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annually that the percentage of eligible clinicians participating in the ACO that use CEHRT to document and communicate clinical care to their patients or other health care providers meets or exceeds the threshold established under § 414.1415(a)(1)(i) of this chapter.

[76 FR 67973, Nov. 2, 2011, as amended at 79 FR 68009, Nov. 13, 2014; 81 FR 80560, Nov. 15, 2016; 83 FR 60094, Nov. 23, 2018; 88 FR 79546, Nov. 16, 2023]

§ 425.507 Incorporating Promoting Interoperability requirements related to the Quality Payment Program for performance years beginning on or after January 1, 2025.

(a) For performance years beginning on or after January 1, 2025, unless otherwise excluded under paragraph (b) of this section, an ACO participant, ACO provider/supplier, and ACO professional that is a MIPS eligible clinician, Qualifying APM Participant (QP), or Partial Qualifying APM Participant (Partial QP) (each as defined at § 414.1305 of this chapter) must satisfy all of the following:

(1) Report the MIPS Promoting Interoperability performance category measures and requirements to MIPS according to 42 CFR part 414 subpart O at the individual, group, virtual group, or APM entity level.

(2) Earn a performance category score for the MIPS Promoting Interoperability performance category at the individual, group, virtual group, or APM entity level.

(b) An ACO participant, ACO provider/supplier, or ACO professional is excluded from the requirements specified in paragraph (a) of this section in accordance with applicable policies that exclude or otherwise exempt eligible clinicians from reporting the MIPS Promoting Interoperability performance category as set forth in 42 CFR part 414 subpart O, provided however, that an ACO participant, ACO provider/supplier, or ACO professional cannot be excluded from the requirements specified in paragraph (a) solely on the basis of being a QP or Partial QP. Applicable exclusions may include:

(1) Low volume threshold as set forth at § 414.1310(b)(1)(iii) of this chapter.

(2) Eligible clinician as defined at § 414.1305 of this chapter who is not a

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MIPS eligible clinician as set forth in § 414.1310(b)(2) of this chapter.

(3) Reweighting of the MIPS Promoting Interoperability performance category to zero percent of the final score in accordance with applicable policies set forth at § 414.1380(c)(2) of this chapter.

[88 FR 79546, Nov. 16, 2023]

§ 425.508 Incorporating quality reporting requirements related to the Quality Payment Program.

(a) *For performance years (or a performance period) beginning in 2017–2020.* ACOs, on behalf of eligible clinicians who bill under the TIN of an ACO participant, must submit all of the CMS web interface measures determined under § 425.500 to satisfactorily report on behalf of their eligible clinicians for purposes of the quality performance category of the Quality Payment Program.

(b) *For performance years beginning on or after January 1, 2021.* ACOs must submit the quality data via the Alternative Payment Model Performance Pathway (APP) established under § 414.1367 of this chapter, to satisfactorily report on behalf of the eligible clinicians who bill under the TIN of an ACO participant for purposes of the MIPS Quality performance category of the Quality Payment Program.

[81 FR 80561, Nov. 15, 2016, as amended at 85 FR 85040, Dec. 28, 2020]

§ 425.510 Application of the Alternative Payment Model Performance Pathway (APP) to Shared Savings Program ACOs for performance years beginning on or after January 1, 2021.

(a) *General.* (1) CMS establishes quality performance measures to assess the quality of care furnished by the ACO. If the ACO demonstrates to CMS that it has satisfied the quality performance requirements in this subpart, and the ACO meets all other applicable requirements, the ACO is eligible to receive shared savings.

(2) CMS seeks to improve the quality of care furnished by ACOs over time by specifying higher standards, new measures, or both.

(b) *Quality reporting.* ACOs must report quality data via the APP established under § 414.1367 of this chapter, according to the method of submission established by CMS.

(c) *Audit and validation of data.* CMS retains the right to audit and validate quality data reported by an ACO under paragraph (b) of this section according to § 414.1390 of this chapter.

[85 FR 85041, Dec. 28, 2020]

§ 425.512 Determining the ACO quality performance standard for performance years beginning on or after January 1, 2021.

(a) *Establishing a quality performance standard—(1) Overall standard.* The quality performance standard is the overall standard the ACO must meet in order to be eligible to receive shared savings for a performance year. An ACO will not qualify to share in savings in any year it fails to meet the quality performance standard.

(2) For the first performance year of an ACO's first agreement period under the Shared Savings Program, the ACO will meet the quality performance standard if it meets the requirements under this paragraph (a)(2).

