoring methodology, the term “fully participate” means the MIPS eligible clinician met all requirements in §§ 414.1335 and 414.1340.

(vii) *Quality performance category score.* A MIPS eligible clinician’s quality performance category score is the sum of all the measure achievement points assigned for the measures required for the quality performance category criteria plus the measure bonus

points in paragraph (b)(1)(v) of this section. The sum is divided by the sum of total available measure achievement points. The improvement percent score in paragraph (b)(1)(vi) of this section is added to that result. The quality performance category score cannot exceed 100 percentage points.

(A) For each measure that is submitted, if applicable, and impacted by significant changes or errors prior to the applicable data submission deadline at § 414.1325(e), performance is based on data for 9 consecutive months of the applicable CY performance period. If such data are not available or CMS determines that they may result in patient harm or misleading results, the measure is excluded from a MIPS eligible clinician’s total measure achievement points and total available measure achievement points. For purposes of this paragraph (b)(1)(vii)(A), “significant changes or errors” means changes to or errors in a measure that are outside the control of the clinician and its agents and that CMS determines may result in patient harm or misleading results. Significant changes or errors include, but are not limited to, changes to codes (such as ICD–10, CPT, or HCPCS codes) or the active status of codes, the inadvertent omission of codes or inclusion of inactive or inaccurate codes, or changes to clinical guidelines or measure specifications. CMS will publish on the CMS website a list of all measures scored under this paragraph (b)(1)(vii)(A) as soon as technically feasible, but by no later than the data submission deadline at § 414.1325(e)(1).

(B) Beginning with the 2021 MIPS payment year, for groups that submit 5 or fewer measures and register for the CAHPS for MIPS survey but do not meet the minimum beneficiary sampling requirements, the total available measure achievement points are reduced by 10 points.

(2) *Cost performance category.* For each cost measure attributed to a MIPS eligible clinician, the clinician receives one to ten achievement points based on the clinician’s performance on the measure during the performance period compared to the measure’s benchmark. Achievement points are awarded based on which benchmark decile range the

MIPS eligible clinician's performance on the measure is between. CMS assigns partial points based on the percentile distribution.

(i) Cost measure benchmarks are determined by CMS based on cost measure performance during the performance period. At least 20 MIPS eligible clinicians or groups must meet the minimum case volume specified under §414.1350(c) for a cost measure in order for a benchmark to be determined for the measure. If a benchmark is not determined for a cost measure, the measure will not be scored.

(ii) A MIPS eligible clinician must meet the minimum case volume specified under §414.1350(c) to be scored on a cost measure.

(iii) The cost performance category score is the sum of the following, not to exceed 100 percent:

(A) The total number of achievement points earned by the MIPS eligible clinician divided by the total number of available achievement points; and

(B) The cost improvement score, as determined under paragraph (b)(2)(iv) of this section.

(iv) The cost improvement score is determined for a MIPS eligible clinician that demonstrates improvement in performance in the current MIPS performance period compared to their performance in the immediately preceding MIPS performance period.

(A) The cost improvement score is determined at the category level for the cost performance category.

(B) The cost improvement score is calculated only when data sufficient to measure improvement are available. Sufficient data are available when a MIPS eligible clinician or group participates in MIPS using the same identifier in 2 consecutive performance periods and is scored on the cost performance category for 2 consecutive performance periods. If the cost improvement score cannot be calculated because sufficient data are not available, then the cost improvement score is zero.

(C) The cost improvement score is determined at the category-level by subtracting the cost performance category score from the previous performance period from the cost performance category score from the current perform-

ance period, then by dividing the difference by the cost performance category score from the previous performance period, and multiplying the result with the maximum available cost improvement score.

(D) The cost improvement score cannot be lower than zero percentage points.

(E) The maximum cost improvement score for the 2020, 2021, 2022, 2023, and 2024 MIPS payment year is zero percentage points. The maximum cost improvement score beginning with the 2025 MIPS payment year is 1 percentage point.

(v) A cost performance category score is not calculated if a MIPS eligible clinician or group is not attributed any cost measures for the performance period because the clinician or group has not met the minimum case volume specified by CMS for any of the cost measures or a benchmark has not been created for any of the cost measures that would otherwise be attributed to the clinician or group.

(A) Beginning with the 2024 MIPS payment year, if data used to calculate a score for a cost measure are impacted by significant changes during the performance period, such that calculating the cost measure score would lead to misleading or inaccurate results, then the affected cost measure is excluded from the MIPS eligible clinician's or group's cost performance category score. For purposes of this paragraph (b)(2)(v)(A), "significant changes" are changes external to the care provided, and that CMS determines may lead to misleading or inaccurate results. Significant changes include, but are not limited to, rapid or unprecedented changes to service utilization, and will be empirically assessed by CMS to determine the extent to which the changes impact the calculation of a cost measure score that reflects clinician performance.

