

specifications that contain the appropriate QDCs with the number of Medicare claims that meet measure specifications, but do not have the appropriate QDCs on the submitted Medicare claim. The minimum threshold for successful reporting is that at least 50 percent of Medicare claims meeting measure specifications contain the appropriate QDCs. ASCs that meet this minimum threshold are regarded as having provided complete data for the claims-based measures using QDCs for the ASCQR Program.

(b) *Requirements for claims-based measures not using QDCs.* The data collection period for claims-based quality measures not using QDCs is paid Medicare fee-for-service claims from the calendar year 2 years prior to the payment determination year. Only claims for services furnished in each calendar year paid by the MAC by April 30 of the following year of the ending data collection period will be included in the data used for the payment determination.

(c) *Requirements for data submitted via an online data submission tool—(1) Requirements for data submitted via a CMS online data submission tool—(i) CMS-designated information system account for web-based measures.* ASCs, and any agents submitting data on an ASC's behalf, must maintain an account for the CMS-designated information system in order to submit quality measure data to the CMS-designated information system for all web-based measures submitted via a CMS online data submission tool. A security official is necessary to set up such an account for the CMS-designated information system for the purpose of submitting this information.

(ii) *Data collection requirements.* The data collection period for quality measures for which data are submitted via a CMS online data submission tool is for services furnished during the calendar year 2 years prior to the payment determination year. Beginning with the CY 2017 payment determination year, data collected must be submitted during the period of January 1 to May 15 in the year prior to the payment determination year.

(iii) *Review and corrections period.* For measures submitted to CMS via a CMS

online tool, ASCs have a review and corrections period, which runs concurrently with the data submission period. During this timeframe, ASCs can enter, review, and correct data submitted. After the submission deadline, this data cannot be changed.

(2) *Requirements for data submitted via a non-CMS online data submission tool.* The data collection period for ASC-8: Influenza Vaccination Coverage Among Healthcare Personnel is from October 1 of the year 2 years prior to the payment determination year to March 31 during the year prior to the payment determination year. Data collected must be submitted by May 15 in the year prior to the payment determination year.

(d) *Extraordinary circumstances exceptions.* CMS may grant an exception with respect to quality data reporting requirements in the event of extraordinary circumstances beyond the control of the hospital, such as when an act of nature affects an entire region or if CMS determines that a systemic problem with one of its data collection systems directly affected the ability of the hospitals to submit data. CMS may grant an exception as follows:

(1) *Upon request of the ASC.* Specific requirements for submission of a request for an exception are available on the CMS website.

(2) *At the discretion of CMS.* CMS may grant exceptions to ASCs that have not requested them when CMS determines that an extraordinary circumstance has occurred.

(e) *Requirements for Outpatient and Ambulatory Surgery Consumer Assessment of Healthcare Providers and Systems (OAS CAHPS) Survey.* OAS CAHPS is the Outpatient and Ambulatory Surgical Center Consumer Assessment of Healthcare Providers and Systems survey that measures patient experience of care after a recent surgery or procedure at either a hospital outpatient department or an ambulatory surgical center. Ambulatory surgical centers must use an approved OAS CAHPS survey vendor to administer and submit OAS CAHPS data to CMS.

(1) [Reserved]

(2) CMS approves an application for an entity to administer the OAS CAHPS survey as a vendor on behalf of

one or more ambulatory surgical centers when the applicant has met the Minimum Survey Requirements and Rules of Participation that can be found on the official OAS CAHPS Web site, and agrees to comply with the current survey administration protocols that can be found on the official OAS CAHPS Web site. An entity must be an approved OAS CAHPS Survey vendor in order to administer the OAS CAHPS Survey and submit data to CMS on behalf of one or more ambulatory surgical centers.

(f) *Data submission deadlines.* All deadlines occurring on a Saturday, Sunday, or legal holiday, or on any other day all or part of which is declared to be a nonwork day for Federal employees by statute or Executive order are extended to the first day thereafter which is not a Saturday, Sunday, or legal holiday or any other day all or part of which is declared to be a nonwork day for Federal employees by statute or Executive order.

[80 FR 70604, Nov. 13, 2015, as amended at 81 FR 79879, Nov. 14, 2016; 82 FR 52636, Nov. 13, 2017; 82 FR 59496, Dec. 14, 2017; 85 FR 86302, Dec. 29, 2020; 88 FR 82179, Nov. 22, 2023]

§ 416.315 Public reporting of data under the ASCQR Program.

Data that an ASC submitted for the ASCQR Program will be made publicly available on a CMS Web site after providing the ASC an opportunity to review the data to be made public. CMS will publicly display ASC data by the National Provider Identifier (NPI) when data are submitted by the NPI. CMS will publicly display ASC data by the CMS Certification Number (CCN) when data are submitted by the CCNs.

§ 416.320 Retention and removal of quality measures under the ASCQR Program.

(a) *General rule for the retention of quality measures.* Quality measures adopted for an ASCQR Program measure set for a previous payment determination year are retained in the ASCQR Program for measure sets for subsequent payment determination years, except when they are removed, suspended, or replaced as set forth in paragraphs (b) and (c) of this section.

(b) *Immediate measure removal.* In cases where CMS believes that the continued use of a measure as specified raises patient safety concerns, CMS will immediately remove a quality measure from the ASCQR Program and will promptly notify ASCs and the public of the removal of the measure and the reasons for its removal through the ASCQR Program ListServ and the ASCQR Program CMS website. CMS will confirm the removal of the measure for patient safety concerns in the next ASCQR Program rulemaking.

(c) *Removal of quality measures—(1) General rule for the removal of quality measures.* Unless a measure raises specific safety concerns as set forth in paragraph (b) of this section, CMS will use the regular rulemaking process to remove, suspend, or replace quality measures in the ASCQR Program to allow for public comment.

(2) *Factors for consideration of removal of quality measures.* CMS will weigh whether to remove measures based on the following factors:

(i) *Factor 1.* Measure performance among ASCs is so high and unvarying that meaningful distinctions and improvements in performance can no longer be made (topped-out measures);

(ii) *Factor 2.* Performance or improvement on a measure does not result in better patient outcomes;

(iii) *Factor 3.* A measure does not align with current clinical guidelines or practice;

(iv) *Factor 4.* The availability of a more broadly applicable (across settings, populations, or conditions) measure for the topic;

(v) *Factor 5.* The availability of a measure that is more proximal in time to desired patient outcomes for the particular topic;

(vi) *Factor 6.* The availability of a measure that is more strongly associated with desired patient outcomes for the particular topic;

(vii) *Factor 7.* Collection or public reporting of a measure leads to negative unintended consequences other than patient harm; and

(viii) *Factor 8.* The costs associated with a measure outweigh the benefit of its continued use in the program.

(3) *Criteria to determine topped-out measures.* For the purposes of the