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CMS Response to the COVID-19 Pandemic

### Announcer:

You're listening to *Perspectives with the AMA* on ReachMD, produced in partnership with the American Medical Association. Since the original date of this recording, CMS has extended the deadline for its applications related to MIPS hardships from December 31, 2020 to February 1, 2021.

Here's your host, Dr. Jennifer Caudle

Dr. Caudle:

With the widespread impacts of the COVID-19 pandemic in mind, the Centers for Medicare and Medicaid Services, or CMS for short, is now offering flexibility for clinicians participating in the Merit-based Incentive Payment System, a program that's designed to encourage clinicians to improve the quality of their care, but what exactly does that flexibility mean for clinicians, and how can they apply? These and other questions are what's to come on today's program.

Welcome to *Perspectives with the AMA* on ReachMD. I'm your host, Dr. Jennifer Caudle, and joining me is Miss Koryn Rubin, Assistant Director with the American Medical Association's Federal Advocacy. Miss Rubin, it's so great to have you on the program.

Ms. Rubin:

Thanks for having me today.

Dr. Caudle:

Now, Miss Rubin, it will come as no surprise to say that the COVID-19 pandemic has impacted all clinicians across the United States and its territories. So, can you tell us how CMS has responded?

Ms. Rubin:

CMS has recognized that practices throughout the country have been impacted greatly by the COVID-19 pandemic, so that's why, for the 2020 performance year, this year, CMS is using and applying the Extreme and Uncontrollable Circumstances policy to allow clinicians, groups and virtual groups the ability to submit an application requesting reweighting of 1 or more of their Merit-Based Incentive Payment System—otherwise known as MIPS—performance categories due to the COVID-19 pandemic. So, for example, just to make it clear how it works, a physician can request a hardship on just the cost category and the quality category and only be held accountable for the promoting interoperability and improvement activity categories. Alternatively, you have the option to request a hardship on all 4 categories in MIPS—quality, cost, promoting interoperability, and improvement activities categories—and be held harmless from a MIPS penalty if approved by CMS.

If you don't submit a hardship request, you then will be held accountable for all applicable MIPS categories, so if you just submit a request for a hardship for quality, you will be held accountable for cost, promoting interoperability, and the improvement activity categories unless you're exempt for some other reason, such as the low-volume threshold.

The AMA does feel like this approach is a nice balance because it still allows and encourages practices to participate in the Quality Payment Program, or otherwise known as MIPS, but also still providing flexibility and recognition that practices have been impacted by the COVID-19 pandemic and may need relief from the program this year and can utilize the Extreme and Uncontrollable Circumstances hardship application and apply for a hardship.

Dr. Caudle:

Excellent. Thank you for that. And what circumstances should a physician consider when determining if they should apply for a 2020 hardship exception?

Ms. Rubin:

The AMA really encourages and actually kind of recommends practices applying for a hardship exception to be held harmless from a future MIPS penalty, so, for 2020, your penalty that you would see off of your Medicare reimbursement would take effect in 2022. And so there are some things that your practice might want to consider if you're thinking about applying for a hardship due to various circumstances that you may have experienced due to the pandemic. So, a few things you might want to ask yourself is, Is your practice on the front line caring for patients dealing with COVID-19 and so you really have little to no time? or your resources have been pulled elsewhere and can't actively participate in the MIPS program? Has your practice experienced any form of financial distress, had to temporarily close during 2020? or lay-off or furlough staff? or potentially cut practice hours due to increased hygiene and cleaning practices and just taking safe practices for COVID-19? Has the COVID-19 pandemic prevented you, your practice or your virtual group from collecting 2020 MIPS performance data for an extended period of time? During the height when the pandemic first started, we're aware that many practices closed temporarily or stopped collecting data related to MIPS, so that could impact your volume.

And to keep note of as you're thinking about whether you should apply for a hardship, the Federal Government deemed the COVID-19 public health emergency starting on January 31, 2020, so you can look back until January 31, 2020, to make that determination.

And lastly, one other thing that we've heard from some practices and their experiences, you're using a telehealth platform, but potentially, it does not interface with your EHR, so the information that's getting transmitted and collected through the telehealth platform is not being transferred into the EHR, and so that does have some impact on how you're also treating patients.

At a minimum, if you don't want to apply for all 4 categories, we would encourage you or your administrator to apply to have the cost performance category of MIPS reweighted to zero in 2020 because we know the cost measures used for the MIPS program, they use national benchmarks, and we have concerns that the costs that physicians have been incurring during the pandemic don't look the same from previous years, but also, since they are national benchmarks, the impacts regionally have varied and varied at different times throughout 2020, and we don't want physicians to be penalized who have been treating patients with COVID-19.

We also know physician practices are facing financial issues due to restrictions that have been placed on patient visits as well as surgeries, and this may also impact the ability to have reliable case minimums on the cost measures that CMS applies to you. One other thing too that may impact the scoring of the cost measures is that we know that many patients have and are postponing preventative and routine care, and so attribution to you or the practice can be skewed toward the sickest patients and not covering your healthy patients because they're not coming in for routine care or preventative services.