(B) [Reserved]

(3) *Improvement activities performance category.* Subject to paragraphs (b)(3)(i) and (ii) of this section, the improvement activities performance category score equals the total points for all submitted improvement activities divided by 40 points, multiplied by 100

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percent. MIPS eligible clinicians (except for non-patient facing MIPS eligible clinicians, small practices, and practices located in rural areas and geographic HPSAs) receive 10 points for each medium-weighted improvement activity and 20 points for each high-weighted improvement activity required under § 414.1360 on which data is submitted in accordance with § 414.1325. Non-patient facing MIPS eligible clinicians, small practices, and practices located in rural areas and geographic HPSAs 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.

(i) For MIPS eligible clinicians participating in APMs, the improvement activities performance category score is at least 50 percent. MIPS eligible clinicians participating in APMs must attest to having completed an improvement activity or submit data for the quality and Promoting Interoperability performance categories in order to receive such credit.

(ii) For MIPS eligible clinicians in a practice that is certified or recognized as a patient-centered medical home or comparable specialty practice, as determined by the Secretary, the improvement activities performance category score is 100 percent. For the 2019 MIPS payment year, at least one practice site within a group's TIN must be certified or recognized as a patient-centered medical home or comparable specialty practice. For the 2020 MIPS payment year and future years, at least 50 percent of the practice sites within a group's TIN must be recognized as a patient-centered medical home or comparable specialty practice. MIPS eligible clinicians that wish to claim this status for purposes of receiving full credit in the improvement activities performance category must attest to their status as a patient-centered medical home or comparable specialty practice in order to receive this credit. A practice is certified or recognized as a patient-centered medical home if it meets any of the following criteria:

(A) The practice has received accreditation from an accreditation organization that is nationally recognized.

(B) The practice is participating in a Medicaid Medical Home Model or Medical Home Model.

(C) The practice is a comparable specialty practice that has received recognition through a specialty recognition program offered through a nationally recognized accreditation organization; or

(D) The practice has received accreditation from other certifying bodies that have certified a large number of medical organizations and meet national guidelines, as determined by the Secretary. The Secretary must determine that these certifying bodies must have 500 or more certified member practices, and require practices to include the following:

(1) Have a personal physician/clinician in a team-based practice.

(2) Have a whole-person orientation.

(3) Provide coordination or integrated care.

(4) Focus on quality and safety.

(5) Provide enhanced access.

(4) *Promoting Interoperability performance category.* (i) For the 2019 and 2020 MIPS payment years, a MIPS eligible clinician's Promoting Interoperability performance category score equals the sum of the base score, performance score, and any applicable bonus scores, not to exceed 100 percentage points. A MIPS eligible clinician cannot earn a performance score or bonus score unless they have earned a base score.

(A) A MIPS eligible clinician earns a base score by reporting for each base score measure, as applicable: The numerator (of at least one) and denominator, or a yes/no statement, or an exclusion.

(B) A MIPS eligible clinician earns a performance score by reporting on the performance score measures specified by CMS. A MIPS eligible clinician may earn up to 10 or 20 percentage points as specified by CMS for each performance score measure reported.

(C) A MIPS eligible clinician may earn the following bonus scores:

(1) A bonus score of 5 percentage points for reporting to one or more additional public health agencies or clinical data registries.

(2) A bonus score of 10 percentage points for attesting to completing one or more improvement activities specified by CMS using CEHRT.

(3) For the 2020 MIPS payment year, a bonus score of 10 percentage points for submitting data for the measures for the base score and the performance score generated solely from CEHRT as defined in §414.1305 for 2019 and subsequent years.

(ii) Beginning with the 2019 performance period/2021 MIPS payment year, a MIPS eligible clinician's Promoting Interoperability performance category score equals the sum of the scores for each of the required measures and any applicable bonus scores, not to exceed 100 points.

(A) A MIPS eligible clinician earns a score for each measure by reporting, as applicable: the numerator (of at least one) and denominator, or a yes/no statement. If an exclusion is reported for a measure, the points available for that measure are redistributed to another measure(s).

(B) For the 2019 performance period/2021 MIPS payment year through the

2022 performance period/2024 MIPS payment year, each required measure is worth 10, 20, or 40 points, as specified by CMS. For the 2023 performance period/2025 MIPS payment year and subsequent years, each required measure is worth 10, 15, 25 or 30 points, as specified by CMS.

