



May X, 2019

Honorable Alex M. Azar
Secretary
Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Ave., SW
Washington, DC 20201

Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Hubert H. Humphrey Building
200 Independence Ave., SW
Washington, DC 20201

Re: Centers for Medicare & Medicaid Services' 2017 Quality Payment Program Experience Report and Appendix

Dear Secretary Azar and Administrator Verma:

The Physicians Advocacy Institute (PAI) is writing to express our concerns with the Centers for Medicare and Medicaid (CMS) 2017 Quality Payment Program (QPP) Experience Report and Appendix. We do not believe that the report comprehensively reflects the experience of QPP participation, which is of great concern.

PAI is a not-for-profit organization that was established to advance fair and transparent policies in the health care system to sustain the profession of medicine for the benefit of patients. As part of this mission, PAI seeks to better understand the challenges facing physicians and their patients and to educate policymakers about these challenges. PAI also develops tools to help physicians prepare for and respond to policies and marketplace trends that impact their ability to practice medicine. PAI's Board of Directors is comprised of CEOs and former CEOs from nine state medical associations: California Medical Association, Connecticut State Medical Society, Medical Association of Georgia, Nebraska Medical Association, Medical Society of the State of New York, North Carolina Medical Society, South Carolina Medical Association, Tennessee Medical Association, and Texas Medical Association, and a physician member from Kentucky. As a physician-based organization, PAI is equipped to provide comments and insight into many of the challenges facing the medical profession.

Overview

PAI is committed to helping physicians adapt to, and succeed under, the QPP rules. To that end, PAI has launched a comprehensive, free educational initiative to guide physicians at every stage of readiness to succeed under the QPP and other value-based payment programs. These resources are updated annually for each participation year and are available at www.physiciansadvocacyinstitute.org.

While PAI is supportive of the goals of the QPP of reducing costs and improving outcomes and the quality of care for patients, we believe it is important to continue improving the QPP and reducing the burdens of participation as well as the complexity of the program. PAI has identified five guiding advocacy priorities and principles to improve the QPP, which are to simplify the program and reduce physician burden, make the program translatable across specialties and settings, make the program more predictable, make it accessible, as well as make it relevant to positive patient impact and related to everyday practice.¹

This is not only so physicians can succeed under the program, but also so they are supported in their efforts to continue delivering high-quality and -value care to their patients. Thus, to continue improving the program, we believe it is critical that the 2017 QPP Experience Report, as well as any other QPP-related reports/findings that are published, accurately and fully capture the QPP experience.

We have serious concerns that the 2017 QPP Experience Report, which portrays an incomplete picture of the QPP experience, could be used to adjust the program in future rulemaking in a manner that could negatively impact and further burden physicians. PAI, therefore, urges the Agency to retract the current report and publish an updated 2017 QPP Experience Report that more accurately captures and presents the 2017 participation experience and results. This should be done in a transparent manner, providing additional insight into the Agency's data collection, analysis, and reporting methods.

PAI Concerns with the 2017 QPP Experience Report

In reviewing the 2017 QPP Experience Report, PAI believes that the information is incomplete, misrepresented, and misleading. PAI's observations and concerns with the findings include:

- Misrepresented and misleading information related to small and rural practices
- Continued concern with the ACI/PI category and related CEHRT requirements
- Incomplete and inaccurate participation data
- Marginal reward for participation

Details on each of these is provided below. We have also enclosed a letter submitted by PAI-affiliated state medical associations and societies, that highlights additional concerns and errors with the report.

Misrepresented and misleading information related to small and rural practices

Under the QPP, small practices are defined as solo practitioners or groups of 15 or fewer clinicians. The QPP does provide some flexibilities for small and rural practices, however, these flexibilities do not relieve or ease the complete burden of participation in the QPP. While the Agency reported that small and rural practices had participation rates of 81% and 94%, respectively, the report failed to acknowledge or consider the struggles and barriers these practices still face. For example, in its rulemaking, CMS continues to express its intent to eliminate claims-based reporting. However, as found in the 2017 QPP Experience Report, 99% of

¹ Please see the Appendix for additional details on these advocacy priorities and PAI's recommendations.

individual participants submitted their quality measures data using claims, emphasizing the importance of retaining this submission mechanism for small practices.

Furthermore, about 83% of negative payment adjustments were collected from individual and small practices, indicating how the positive payment adjustments are mostly being funded off the backs of those in individual and small practices who may be disadvantaged and face barriers to successful participation in MIPS. Thus, it is important to continue and add flexibilities for these practices, so they are not faced with a significant negative payment adjustment due to their special status designations.

Continued concern with the ACI/PI category and related CEHRT requirements

Only 37% of eligible clinicians participated in the Promoting Interoperability (PI, and formerly ACI) category which requires use of Certified Electronic Health Records (CEHRT). This indicates the continued challenges and barriers with CEHRT requirements, which have been raised since the Meaningful Use program and have continued through MIPS.

Many physicians in small practices may not have the resources (*e.g.*, funds to purchase a CEHRT) or the ability to submit the information required for the PI category. Furthermore, physicians are often unjustly penalized for reliance on vendors and trusting that their vendors will become certified, maintain their certification, and appropriately submit their data to CMS on their behalf. Many vendors have delayed their updates and continue charging practices exorbitant fees for these updates, even when they are delayed or not completed. PAI urges the Agency to continue to reconsider the CEHRT and PI requirements so physicians can achieve greater success in this category.

