



## Alerts

### CMS Prioritizes Patient Care, Allows Flexibility with MACRA Implementation

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*Health Law Alert*

CMS has given health care providers a little breathing room when it comes to the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) implementation. MACRA will take effect on January 1, 2017, and moves toward the CMS goal of paying for value and better care. MACRA replaced the Sustainable Growth Rate formula with a new approach to paying clinicians for value and quality of care. MACRA makes important changes to how Medicare pays those who provide care to Medicare beneficiaries. Additionally, MACRA creates a new Merit-Based Incentive Payment System (MIPS), a new Technical Advisory Committee for assessing Physician Focused Payment Model proposals, and incentive payments for participation in Alternative Payment Models (APM).

Members of the medical community have expressed concern about some of the challenges that will accompany MACRA implementation. Because of this, CMS has faced increased pressure to ease implementation of MACRA due to the potential burdens on providers, with politicians and medical groups calling for more flexibility. In response, on September 8, 2016, CMS announced that it will allow providers to choose the level and pace at which they comply with the new payment reform model.

Starting in 2017, eligible physicians and other clinicians will be given four options for payment, three of which include complying with a new payment scheme, such as MIPS, and the other of which includes complying with an APM, such as an accountable care organization. Under MIPS, physician payments will be based on a compilation of quality measures and the use of electronic health records. Around 90% of physicians are expected to pursue MIPS because a qualifying APM requires more risk.

- Option 1: Any data reported will allow providers to avoid a negative payment adjustment. The goal for this option is to ease providers into broader participation in the following two years.
- Option 2: Allows providers to submit data for a reduced number of days. This means their first performance period could begin after January 1, 2017, and those providers could still qualify for a small payment if they submit data on how their practices are using technology and how they are improving.
- Option 3: For those practices that will be ready to comply in 2017, the third option is submitting a full year's worth of data.
- Option 4: The final option is to participate in an advanced APM.

Last week's announcement signals reluctance on the part of CMS to enforce the consequences associated with what could be a difficult transition period for some providers. CMS is considering additional items to further ease the burden of implementation. The hope is that the flexibility will allow providers to focus on the best patient care in the long term, rather than what will happen in 2017. The final rule is expected to be released in November 2016.

For more information, please contact your regular [Hinshaw attorney](#).

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