(C) For the 2019 performance period/2021 MIPS payment year through the 2022 performance period/2024 MIPS payment year, each optional measure is worth five or ten bonus points, as specified by CMS. For the 2023 performance period/2025 MIPS payment year and subsequent years, each optional measure is worth five bonus points, as specified by CMS.

(c) *Final score calculation.* Each MIPS eligible clinician receives a final score of 0 to 100 points for a performance period for a MIPS payment year calculated as follows. If a MIPS eligible clinician is scored on fewer than 2 performance categories, he or she receives a final score equal to the performance threshold.

TABLE 1 TO PARAGRAPH (c) INTRODUCTORY TEXT

For the 2019 MIPS payment year:

Final score = [(quality performance category score × quality performance category weight) + (cost performance category score × cost performance category weight) + (improvement activities performance category score × improvement activities performance category weight) + (Promoting Interoperability performance category score × Promoting Interoperability performance category weight)], not to exceed 100 points.

For the 2020 MIPS payment year:

Final score = [(quality performance category score × quality performance category weight) + (cost performance category score × cost performance category weight) + (improvement activities performance category score × improvement activities performance category weight) + (Promoting Interoperability performance category score × Promoting Interoperability performance category weight)] × 100 + [the complex patient bonus + the small practice bonus], not to exceed 100 points.

Beginning with the 2021 MIPS payment year:

Final score = [(quality performance category score × quality performance category weight) + (cost performance category score × cost performance category weight) + (improvement activities performance category score × improvement activities performance category weight) + (Promoting Interoperability performance category score × Promoting Interoperability performance category weight)] × 100 + the complex patient bonus, not to exceed 100 points.

(1) *Performance category weights.* The weights of the performance categories in the final score are as follows, unless

a different scoring weight is assigned under paragraph (c)(2) of this section:

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(i) Quality performance category weight is defined under § 414.1330(b).

(ii) Cost performance category weight is defined under § 414.1350(d).

(iii) Improvement activities performance category weight is defined under § 414.1355(b).

(iv) Promoting Interoperability performance category weight is defined under § 414.1375(a).

(2) *Reweighting the performance categories.* (i) In accordance with paragraph (c)(2)(ii) of this section, a scoring weight different from the weights specified in paragraph (c)(1) of this section will be assigned to a performance category, and its weight as specified in paragraph (c)(1) of this section will be redistributed to another performance category or categories, in the following circumstances:

(A) CMS determines based on the following circumstances that there are not sufficient measures and activities applicable and available under section 1848(q)(5)(F) of the Act.

(1) For the quality performance category, CMS cannot calculate a score for the MIPS eligible clinician because there is not at least one quality measure applicable and available to the clinician.

(2) For the cost performance category, CMS cannot reliably calculate a score for the cost measures that adequately captures and reflects the performance of the MIPS eligible clinician.

(3) Beginning with the 2021 MIPS payment year, for the quality, cost, improvement activities, and Promoting Interoperability performance categories, the MIPS eligible clinician joins an existing practice during the final 3 months of the performance period year that is not participating in MIPS as a group or joins a practice that is newly formed during the final 3 months of the performance period year.

(4) *For the Promoting Interoperability performance category:*

(i) For the 2021 through 2025 MIPS payment years, the MIPS eligible clinician is a physical therapist, occupational therapist, clinical psychologist, qualified audiologist, qualified speech-language pathologist, or a registered dietitian or nutrition professional. In the event that a MIPS eligible clinician

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submits data for the Promoting Interoperability performance category, the scoring weight specified in paragraph (c)(1) of this section will be applied and its weight will not be redistributed.

(ii) For the 2019 through 2024 MIPS payment years, the MIPS eligible clinician is a nurse practitioner, physician assistant, clinical nurse specialist, or certified registered nurse anesthetist. In the event that a MIPS eligible clinician submits data for the Promoting Interoperability performance category, the scoring weight specified in paragraph (c)(1) of this section will be applied and its weight will not be redistributed.

(iii) For the 2024 through 2026 MIPS payment years, the MIPS eligible clinician is a clinical social worker. In the event that a MIPS eligible clinician submits data for the Promoting Interoperability performance category, the scoring weight specified in paragraph (c)(1) of this section will be applied and its weight will not be distributed.