(i) For performance years 2022 and 2023. If the ACO reports data via the APP and meets the data completeness requirement at § 414.1340 of this subchapter and the case minimum requirement at § 414.1380 of this subchapter on the ten CMS Web Interface measures or the three eCQMs/MIPS CQMs, and the CAHPS for MIPS survey, for the applicable performance year.

(ii) For performance year 2024. If the ACO reports data via the APP and meets the data completeness requirement at § 414.1340 of this subchapter on the ten CMS Web Interface measures or the three eCQMs/MIPS CQMs/Medicare CQMs, and the CAHPS for MIPS survey (except as specified in § 414.1380(b)(1)(vii)(B) of this subchapter), and receives a MIPS Quality performance category score under § 414.1380(b)(1) of this subchapter, for the applicable performance year.

(iii) For performance year 2025 and subsequent performance years. If the ACO reports data via the APP and meets the data completeness requirement at § 414.1340 of this subchapter on

the three eCQMs/MIPS CQMs/Medicare CQMs, and the CAHPS for MIPS survey (except as specified in § 414.1380(b)(1)(vii)(B) of this subchapter), and receives a MIPS Quality performance category score under § 414.1380(b)(1) of this subchapter, for the applicable performance year.

(3) For performance year 2021. (i) Except as specified in paragraph (a)(2) of this section, CMS designates the quality performance standard as the ACO reporting quality data via the APP established under § 414.1367 of this subchapter, according to the method of submission established by CMS and achieving a quality performance score that is equivalent to or higher than the 30th percentile across all MIPS Quality performance category scores, excluding entities/providers eligible for facility-based scoring.

(ii) If an ACO does not report any of the ten CMS Web Interface measures or any of the three eCQMs/MIPS CQMs and does not administer a CAHPS for MIPS survey under the APP, the ACO will not meet the quality performance standard.

(4) For performance years 2022 and 2023. (i) Except as specified in paragraph (a)(2) of this section, CMS designates the quality performance standard as the ACO reporting quality data via the APP established under § 414.1367 of this subchapter according to the method of submission established by CMS and either:

(A) Achieving a health equity adjusted quality performance score that is equivalent to or higher than the 30th percentile across all MIPS Quality performance category scores, excluding entities/providers eligible for facility-based scoring, or

(B) If the ACO reports the three eCQMs/MIPS CQMs in the APP measure set, meeting the data completeness requirement at § 414.1340 of this subchapter and the case minimum requirement at § 414.1380 of this subchapter for all three eCQMs/MIPS CQMs, achieving a quality performance score equivalent to or higher than the 10th percentile of the performance benchmark on at least one of the four outcome measures in the APP measure set and a quality performance score equivalent to or higher

than the 30th percentile of the performance benchmark on at least one of the remaining five measures in the APP measure set.

(ii) For performance year 2023, CMS designates an alternative quality performance standard for an ACO that does not meet the criteria described in paragraphs (a)(2) or (a)(4)(i) of this section, but reports quality data via the APP established under § 414.1367 of this subchapter according to the method of submission established by CMS and achieves a quality performance score equivalent to or higher than the 10th percentile of the performance benchmark on at least one of the four outcome measures in the APP measure set.

(iii) If an ACO does not report any of the ten CMS Web Interface measures or any of the three eCQMs/MIPS CQMs and does not administer a CAHPS for MIPS survey under the APP, the ACO will not meet the quality performance standard or the alternative quality performance standard.

(5) For performance year 2024 and subsequent performance years.

(i) Except as specified in paragraphs (a)(2) and (a)(7) of this section, CMS designates the quality performance standard as the ACO reporting quality data via the APP established under § 414.1367 of this subchapter, according to the method of submission established by CMS and the following:

(A) For performance year 2024—

(1) Achieving a health equity adjusted quality performance score that is equivalent to or higher than the 40th percentile across all MIPS Quality performance category scores, excluding entities/providers eligible for facility-based scoring, or

(2) If the ACO reports the three eCQMs/MIPS CQMs in the APP measure set, meeting the data completeness requirement at § 414.1340 of this subchapter for all three eCQMs/MIPS CQMs, and achieving a quality performance score equivalent to or higher than the 10th percentile of the performance benchmark on at least one of the four outcome measures in the APP measure set and a quality performance score equivalent to or higher than the 40th percentile of the performance benchmark on at least one of the re-

maining five measures in the APP measure set.

