

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

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

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

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

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

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

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

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

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

(ii) *Criteria to determine topped-out measures.* For the purposes of the REHQR Program, a measure is considered to be topped-out under paragraph (e)(3)(i)(A) of this section when it meets both of the following criteria:

(A) Statistically indistinguishable performance at the 75th and 90th percentiles (defined as when the difference between the 75th and 90th percentiles for an REH’s measure is within two times the standard error of the full data set); and

(B) A truncated coefficient of variation less than or equal to 0.10.

(iii) *Application of measure removal factors.* The benefits of removing a measure from the REHQR Program will be assessed on a case-by-case basis. Under this case-by-case approach, a measure will not be removed solely on the basis of meeting any specific factor.

(f) *Public reporting of data under the REHQR Program.* Data that an REH submits for the REHQR Program will be made publicly available on a CMS website in an easily understandable format after providing the REH an opportunity to review the data to be made public. CMS will publicly display REH data by the CCN when data are submitted under the CCNs.

(g) *Exception.* CMS may grant an exception to one or more data submission deadlines and 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 locale or a systemic problem with one of CMS’ data collection systems directly or indirectly affects data submission. CMS may grant an exception as follows:

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

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

[88 FR 82181, Nov. 22, 2023]

## PART 420—PROGRAM INTEGRITY: MEDICARE

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## Centers for Medicare & Medicaid Services, HHS

## § 420.201

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420.410 Establishment of a program to collect suggestions for improving Medicare program efficiency and to reward suggesters for monetary savings.

**AUTHORITY:** Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

**SOURCE:** 44 FR 31142, May 30, 1979, unless otherwise noted.

### Subpart A—General Provisions

#### § 420.1 Scope and purpose.

This part sets forth requirements for Medicare providers, intermediaries, and carriers to disclose ownership and control information. It also deals with access to records pertaining to certain contracts entered into by Medicare providers. These rules are aimed at protecting the integrity of the Medicare program. The statutory basis for these requirements is explained in each of the other subparts.

[51 FR 34787, Sept. 30, 1986]

#### § 420.3 Other related regulations.

(a) *Appeals procedures.* Part 498 of this chapter sets forth the appeals procedures available to providers whose provider agreements CMS terminates for failure to comply with the disclosure of information requirements set forth in subpart C of this part.

(b) *Exclusion, termination, or suspension.* Part 1001 of this title sets forth the rules applicable to exclusion, termination, or suspension from the Medicare program because of fraud or abuse

or conviction of program-related crimes.

[51 FR 34787, Sept. 30, 1986, as amended at 52 FR 22454, June 12, 1987]

### Subpart B [Reserved]

### Subpart C—Disclosure of Ownership and Control Information

#### § 420.200 Purpose.

This subpart implements sections 1124, 1124A, 1126, and 1861(v)(1)(i) of the Social Security Act. It sets forth requirements for providers, Part B suppliers, intermediaries, and carriers to disclose ownership and control information and the identities of managing employees. It also sets forth requirements for disclosure of information about a provider's or Part B supplier's owners, those with a controlling interest, or managing employees convicted of criminal offenses against Medicare, Medicaid, or the title V (Maternal and Child Health Services) and title XX (Social Services) programs.

[57 FR 27306, June 18, 1992, as amended at 60 FR 50442, Sept. 29, 1995]

#### § 420.201 Definitions.

As used in this subpart unless the context indicates otherwise:

*Agent* means any person who has been delegated the authority to obligate or act on behalf of a provider.

*Disclosing entity* means:

(1) A provider of services, an independent clinical laboratory, a renal disease facility, a rural health clinic, a Federally qualified health center, or a health maintenance organization (as defined in section 1301(a) of the Public Health Service Act);

(2) A carrier or other agency or organization that is acting for one or more providers of services for purposes of part A and part B of Medicare; and

(3) A part B supplier, as defined in § 400.202 of this chapter.

*Group of practitioners* means two or more health care practitioners who practice their profession at a common location (whether or not they share common facilities, common supporting staff, or common equipment).

*Indirect ownership interest* means any ownership interest in an entity that