(5) [Reserved]

(6) Beginning with the 2020 MIPS payment year, for the quality, cost, and improvement activities performance categories, the MIPS eligible clinician demonstrates through an application submitted to CMS that they were subject to extreme and uncontrollable circumstances that prevented the clinician from collecting information that the clinician would submit for a performance category or submitting information that would be used to score a performance category for an extended period of time. Beginning with the 2021 MIPS payment year, in the event that a MIPS eligible clinician submits data for the quality, cost, or improvement activities performance categories, the scoring weight specified in paragraph (c)(1) of this section will be applied and its weight will not be redistributed, unless an exception applies. Exception: for the 2021 MIPS payment year only, if a MIPS eligible clinician demonstrates through an application submitted to CMS that they have been adversely affected by the Public Health Emergency for the COVID-19 pandemic and also submits data for the quality, cost, or improvement activities performance

categories, the preceding sentence will not apply.

(7) For the 2019 MIPS payment year, for the quality and improvement activities performance categories, the MIPS eligible clinician was located in an area affected by extreme and uncontrollable circumstances as identified by CMS. In the event that a MIPS eligible clinician submits data for a performance category, the scoring weight specified in paragraph (c)(1) of this section will be applied and its weight will not be redistributed.

(8) Beginning with the 2020 MIPS payment year, for the quality, cost, and improvement activities performance categories, the MIPS eligible clinician was located in an area affected by extreme and uncontrollable circumstances as identified by CMS. In the event that a MIPS eligible clinician submits data for the quality or improvement activities performance categories, the scoring weight specified in paragraph (c)(1) of this section will be applied and its weight will not be redistributed.

(9) Beginning with the 2020 MIPS payment year, for the quality, cost, and improvement activities performance categories, CMS determines, based on information known to the agency prior to the beginning of the relevant MIPS payment year, that data for a MIPS eligible clinician are inaccurate, unusable or otherwise compromised due to circumstances outside of the control of the clinician and its agents.

(B) Under section 1848(q)(5)(E)(ii) of the Act, CMS estimates that the proportion of MIPS eligible clinicians who are physicians as defined in section 1861(r) of the Act and earn a Promoting Interoperability performance category score of at least 75 percent is 75 percent or greater. The estimation is based on data from the performance period that occurs four years before the MIPS payment year and does not include physicians for whom the Promoting Interoperability performance category is weighted at zero percent.

(C) Under section 1848(o)(2)(D) of the Act, a significant hardship exception or other type of exception is granted to a MIPS eligible clinician based on the following circumstances for the Pro-

moting Interoperability performance category. Except as provided in paragraphs (c)(2)(i)(C)(10) and (11) of this section, in the event that a MIPS eligible clinician submits data for the Promoting Interoperability performance category, the scoring weight specified in paragraph (c)(1) of this section will be applied and its weight will not be redistributed.

(1) The MIPS eligible clinician demonstrates through an application submitted to CMS that they lacked sufficient internet access during the performance period, and insurmountable barriers prevented the clinician from obtaining sufficient internet access.

(2) The MIPS eligible clinician demonstrates through an application submitted to CMS that they were subject to extreme and uncontrollable circumstances that caused their CEHRT to be unavailable.

(3) The MIPS eligible clinician was located in an area affected by extreme and uncontrollable circumstances as identified by CMS.

(4) The MIPS eligible clinician demonstrates through an application submitted to CMS that 50 percent or more of their outpatient encounters occurred in practice locations where they had no control over the availability of CEHRT.

(5) The MIPS eligible clinician is a non-patient facing MIPS eligible clinician as defined in §414.1305.

(6) The MIPS eligible clinician is a hospital-based MIPS eligible clinician as defined in §414.1305.

(7) The MIPS eligible clinician is an ASC-based MIPS eligible clinician as defined in §414.1305.

(8) Beginning with the 2020 MIPS payment year, the MIPS eligible clinician demonstrates through an application submitted to CMS that their CEHRT was decertified either during the performance period for the MIPS payment year or during the calendar year preceding the performance period for the MIPS payment year, and the MIPS eligible clinician made a good faith effort to adopt and implement another CEHRT in advance of the performance period. In no case may a MIPS eligible clinician be granted this exception for more than 5 years.

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(9) For the 2020 MIPS payment year through the 2023 MIPS payment year the MIPS eligible clinician demonstrates through an application submitted to CMS that they are in a small practice as defined in § 414.1305, and overwhelming barriers prevent them from complying with the requirements for the Promoting Interoperability performance category. Beginning with the 2024 MIPS payment year the MIPS eligible clinician is in a small practice as defined in § 414.1305.

