



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

August 16, 2022

The Honorable Jason Smith
U.S. House of Representatives
Washington, DC 20515

Dear Representative Smith:

Thank you for your letters to Administrator Brooks-LaSure and me regarding the Merit-based Incentive Payment System (MIPS) and our efforts to address health equity. The Department of Health and Human Services is committed to advancing health equity by eliminating the health disparities experienced by communities that are disadvantaged or underserved by the health care system and, by so doing, supporting the health of all people served by the Centers for Medicare & Medicaid Services' (CMS) programs. We appreciate your understanding that rooting out racism and prejudice is essential for improved patient care, as well as your dedication to promoting health equity.

I would like to share some background information about MIPS and the improvement activity discussed in your letters that hopefully will alleviate your concerns. As specified by Congress, there are four performance categories in MIPS: quality, cost, promoting interoperability, and improvement activities. The first three performance categories – quality, cost, and promoting interoperability – involve measurement, where data submitted by clinicians is used to evaluate their performance on metrics. For example, a quality measure that clinicians could choose to report might be Quality Measure ID 111: *Pneumococcal Vaccination for Elderly*, where the performance metric is based on pneumococcal vaccination rates among their patients 66 years of age and older.

In contrast, the fourth performance category – improvement activities – includes activities that eligible professional organizations and other relevant stakeholders identify as improving clinical practice or care delivery and that the Secretary determines, when effectively executed, are likely to result in improved outcomes. A clinician earns credit by attesting to performing improvement activities of the clinician's choice from a large inventory of choices, and there are no specific metrics for determining the level of performance on improvement activities compared to other clinicians. It is important to note that the improvement activities performance category is a small part of MIPS, as it generally accounts for only 15 percent of the total MIPS final score.

Clinicians may choose from over 100 improvement activities to report on to earn points toward the improvement activities performance category score. For a clinician to receive full credit in the improvement activities performance category, they must attest to completion of two high-weighted, four medium-weighted, or a combination of high- and medium-weighted improvement activities performed for at least 90 continuous days in the applicable performance period. The "Create and Implement an

Anti-Racism Plan” improvement activity (IA_AHE_8), which was adopted through notice and comment rulemaking (86 FR 65969), is only one of more than 25 other high-weighted improvement activities available to clinicians. Importantly, IA_AHE_8 is completely optional for clinicians to select. Clinicians are not required to select or attest to the IA_AHE_8 improvement activity specifically, and there is no penalty for a clinician that does not select this improvement activity.

Clinicians who select the IA_AHE_8 improvement activity would create and implement an anti-racism plan using the CMS Disparities Impact Statement or other anti-racism planning tools. Several stakeholders commenting on the proposal to add this improvement activity generally expressed support for adopting this activity and weighting it highly.

In addition to offering clinicians the optional IA_AHE_8 improvement activity, CMS is working to better identify and respond to inequities in health outcomes, barriers to coverage, and access to care. For more information please see the CMS Strategic Pillar: Advancing Health Equity¹ and the CMS Framework for Health Equity (2022-2032).² CMS and the entire Department of Health and Human Services encourage clinicians and health care leaders to take meaningful actions to advance health equity and provide people with the care and support they need to thrive.

Thank you again for your letters. I look forward to continuing to work with Congress on the important issue of improving health outcomes through a commitment to health equity.

Sincerely,

Xavier Becerra

cc:

The Hon. Gary Palmer

The Hon. Adrian Smith

The Hon. Kevin Hern

The Hon. Gregory F. Murphy, M.D.

The Hon. Lloyd Smucker

The Hon. Carol D. Miller

¹<https://www.cms.gov/newsroom/press-releases/cms-outlines-strategy-advance-health-equity-challenges-industry-leaders-address-systemic-inequities>

²https://www.cms.gov/sites/default/files/2022-04/CMS%20Framework%20for%20Health%20Equity_2022%2004%2006.pdf