



Final Rule Implementing MACRA

By: Maggie Krantz

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On October 14, 2016, the Centers for Medicare and Medicaid Services (CMS) released its final rule (the "Final Rule") implementing the Medicare Access and Children's Health Insurance Program (CHIP) Authorization Act of 2015 (MACRA) (Pub. L. 114-10). MACRA is a landmark Medicare reform law eliminating the sustainable growth rate formula for physician reimbursement and instead providing for predictable payment increases and value-based reimbursement. Published in the November 4, 2016, Federal Register (81 FR 77008), the Final Rule formally establishes the Quality Payment Program (QPP) and its two clinician reimbursement models: the Merit-based Incentive Payment System (MIPS) and Advanced Alternative Payment Models ("Advanced APMs").

Under the MIPS as established by the Final Rule, Medicare-participating clinicians who currently receive traditional fee-for-service reimbursement will be eligible for payment adjustments – rewards or penalties – based on certain self-reported factors. Those factors include (i) quality (encompassing both evidence-based and practice-based standards); (ii) resource use; (iii) advancing care information (based on simplified and restructured Meaningful Use standards); and (iv) clinical practice improvements (for example, population management, patient engagement, or care coordination). The Final Rule designates 2017 (the first performance period) as the transition year, with related payment adjustments to begin in 2019. Flexible MIPS participation tracks allow MIPS-eligible clinicians to pick their pace during the first year of participation and report either (i) a minimum amount of 2017 data, thus avoiding a downward payment adjustment; (ii) 90 days of 2017 data, potentially earning a small positive payment adjustment, or (iii) a full year of 2017 data, potentially earning a moderate payment adjustment. Clinicians who do not report any 2017 data will receive the maximum negative payment adjustment. Beginning with 2018, full-year reporting is required. Clinicians who accrue "less than or equal to \$30,000 in Medicare Part B allowed charges or [treat] less than or equal to 100 Medicare patients" are exempt from MIPS requirements.

The Advanced APM models, on the other hand, are payment models that provide added incentives to clinicians who already participate in recognized alternative payment models (such as the Shared

Savings Program or Medical Home Model). Specifically, MIPS-eligible clinicians who receive a sufficient portion of their Medicare payments or see a sufficient portion of their Medicare patients through the Advanced APM will qualify for a 5% bonus incentive payment in 2019 and will be exempt from MIPS. Notably, to qualify as an Advanced APM, the alternative payment model entity must meet certain ?ambitious but achievable goals,? including bearing a downside financial risk.

For clinicians and practices attuned to MACRA?s focus on better value in health care and already meeting the quality- and cost-based performance standards, the Final Rule offers an opportunity to increase revenues and profitability. For others, implementation of MACRA may have an adverse financial impact. Particularly, clinicians and practices struggling with Meaningful Use requirements and/or not currently participating in any clinical practice improvements will be faced with a significant investment to establish the infrastructure necessary to enable compliance with the Final Rule; offsetting that investment may require a few years of upward payment adjustments. Many of those clinicians may be tempted to join larger organizations with better access to value-based support systems to avoid that expense.

In any event, understanding the voluminous Final Rule and its requirements will certainly be key to successful financial performance. With less than two months left until the first performance period begins on January 1, 2017, it is extremely important that clinicians learn about the QPP and develop a plan for moving forward under the Final Rule.

Should you have any questions, please contact Maggie S. Krantz, Of Counsel, Health Care, at mkrantz@williamsmullen.com.

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- Maggie Krantz ? 804.420.6420 ? mkrantz@williamsmullen.com

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