(10) Beginning with the 2020 MIPS payment year, CMS determines, based on information known to the agency prior to the beginning of the relevant MIPS payment year, that data for a MIPS eligible clinician are inaccurate,

unusable or otherwise compromised due to circumstances outside of the control of the clinician and its agents.

(11) For the 2021 MIPS payment year only, the MIPS eligible clinician demonstrates through an application submitted to CMS that they have been adversely affected by the Public Health Emergency for the COVID-19 pandemic.

(ii) A scoring weight different from the weights specified in paragraph (c)(1) of this section will be assigned to a performance category, and its weight as specified in paragraph (c)(1) of this section will be redistributed to another performance category or categories, as follows:

(A) For the 2019 MIPS payment year:

TABLE 2 TO PARAGRAPH (c)(2)(ii)(A)

Performance category (%)	Weighting for the 2019 MIPS payment year (%)	Reweight scenario if no promoting interoperability performance category score (%)	Reweight scenario if no quality performance category score (%)	Reweight scenario if no improvement activities performance category score (%)
Quality	60	85	0	75
Cost	0	0	0	0
Improvement Activities ...	15	15	50	0
Promoting Interoperability	25	0	50	25

(B) For the 2020 MIPS payment year:

Reweighting scenario	Quality (%)	Cost (%)	Improvement activities (%)	Promoting interoperability (%)
No Reweighting Needed: —Scores for all four performance categories	50	10	15	25
Reweight One Performance Category: —No Cost	60	0	15	25
—No Promoting Interoperability	75	10	15	0
—No Quality	0	10	45	45
—No Improvement Activities	65	10	0	25
Reweight Two Performance Categories: —No Cost and no Promoting Interoperability	85	0	15	0
—No Cost and no Quality	0	0	50	50
—No Cost and no Improvement Activities	75	0	0	25
—No Promoting Interoperability and no Quality	0	10	90	0
—No Promoting Interoperability and no Improvement Activities	90	10	0	0
—No Quality and no Improvement Activities	0	10	0	90

(C) For the 2021 MIPS payment year:

Reweighting scenario	Quality (%)	Cost (%)	Improvement activities (%)	Promoting interoperability (%)
No Reweighting Needed: —Scores for all four performance categories	45	15	15	25

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Reweighting scenario	Quality (%)	Cost (%)	Improvement activities (%)	Promoting interoperability (%)
Reweight One Performance Category:				
—No Cost	60	0	15	25
—No Promoting Interoperability	70	15	15	0
—No Quality	0	15	40	45
—No Improvement Activities	60	15	0	25
Reweight Two Performance Categories:				
—No Cost and no Promoting Interoperability	85	0	15	0
—No Cost and no Quality	0	0	50	50
—No Cost and no Improvement Activities	75	0	0	25
—No Promoting Interoperability and no Quality	0	15	85	0
—No Promoting Interoperability and no Improvement Activities	85	15	0	0
—No Quality and no Improvement Activities	0	15	0	85

(D) For the 2022 MIPS payment year:

Reweighting scenario	Quality (%)	Cost (%)	Improvement activities (%)	Promoting interoperability (%)
No Reweighting Needed:				
Scores for all four performance categories	45	15	15	25
Reweight One Performance Category:				
No Cost	55	0	15	30
No Promoting Interoperability	70	15	15	0
No Quality	0	15	15	70
No Improvement Activities	60	15	0	25
Reweight Two Performance Categories:				
No Cost and no Promoting Interoperability	85	0	15	0
No Cost and no Quality	0	0	15	85
No Cost and no Improvement Activities	70	0	0	30
No Promoting Interoperability and no Quality	0	50	50	0
No Promoting Interoperability and no Improvement Activities	85	15	0	0
No Quality and no Improvement Activities	0	15	0	85

(E) For the 2023 MIPS payment year:

TABLE 6 TO PARAGRAPH (c)(2)(ii)(E)

Reweighting scenario	Quality (%)	Cost (%)	Improvement activities (%)	Promoting Interoperability (%)
No Reweighting Needed:				
Scores for all four performance categories	40	20	15	25
No Cost	55	0	15	30
No Promoting Interoperability	65	20	15	0
No Quality	0	20	15	65
No Improvement Activities	55	20	0	25
No Cost and no Promoting Interoperability	85	0	15	0
No Cost and no Quality	0	0	15	85
No Cost and no Improvement Activities	70	0	0	30
No Promoting Interoperability and no Quality	0	50	50	0
No Promoting Interoperability and no Improvement Activities	80	20	0	0
No Quality and no Improvement Activities	0	20	0	80

