

# CMS flexibility provides practices relief on 2020 MIPS reporting

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The COVID-19 pandemic has unleashed a wave of uncertainty across the U.S. private health care infrastructure, which the Centers for Medicare & Medicaid Services (CMS) is hoping to mitigate by being flexible with clinicians who participate in its Merit-based Incentive Payment System (MIPS).

**Editor's note:** On Dec. 2, CMS announced an extension of the deadline to complete an “extreme and uncontrollable circumstances application” for MIPS performance year 2020 to Feb. 1, 2021. [Learn more from CMS.](#)

An explanation of what physicians must do to benefit from these MIPS flexibilities was given by Koryn Rubin, the AMA's assistant director for federal advocacy, who joined ReachMD host Jennifer Caudle, MD, for a “Perspectives with the AMA” podcast.

MIPS uses a scoring system designed to encourage and reward physicians and other clinicians for improving the quality of the health care they deliver. However, in recognition of the difficulties practicing during the COVID-19 public health emergency, CMS has invoked its Extreme and Uncontrollable Circumstances policy and is allowing MIPS participants to request reweighting of one or more of the program's performance categories, which are: quality, cost, promoting interoperability, and improvement activities.

“A physician can request a hardship exemption on just the cost category and the quality category, for example, and only be held accountable for the promoting interoperability and improvement activity categories,” Rubin said.

Physicians, groups and virtual groups can also request a hardship exemption on all four performance categories and, if approved by CMS, be held harmless from a MIPS penalty, she added.

These requests must be submitted to CMS by Feb. 1, 2021. CMS will notify applicants via email whether their requests are approved or denied.

“It’s pretty simple, actually,” Rubin explained. “All you need to state in the hardship exemption 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 exemptions, 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.”

Physicians who do not submit a request by Dec. 31, however, will be held accountable for all applicable MIPS categories unless they are exempt from MIPS for some other reason, such as not reaching the program’s low-volume threshold, Rubin said.

She added that the AMA thinks this is balanced approach that allows and encourages practices to participate in MIPS, but also recognizes that 2020 has been a year like no other for practices and relief may be needed.

When deciding what action to take, Rubin recommended practices ask these questions:

- | Is your practice on the front line caring for patients dealing with COVID-19?
- | Were your resources pulled elsewhere so you couldn’t actively participate in MIPS?
- | Has your practice experienced any form of financial distress, such as being temporarily closed?
- | Did you layoff or furlough staff?
- | Did you experience reduced practice hours or lower patient volume due to increased hygiene and cleaning practices or physical-distancing precautions?
- | 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?

Another point to consider is that the public health emergency was deemed to have started on Jan. 31, so that is the date to roll back to when making a hardship application.

At a minimum, Rubin recommended practices apply to have their cost performance reweighted to zero.

There are several reasons for this:

- | CMS uses national benchmarks for the cost category measures and a practice’s 2020 performance is likely to appear much different than previous years.
- | National benchmarks may not accurately reflect regional pandemic surges, and this may result in being penalized for treating more patients with COVID-19.
- | Lower patient volume, due to stay-at-home orders and restrictions on nonessential surgeries, may affect a practice’s ability to have reliable case minimums that CMS uses to

measure cost performance.

| Because patients are avoiding preventive and routine care, attribution of costs may be skewed toward the sickest patients that a practice cares for.

The AMA supports flexibilities that CMS implemented for MIPS during the COVID-19 emergency and urges the agency to continue these policies through 2021 as the ongoing pandemic disrupts fair and accurate evaluation of physician performance.

The AMA has also worked with CMS to identify issues arising from COVID-19 and to recommend specific actions to improve Medicare coverage of services and to reduce regulatory burdens on physicians during the pandemic.

Read more AMA guidance on MIPS and discover how AMA advocacy has led to flexibility of CMS payment and regulatory policies during the COVID-19 public health emergency.