(B) For performance year 2025 and subsequent years—Achieving a health equity adjusted quality performance score that is equivalent to or higher than the 40th percentile across all MIPS Quality performance category scores, excluding entities/providers eligible for facility-based scoring.

(ii) CMS designates an alternative quality performance standard for an ACO that does not meet the criteria described in paragraphs (a)(2) or (a)(5)(i) of this section, but reports quality data via the APP established under § 414.1367 of this subchapter according to the method of submission established by CMS and achieves a quality performance score equivalent to or higher than the 10th percentile of the performance benchmark on at least one of the four outcome measures in the APP measure set.

(iii) An ACO will not meet the quality performance standard or the alternative quality performance standard if:

(A) For performance year 2024, the ACO does not report any of the ten CMS Web Interface measures, any of the three eCQMs/MIPS CQMs/Medicare CQMs and does not administer a CAHPS for MIPS survey (except as specified in § 414.1380(b)(1)(vii)(B) of this subchapter) under the APP.

(B) For performance year 2025 and subsequent years, the ACO does not report any of the three eCQMs/MIPS CQMs/Medicare CQMs and does not administer a CAHPS for MIPS survey (except as specified in § 414.1380(b)(1)(vii)(B) of this subchapter) under the APP.

(6) For performance years 2022, 2023, and 2024, CMS designates a performance benchmark and minimum attainment level for each CMS Web Interface measure and establishes a point scale for the measure as described in § 425.502(b).

(7) For performance years 2024 and subsequent performance years, if an ACO reports all of the required measures, meeting the data completeness requirement at § 414.1340 of this subchapter for each measure in the APP measure set and receiving a MIPS Quality performance category score as

described at §414.1380(b)(1) of this subchapter, CMS will use the higher of the ACO's health equity adjusted quality performance score or the equivalent of the 40th percentile MIPS Quality performance category score across all MIPS Quality performance category scores, excluding entities/providers eligible for facility-based scoring, for the relevant performance year when the ACO meets either of the following:

(i) The ACO's total available measure achievement points used to calculate the ACO's MIPS Quality performance category score is reduced under §414.1380(b)(1)(vii)(A) of this subchapter.

(ii) At least one of the eQMs/MIPS CQMs/Medicare CQMs does not have a benchmark as described at §414.1380(b)(1)(i)(A) of this subchapter.

(b) *Calculation of ACO's health equity adjusted quality performance score for performance year 2023 and subsequent performance years.*

(1) For performance year 2023. For an ACO that reports the three eQMs/MIPS CQMs in the APP measure set, meeting the data completeness requirement at §414.1340 of this subchapter for all three eQMs/MIPS CQMs, and administers the CAHPS for MIPS survey, CMS calculates the ACO's health equity adjusted quality performance score as the sum of the ACO's MIPS Quality performance category score for all measures in the APP measure set and the ACO's health equity adjustment bonus points calculated in accordance with paragraph (b)(3) of this section. The sum of these values may not exceed 100 percent.

(2) For performance year 2024 and subsequent performance years. For an ACO that reports the three eQMs/MIPS CQMs/Medicare CQMs in the APP measure set, meeting the data completeness requirement at §414.1340 of this subchapter for all three eQMs/MIPS CQMs/Medicare CQMs, and administers the CAHPS for MIPS survey (except as specified in §414.1380(b)(1)(vii)(B) of this subchapter), CMS calculates the ACO's health equity adjusted quality performance score as the sum of the ACO's MIPS Quality performance category score for all measures in the APP measure set and the ACO's health equity

adjustment bonus points calculated in accordance with paragraph (b)(3) of this section. The sum of these values may not exceed 100 percent.

(3) CMS calculates the ACO's health equity adjustment bonus points as follows:

(i) For each measure in the APP measure set, CMS groups an ACO's performance into the top, middle, or bottom third of ACO measure performers by reporting mechanism.

(ii) CMS assigns values to the ACO for its performance on each measure as follows:

(A) Values of four, two, or zero for each measure for which the ACO's performance places it in the top, middle, or bottom third of ACO measure performers, respectively.

(B) Values of zero for each measure that CMS does not evaluate because the measure is unscored or the ACO does not meet the case minimum or the minimum sample size for the measure.

(iii) CMS sums the values assigned to the ACO according to paragraph (b)(3)(ii) of this section, to calculate the ACO's measure performance scaler.

(iv) CMS calculates an underserved multiplier for the ACO.