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(F) Except as provided in paragraph (c)(2)(ii)(G) of this section, beginning with the 2024 MIPS payment year:

TABLE 7 TO PARAGRAPH (c)(2)(ii)(F)

Rewighting scenario	Quality (%)	Cost (%)	Improvement activities (%)	Promoting interoperability (%)
No Reweighting Needed:				
Scores for all four performance categories	30	30	15	25
No Cost	55	0	15	30
No Promoting Interoperability	55	30	15	0
No Quality	0	30	15	55
No Improvement Activities	45	30	0	25
No Cost and no Promoting Interoperability	85	0	15	0
No Cost and no Quality	0	0	15	85
No Cost and no Improvement Activities	70	0	0	30
No Promoting Interoperability and no Quality	0	50	50	0
No Promoting Interoperability and no Improvement Activities	70	30	0	0
No Quality and no Improvement Activities	0	30	0	70

(G) For small practices beginning with the 2024 MIPS payment year:

TABLE 8 TO PARAGRAPH (c)(2)(ii)(G)

Rewighting scenario	Quality (%)	Cost (%)	Improvement activities (%)	Promoting interoperability (%)
No Reweighting Needed:				
Scores for all four performance categories	30	30	15	25
No Cost	55	0	15	30
No Promoting Interoperability	40	30	30	0
No Quality	0	30	15	55
No Improvement Activities	45	30	0	25
No Cost and no Promoting Interoperability	50	0	50	0
No Cost and no Quality	0	0	15	85
No Cost and no Improvement Activities	70	0	0	30
No Promoting Interoperability and no Quality	0	50	50	0
No Promoting Interoperability and no Improvement Activities	70	30	0	0
No Quality and no Improvement Activities	0	30	0	70

(iii) For the Promoting Interoperability performance category to be reweighted in accordance with paragraph (c)(2)(ii) of this section for a MIPS eligible clinician who elects to participate in MIPS as part of a group or virtual group, all of the MIPS eligible clinicians in the group or virtual group must qualify for reweighting based on the circumstances described in paragraph (c)(2)(i) of this section, or the group or virtual group must meet the definition of a hospital-based MIPS eligible clinician or a non-patient facing MIPS eligible clinician as defined in §414.1305.

(iv) If CMS has granted an application for a hardship exception or any other type of exception to a MIPS eligible clinician under paragraph (c)(2)(i)(A)(6) or (c)(2)(i)(C)(2) of this section, or has identified a MIPS eligi-

ble clinician in a CMS-designated region as being affected by an automatic extreme and uncontrollable circumstances event under paragraph (c)(2)(i)(A)(8) or (c)(2)(i)(C)(3) of this section, CMS will not apply the improvement activities score described in paragraph (b)(3)(i) of this section to the MIPS eligible clinician's score.

(3) *Complex patient bonus.* For the CY 2020, 2021, 2022, and 2023 MIPS payment years and associated performance periods, provided that a MIPS eligible clinician, group, virtual group or APM Entity submits data for at least one MIPS performance category for the applicable performance period for the MIPS payment year, a complex patient bonus will be added to the final score for the MIPS payment year, as stated in paragraphs (c)(3)(i) through (iv) of

this section. For the CY 2022 MIPS performance period/CY 2024 MIPS payment year, provided that a MIPS eligible clinician, group, subgroup, virtual group or APM Entity submits data for at least one MIPS performance category for the applicable performance period for the MIPS payment year, a complex patient bonus will be added to the final score for the MIPS payment year, if applicable, as described in paragraphs (c)(3)(v) through (viii) of this section. Beginning with the CY 2023 MIPS performance period/CY 2025 MIPS payment year, provided that a MIPS eligible clinician, group, subgroup, virtual group or APM Entity submits data for at least one MIPS performance category for the applicable performance period for the MIPS payment year, or is a facility-based MIPS eligible clinician, a complex patient bonus will be added to the final score for the MIPS payment year, if applicable, as described in paragraphs (c)(3)(v) through (viii) of this section.

(i) For the CY 2020, 2021, 2022, and 2023 MIPS payment years and associated performance periods, for MIPS eligible clinicians and groups, the complex patient bonus is calculated as follows: [The average HCC risk score assigned to beneficiaries (pursuant to the HCC risk adjustment model established by CMS pursuant to section 1853(a)(1) of the Act) seen by the MIPS eligible clinician or seen by clinicians in a group] + [the dual eligible ratio × 5].

