

May 2, 2014

Marilyn B. Tavenner
Administrator
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Administrator Tavenner:

On behalf of the physician and medical student members of the American Medical Association (AMA), I am writing to urge you to add a reasonable degree of flexibility to the current requirements for avoiding the 2016 Physician Quality Reporting System (PQRS) penalty. The AMA shares the serious commitment of the Centers for Medicare & Medicaid Services (CMS) to ensure and improve the quality of care for Medicare beneficiaries. However, unless CMS adopts certain modifications that would enhance the ability to meet the PQRS reporting requirements, we are concerned that many physicians, particularly those in small practices and rural areas, will face payment penalties in 2016 (and beyond) despite their good faith efforts to participate in the PQRS program.

Congress established multiple Medicare and Medicaid reporting requirements under separate laws which now directly affect physician practices and carry significant financial penalties for noncompliance. These include the Electronic Prescribing requirements, the Electronic Health Record (EHR) Meaningful Use (MU) program, PQRS, and the Value-Based Modifier (VBM) programs. Physicians and other eligible professionals (EPs) who fail to successfully fulfill each particular set of reporting criteria incur present and future financial penalties. In the midst of these separate mandates, some of which require fundamental transformation of clinical practice flow, physicians are also expected to transition their practices to ICD-10. Unfortunately, despite laudable intentions, Administration efforts to better align these programs have failed to achieve their goals. Additionally, detailed, annual changes to the requirements for several of these programs have left many physicians confused and dismayed. Further adding to the financial impact of any penalties, physicians are once again faced with additional sequester cuts in 2014.

The growing complexity of the PQRS program remains a serious concern to the AMA, and poses a significant barrier to participation for many physicians. Monitoring the annual changes to the PQRS reporting options, measures, measures groups, and physician group participation options requires an overwhelming layer of administrative burden that is extremely costly and resource-intensive. For many physicians, this is simply not feasible. Therefore, **we request that CMS continue to allow reporting via the administrative claims option to avoid the PQRS and VBM penalties in 2014. We also request an exemption from PQRS reporting and the VBM quality measure component for physicians who meet MU standards, since the MU program includes a quality measure reporting requirement.**

2014 PQRS Program Changes

The AMA receives frequent queries and communications from physicians who are puzzled as to how to avoid the PQRS penalty. For 2014, CMS eliminated and/or altered the following reporting mechanisms that contribute to this confusion:

- Elimination of the administrative claims option;
- Removal of reporting measures groups through claims;
- Ending the ability to report one measure or measure group to avoid the penalty;
- Termination of the ability to report three measures to earn an incentive; and
- Expansion of the VBM to apply to practices of 10 or more eligible professionals.

To avoid widespread turmoil and an unsustainable administrative and financial burden on physician practices, it is imperative that CMS reinstate the option of electing PQRS reporting via administrative claims in order to avoid the 2016 PQRS penalty. Since 2014 is only the second performance year to serve as the basis for future PQRS penalties and VBM adjustments, many physicians and EPs are still learning about these programs. Moreover, many are unaware that failure to report successfully under PQRS will also result in negative VBM adjustments. Physicians and other EPs are now working to better evaluate the PQRS measure portfolio and reporting options, as well as working to develop clinically relevant measures available through EHR and registry reporting modalities. To minimize disruption, however, CMS should provide physicians and other EPs more time and flexibility to meet PQRS reporting requirements, at least while these efforts are developed and implemented and CMS engages in additional education and outreach.

Many large group practices also are not fully aware of the upcoming VBM adjustments. CMS' decision to expand the VBM to practices of 10 or more EPs for the 2014 performance period is sure to intensify the problem. The time lag between performance assessment and consequences contribute to the air of uncertainty. In 2016, many physicians will see payment reductions for the first time, resulting from unsuccessful compliance with requirements for which they lacked sufficient awareness or comprehension. There are only two pathways for physicians in a practice of 10 or more EPs to avoid the VBM penalty in 2016; either through successful participation in the group practice reporting option (GPRO) in 2014, or through successful PQRS participation of 50 percent of the group's individual EPs. This is a radical departure from the 2013 performance year, when relevant practices could avoid future VBM reductions by electing the administrative claims option. The administrative claims option was a relatively less burdensome option, especially for practices beginning to participate in PQRS, and subject to the VBM for the first time. Unfortunately, physician participation in PQRS has not reached the levels anticipated, and the administrative claims option was a simple alternative.

Alignment between PQRS and Meaningful Use

The AMA appreciates the agency's efforts to further align quality measure reporting across its performance programs and improve the number of measures available through registry and EHR reporting. However, given the restrictions that CMS has placed on this alignment, we do not see how it is technically feasible for physicians to report once and receive credit for both PQRS and quality measures within MU. In order for MU quality reporting to count towards PQRS, a physician must take into consideration the following detailed rules and requirements:

- PQRS quality measures must be reported for a full year, as opposed to 90 days.
 - In 2014, MU only requires reporting quality measures for 90 days.
 - Regardless of calendar year, the first year of participation in MU only requires 90 days of reporting.
- MU quality measures must be reported through Version 2014 Certified Software.
- The MU program requires reporting on at least nine electronic clinical quality measures (eCQMs), which must be available through Version 2014 Certified Software and cover three of the National Quality Strategy domains in the MU Program.
- Some of the MU eCQMs include “look-back” or “look-forward” periods requiring data outside of PQRS and VBM reporting periods. If CMS cannot calculate a performance rate for that measure, a physician would be subject to both PQRS and VBM penalties.
- Measures reported through the PQRS Qualified Clinical Data Registry (QCDR) option must be in the MU program.
- The QCDR must be certified by the Office of the National Coordinator for Health Information Technology (ONC).
- For MU, it is acceptable to report zeroes on measures (including not having any denominator-eligible patients for any of the measures for which their EHR is certified).
 - This is not permissible for the PQRS EHR reporting option. If a physician does not have any data on Medicare patients to report (i.e., none of their Medicare patients fall into the denominator of any of the quality measures for which their EHR is certified), then the physician needs to report separately for PQRS.

We are concerned that, given the nuanced nature of alignment, many physicians will believe they are avoiding the PQRS penalty by their participation in MU, even though they actually are still vulnerable to the PQRS and VBM penalties. There is the real possibility that many physicians will not realize this mistake until they are subject to the payment adjustment, or when it is too late into the PQRS reporting period to make adjustments and corrections. **Therefore, we urge CMS to seriously consider adopting a PQRS exemption for achieving MU, and reinstating the administrative claims option, to provide an additional gateway for physicians and other EPs to participate in these important efforts; and achieve PQRS and VBM penalty avoidance as an incentive for their good faith efforts.**

CMS has the opportunity to ease the burdens on physician practices, and avoid unanticipated and inequitable financial stress on a significant number of physician practices by making the suggested changes. In the wake of the onslaught of overlapping regulatory mandates and reporting requirements, we welcome the opportunity to discuss this in greater depth. Thank you for your consideration of this matter. Please feel free to contact Koryn Rubin, Assistant Director of Federal Affairs, at koryn.rubin@ama-assn.org or (202) 789-7408 for more information.

Sincerely,

James L. Madara, MD