Incomplete and inaccurate participation

It appears that the participation rate in the 2017 QPP Experience Report includes eligible clinicians who actively participated as well as those who did not. For 2017, CMS implemented the 2017 Extreme and Uncontrollable Circumstances Policy under which clinicians who, generally, were in natural disaster areas were “exempted” and deemed as meeting the minimum threshold for avoiding a negative payment adjustment (*i.e.* automatically received three points as their final score). Thus, we believe that the actual number of participants may be lower than initially reported.

Marginal reward for participation

In its report, CMS reported that 71% of eligible clinicians received a positive adjustment with the additional adjustment for exceptional performance. However, the range for the overall payment adjustment for this group was low at 0.28-1.88%, indicating the marginal reward for participation in the program. This is especially a great concern as many practices have or are looking to invest in resources (*e.g.*, CEHRT and staffing) to support their QPP participation, but the investment is not covered by the potential reward they receive for their participation (this is true even for top performers).

Conclusion

Given the concerns raised in this letter, PAI believes that it is critical for the Agency to retract the current report and publish an updated 2017 QPP Experience Report. We also stress the importance of not using the findings from the report to reduce or eliminate the low-volume threshold, or make other significant changes to the QPP, in the current or future participation years.² It is important that the 2017 QPP experience and any other QPP-related reports and findings be done in a transparent manner, providing additional insight into the Agency's data collection, analysis, and reporting methods, with physician and stakeholder input.

PAI welcomes the opportunity to partner with the agency and HHS to help educate physicians to succeed under the program. If you have any questions, please contact me at rseligson@ncmedsoc.org, or Kelly C. Kenney, PAI's Executive Vice President and CEO, at k2strategiesllc@gmail.com.

Sincerely,

Robert W. Seligson, MBA, MA
President, Physicians Advocacy Institute

² PAI would like to stress the broader importance of and need to rely on empirical data from the program to support any changes that could have a substantial impact on physicians' reimbursement. Physicians need greater assurance that the data supporting any program changes is verified, accurate, and validated. They also benefit from program data and transparency that can help them have confidence they will not be at risk for greater potential losses.

Appendix: PAI Principles for QPP Reform

PAI commends the Agency for continuing to build in additional flexibilities and transition policies that help ease the burden of participation in the QPP for physicians. For example, we are pleased to see that changes were made to provide greater flexibility for physicians, incentivize participation of small practices, and reward quality improvement over time. However, PAI has still concerns with existing elements of the QPP that may unintentionally put some patients, physicians, and practices at a disadvantage, as well as with other proposals that lack clarity and increase the complexity of the program.

PAI has identified five guiding principles to improve the QPP by making it more practical for physicians. In an effort to improve the program, and to assist physicians as they work to adjust to the new payment methodology under the QPP, we propose the following principles.

Principle 1: Simplify the QPP and reduce physician burden

The QPP is too complex for physicians to easily understand and adopt effectively in their practices. Physician practices are devoting a significant amount of time and resources from quality patient care to trying to understand the QPP. Furthermore, physicians who do not understand the program are considering opting out of Medicare or retiring in the near future.

PAI recommends simplifying the program so the requirements and expectations are clearly understood. This would allow physicians and their practices to more easily determine the areas of improvement they need to focus on to enhance the quality of care they are providing to their patients.

Principle 2: Make the QPP translatable across specialties and settings

The QPP attempts to take into account specialty practices through quality measures. However, there are many aspects of the program that do not work for many specialists or different settings because the program fails to take into account the differences in how care is provided by different specialists, and in different settings.

PAI recommends making the QPP more translatable across specialties and practice settings so some physicians/practices are not at a disadvantage. Allowing more flexibility in the program would help meet the wide range of needs across physician practices and specialties.

Principle 3: Make the QPP more predictable

There are too many factors in the current program that prevent physicians and practices from being able to anticipate their overall performance scores and payment adjustments. For example, benchmarks and performance thresholds change annually, and, because payment adjustments are “budget neutral,” the specific payment adjustment amounts physicians will receive are uncertain.

Furthermore, PAI believes that frequent changes throughout the program year and annually through the rule-making process create additional complexity and confusion. Physician practices

are devoting a significant amount of time and resources trying to understand the QPP, which takes focus away from patient care. Ongoing changes to program terminology, requirements, and other characteristics make it difficult for physicians and practices to prepare for participation and anticipate their goals and performance.

PAI recommends making the program more predictable so physicians and practices have a general idea of how they can alter their performance to increase their overall performance scores and payment adjustments. We also urge the Agency to maintain the consistency of policies over time and make the program more predictable. Continuity in the program would allow physicians and practices to have a general idea of how they can make changes in their practices to increase their overall performance scores and payment adjustments.

Principle 4: The QPP needs to be more accessible

The QPP is too complex and the costs of implementation and adaptation are too high for solo, small, and rural physicians and practices, making the program inaccessible for these groups of physicians. Furthermore, many physicians may already be participating in Advanced APMs but are unable to successfully participate in that pathway and receive the appropriate credit because of the high QP/PQ threshold requirements.

PAI recommends increasing the accessibility of both the MIPS and Advanced APM pathways for all physicians, including small and rural physicians and practices.

Principle 5: The QPP needs to be relevant to positive patient impact, and related to everyday practice

Currently, there is a disconnect between the QPP and everyday practice. Physicians have expressed concern that participating in the QPP does not necessarily result in better patient care, and that the program lacks relevant measures and other metrics for specialist physicians.

PAI recommends making the QPP more relevant to positive patient impact by eliminate the check-the-box approach for reporting. Physicians and practices should be able to easily link their current quality improvement efforts to those that would also meet QPP program requirements.