(ii) For the CY 2020, 2021, 2022, and 2023 MIPS payment years and associated performance periods, for APM Entities and virtual groups, the complex patient bonus is calculated as follows: [The beneficiary weighted average HCC risk score for all MIPS eligible clinicians, and if technically feasible, TINs for models and virtual groups which rely on complete TIN participation within the APM Entity or virtual group, respectively] + [the average dual eligible ratio for all MIPS eligible clinicians, and if technically feasible, TINs for models and virtual groups which rely on complete TIN participation, within the APM Entity or virtual group, respectively, × 5].

(iii) For the 2020, 2021, 2022, and 2023 MIPS payment years and associated performance periods, the complex pa-

tient bonus cannot exceed 5.0 except as provided in paragraph (c)(3)(iv) of this section.

(iv) For the 2022 and 2023 MIPS payment years and associated performance periods, the complex patient bonus is calculated pursuant to paragraphs (c)(3)(i) and (ii) of this section, and the resulting numerical value is then multiplied by 2.0. The complex patient bonus cannot exceed 10.0.

(v) Beginning with the CY 2022 MIPS performance period/CY 2024 MIPS payment year, the complex patient bonus is limited to MIPS eligible clinicians, groups, APM Entities and virtual groups; with a risk indicator at or above the risk indicator calculated median. To determine the median for the respective risk indicator (HCC and dual proportion), risk indicators associated with the final score assigned to a clinician from the most recent prior performance period, for all those who have submitted data for at least one MIPS performance category or are facility-based, are used.

(vi) Beginning with the CY 2022 MIPS performance period/CY 2024 MIPS payment year, for MIPS eligible clinicians and groups, the complex patient bonus components are calculated as follows for the specific risk indicators: Medical complex patient bonus component = $1.5 + 4 * \text{associated HCC standardized score calculated with the average HCC risk score assigned to beneficiaries (pursuant to the HCC risk adjustment model established by CMS pursuant to section 1853(a)(1) of the Act) seen by the MIPS eligible clinician or seen by clinicians in a group or subgroup; social complex patient bonus component} = 1.5 + 4 * \text{associated dual proportion standardized score}$. The components are added together to calculate one overall complex patient bonus. A standardized score for each risk indicator is determined based on the mean and standard deviation of the raw risk indicator score and provides a standardized measurement of how far each risk score is from the mean: $(\text{raw risk indicator score} - \text{risk indicator mean}) / \text{risk indicator standard deviation}$.

(vii) Beginning with the CY 2022 MIPS performance period/CY 2024 MIPS payment year, for APM Entities and virtual groups, the complex patient

bonus components are calculated as follows for the specific risk indicators: Medical complex patient bonus component = $1.5 + 4 \times$ the beneficiary weighted average HCC risk standardized score for all MIPS eligible clinicians, and if technically feasible, TINs for models and virtual groups which rely on complete TIN participation within the APM Entity or virtual group, respectively; social complex patient bonus component = $1.5 + 4 \times$ the average dual proportion standardized score for all MIPS eligible clinicians, and if technically feasible, TINs for models and virtual groups which rely on complete TIN participation, within the APM Entity or virtual group, respectively. The components are added together to calculate one overall complex patient bonus. A standardized score for each risk indicator is determined based on the mean and standard deviation of the raw risk indicator score and provides a standardized measurement of how far each risk score is from the mean: (raw risk indicator score – risk indicator mean)/risk indicator standard deviation.

(viii) Beginning with the CY 2022 MIPS performance period/CY 2024 MIPS payment year, the complex patient bonus cannot exceed 10.0 and cannot be below 0.0.

(4) *Small practice bonus.* A small practice bonus of 5 points will be added to the final score for the 2020 MIPS payment year for MIPS eligible clinicians, groups, virtual groups, and APM Entities that meet the definition of a small practice as defined at §414.1305 and participate in MIPS by submitting data on at least one performance category in the 2018 MIPS performance period.

(d) *Scoring for APM Entities.* MIPS eligible clinicians in APM Entities that are subject to the APM scoring standard are scored using the methodology under §414.1370.

(e) *Scoring for facility-based measurement.* For the payment in 2021 MIPS payment year and subsequent years and subject to paragraph (e)(6)(vi) of this section, a MIPS eligible clinician or group will be scored under the quality and cost performance categories using the methodology described in this paragraph (e).

(1) *General.* The facility-based measurement scoring standard is the MIPS scoring methodology applicable for MIPS eligible clinicians identified as meeting the requirements in paragraph (e)(2) of this section.

(i) The measures used for facility-based measurement are the measure set finalized for the fiscal year value-based purchasing program for which payment begins during the applicable MIPS performance period.