(A) (I) CMS determines the proportion ranging from zero to one of the ACO's assigned beneficiary population for the performance year that is considered underserved based on the highest of either of the following:

(i) The proportion of the ACO's assigned beneficiaries residing in a census block group with an Area Deprivation Index (ADI) national percentile rank of at least 85. An ACO's assigned beneficiaries without an available numeric ADI national percentile rank are excluded from the calculation of the proportion of the ACO's assigned beneficiaries residing in a census block group with an ADI national percentile rank of at least 85.

(ii) The proportion of the ACO's assigned beneficiaries who are enrolled in the Medicare Part D low-income subsidy (LIS); or are dually eligible for Medicare and Medicaid.

(2) CMS calculates the proportions specified in paragraph (b)(3)(iv)(A)(I)(ii) of this section as follows:

(i) For performance year 2023, the proportion of the ACO's assigned beneficiaries who are enrolled in the Medicare Part D LIS or are dually eligible for Medicare and Medicaid divided by the total number of the ACO's assigned beneficiaries' person years.

(ii) For performance year 2024 and subsequent performance years, the proportion of the ACO's assigned beneficiaries with any months enrolled in LIS or dually eligible for Medicare and Medicaid divided by the total number of the ACO's assigned beneficiaries.

(B) If the proportion determined in accordance with paragraph (b)(3)(iv)(A) of this section is lower than 20 percent, the ACO is ineligible for health equity adjustment bonus points.

(v) Except as specified in paragraph (b)(3)(iv)(B) of this section, CMS calculates the ACO's health equity adjustment bonus points as the product of the measure performance scaler determined under paragraph (b)(3)(iii) of this section and the underserved multiplier determined under paragraph (b)(3)(iv) of this section. If the product of these values is greater than 10, the value of the ACO's health equity adjustment bonus points is set equal to 10.

(4) The ACO's health equity adjusted quality performance score, determined in accordance with paragraphs (b)(1) through (b)(3) of this section, is used as follows:

(i) In determining whether the ACO meets the quality performance standard as specified under paragraphs (a)(4)(i)(A), (a)(5)(i)(A)(I), (a)(5)(i)(B), and (a)(7) of this section.

(ii) In determining the final sharing rate for calculating shared savings payments under the BASIC track in accordance with § 425.605(d), and under the ENHANCED track in accordance with § 425.610(d), for an ACO that meets the alternative quality performance standard by meeting the criteria specified in paragraphs (a)(4)(ii) or (a)(5)(ii) of this section.

(iii) In determining the shared loss rate for calculating shared losses under the ENHANCED track in accordance with § 425.610(f), for an ACO that meets the quality performance standard established in paragraphs (a)(2), (a)(4)(i) and (a)(5)(i) of this section or the alter-

native quality performance standard established in paragraphs (a)(4)(ii) or (a)(5)(ii) of this section.

(iv) In determining the quality performance score for an ACO affected by extreme and uncontrollable circumstances as described in paragraphs (c)(3)(ii) and (iii) of this section.

(c) *Extreme and uncontrollable circumstances.* For performance year 2021 and subsequent performance years, including the applicable quality data reporting period for the performance year, CMS uses an alternative approach to calculating the quality score for ACOs affected by extreme and uncontrollable circumstances instead of the methodology specified in paragraph (a) of this section as follows:

(1) CMS determines the ACO was affected by an extreme and uncontrollable circumstance based on either of the following:

(i) Twenty percent or more of the ACO's assigned beneficiaries reside in an area identified under the Quality Payment Program as being affected by an extreme and uncontrollable circumstance.

(A) Assignment is determined under subpart E of this part.

(B) In making this determination, CMS uses the quarter four list of assigned beneficiaries.

(ii) The ACO's legal entity is located in an area identified under the Quality Payment Program as being affected by an extreme and uncontrollable circumstance. An ACO's legal entity location is based on the address on file for the ACO in CMS' ACO application and management system.

(2) If CMS determines the ACO meets the requirements of paragraph (c)(1) of this section, CMS calculates the ACO's quality score as follows:

(i) For performance years 2021, 2022, and 2023, the ACO's minimum quality performance score is set to the equivalent of the 30th percentile MIPS Quality performance category score across all MIPS Quality performance category scores, excluding entities/providers eligible for facility-based scoring, for the relevant performance year.

(ii) For performance year 2024 and subsequent performance years, the ACO's minimum quality performance score is set to the equivalent of the