Lastly, it's worth noting that with the cost category, as you're probably aware, you don't actually submit any data to CMS like the other components of MIPS. The measures are scored based on the claims that you submit to Medicare, so it's done in the back end, and CMS produces a score. This is strictly off your claims. Given that, we really feel like the cost category is going to be severely impacted by the pandemic.

Dr. Caudle:

So, how does a physician or a practice go about applying for a hardship for the 2020 program?

Ms. Rubin:

Yeah, so first you have to go to CMS's Quality Payment Program website to access the application, and in order to access the application and submit it, you have to have a QPP account. If you don't have a QPP account or know what I'm referring to, you can find more information on setting up that account by going to [QPP.CMS.gov](https://www.cms.gov/qpp).

Dr. Caudle:

For those of you who are just tuning in, you're listening to *Perspectives with the AMA* on ReachMD. I'm your host, Dr. Jennifer Caudle, and today I'm joined by Miss Koryn Rubin from the AMA to discuss flexibilities available for MIPS participants in response to the COVID-19 pandemic.

Now, Miss Rubin, before a clinician considers applying for a hardship, is there any information a physician must provide to prove they qualify for one?

Ms. Rubin:

It's pretty simple, actually. All you need to state in the application is that you've been affected by the COVID-19 public health emergency. Based on conversations that the AMA has had with CMS, they have said that they're going to be pretty liberal in granting hardships, so just by simply stating that you've been affected by the COVID-19 pandemic should be sufficient for CMS to accept your

hardship application.

Dr. Caudle:

And what's the deadline to submit an application? And how will clinicians know if their application has been approved?

Ms. Rubin:

The application window is open now and through December 31, 2020, so through the end of the year, and you'll be notified by e-mail if your request was approved or denied. If approved, this information should also be added to your eligibility profile on the CMS QPP Participation Status Tool. CMS, you might be aware of, has this lookup tool on the QPP website that lets you know whether you're eligible for MIPS or not and your status within MIPS, so it's our understanding that they are also going to add the information about the hardship, whether you've been approved or denied, to that tool when you look yourself up. Unfortunately, the information might not be available in the tool until the submission window is open in 2021, so until the data submission window for 2020 MIPS is open, which doesn't occur until early 2021.

Dr. Caudle:

So let's put these details into action and walk through an example together. So let's say, if my practice submitted a hardship exception application that was approved, can we change our mind if we want to submit data and participate in MIPS?

Ms. Rubin:

If you submit an application and it's approved or you submit an application and you decide, "Do you know what, we'll be able to go ahead and be fine with being scored under MIPS," you can still go ahead and submit the data, and that information will override the performance category reweighting that was approved through your application on a category-by-category basis, and you will receive a 2020 MIPS final score based on the data that you submit.

So, for planning purposes, we recommend keeping in mind that you must be scored on at least 2 performance categories to earn a MIPS score higher than the performance threshold. Also, if you are approved for reweighting of the cost performance category to zero, you'll never be scored on cost measures because there is no data that you actually submit. The information is determined based on your Medicare claims, and so the cost performance category is directly associated with the claims you submit to Medicare, and there is no additional information that you submit.

Dr. Caudle:

Excellent. And if a physician or a practice chooses to participate in the 2020 program, are there any other considerations that have been made due to the PHE?

Ms. Rubin:

Yeah, there are a few other considerations CMS has made. One of them is they have added a new, high-weighted improvement activity called COVID-19 Clinical Data Reporting with or without clinical trial, so this improvement activity is intended to be applicable to all MIPS-eligible clinicians that are reporting their COVID-19-related patient data to a clinical data registry, and that can include registries that are found on the National Institutes of Health, or known as NIH, website, a clinical data repository, such as Oracle's COVID-19 Therapeutic Learning System, in addition to clinicians participating in clinical trials, such as those clinical trials that are currently being conducted by NIH. It's also our understanding that if you participate in PCORI's COVID-19 registry, that counts as well, and specialty society registries that are collecting COVID-19 data. There are other registries out there, but these are some that we are directly aware of that are considered eligible. Also, the new improvement activity provides flexibility in the type of clinical trial that you're participating in, so it could include designs ranging from the traditional double-blinded placebo-controlled trial to adapted design or a pragmatic design that flexes to workflow and clinical practice contact.

Really, the goal is to support innovation and improve the collection of COVID-19-related data that clinicians have available to them and for use to develop best practices that can drive improvements in patient care as clinicians and physicians and everyone monitors and manages the spread of COVID-19 in their practices.

Dr. Caudle:

That's excellent, Miss Rubin, and thank you so much for breaking all of that down. Before we wrap up, is there anything else a clinician should consider before or while applying for a hardship?

Ms. Rubin:

No, that's all I have. I think I've laid out all the considerations for you today.

Dr. Caudle:

Excellent. Well, with those final considerations in mind, I'd like to thank my guest, Miss Koryn Rubin, for joining me to discuss MIPS

flexibilities and applying for hardship exceptions. Miss Rubin, it was really great having you on the program.

Ms. Rubin:

Thank you for having me. It was enjoyable to discuss this topic with you today.

Dr. Caudle:

Thank you.

**Announcer:**

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