(ii) Beginning with the 2021 MIPS payment year, the scoring methodology applicable for MIPS eligible clinicians scored with facility-based measurement is the Total Performance Score methodology adopted for the Hospital VBP Program, for the fiscal year for which payment begins during the applicable MIPS performance period.

(2) *Eligibility for facility-based measurement.* A MIPS eligible clinician is eligible for facility-based measurement for a MIPS payment year if CMS determines the MIPS eligible clinician to be facility-based as an individual clinician or as part of a group, or beginning with the 2023 performance period/2025 MIPS payment year, a virtual group, as follows:

(i) *Facility-based individual determination.* A MIPS eligible clinician is facility-based if the clinician meets all of the following criteria:

(A) Furnishes 75 percent or more of his or her covered professional services in sites of service identified by the place of service codes used in the HIPAA standard transaction as an inpatient hospital, on-campus outpatient hospital, or emergency room setting based on claims for a 12-month segment beginning on October 1 of the calendar year 2 years prior to the applicable performance period and ending on September 30 of the calendar year preceding the performance period with a 30-day claims run out.

(B) Furnishes at least 1 covered professional service in sites of service identified by the place of service codes used in the HIPAA standard transaction as an inpatient hospital, or emergency room setting.

(C) Can be assigned, under the methodology specified in paragraph (e)(5) of this section, to a facility with a value-

based purchasing score for the applicable period.

(ii) *Facility-based MIPS eligible group determination.* A facility-based MIPS eligible group is a group in which 75 percent or more of its eligible clinician NPIs billing under the group's TIN meet the requirements under paragraph (e)(2)(i) of this section.

(3) [Reserved]

(4) *Data submission for facility-based measurement.* There are no data submission requirements for a MIPS eligible individual clinician to be scored under facility-based measurement. A MIPS eligible group must submit data in the improvement activities or Promoting Interoperability performance categories in order to be scored as a facility-based MIPS eligible group.

(5) *Determination of applicable facility score.*

(i) A facility-based MIPS eligible clinician is scored with facility-based measurement using the score derived from the value-based purchasing score for the facility at which the clinician provided services to the most Medicare beneficiaries during the period the claims are drawn from in paragraph (e)(2) of this section. If there is an equal number of Medicare beneficiaries treated at more than one facility, the value-based purchasing score for the highest scoring facility is used.

(ii) A facility-based MIPS eligible group is scored with facility-based measurement using the score derived from the value-based purchasing score for the facility at which the plurality of clinicians identified as facility-based would have had their score determined under paragraph (e)(5)(i) of this section.

(6) *MIPS performance category scoring under the facility-based measurement scoring standard—(i) Measures.* The quality and cost measures are those adopted under the value-based purchasing program of the facility for the year described in paragraph (e)(1)(i) of this section.

(ii) *Benchmarks.* The benchmarks are those adopted under the value-based purchasing program of the facility for the year described in paragraph (e)(1) of this section.

(iii) *Performance period.* The performance period for facility-based measure-

ment is the performance period for the measures adopted under the value-based purchasing program of the facility program for the year described in paragraph (e)(1) of this section.

(iv) *Quality.* The quality performance category score is established by determining the percentile performance of the facility in the value-based purchasing program for the specified year as described in paragraph (e)(1) of this section and awarding a score associated with that same percentile performance in the MIPS quality performance category score for those MIPS-eligible clinicians who are not eligible to be scored using facility-based measurement for the MIPS payment year. A MIPS eligible clinician or group receiving a facility-based performance score will not earn improvement points based on prior performance in the MIPS quality performance category.

(v) *Cost.* The cost performance category score is established by determining the percentile performance of the facility in the value-based purchasing program for the specified year as described in paragraph (e)(1) of this section and awarding a score associated with that same percentile performance in the MIPS cost performance category score for those MIPS eligible clinicians who are not eligible to be scored using facility-based measurement for the MIPS payment year. A MIPS eligible clinician or MIPS eligible group receiving a facility-based performance score will not earn improvement points based on prior performance in the MIPS cost performance category.

(A) Other cost measures. MIPS eligible clinicians who are scored under facility-based measurement are not scored on cost measures described in paragraph (b)(2) of this section.

(B) [Reserved]

(vi) *Use of score from facility-based measurement.* The MIPS quality and cost performance category scores will be based on the facility-based measurement scoring methodology described in paragraph (e)(6) of this section unless:

(A) For the CY 2019 MIPS performance period/2021 MIPS payment year, through the CY 2021 MIPS performance period/2023 MIPS payment year, a