



## Policy Update

### House Holds Hearing on MACRA Challenges, but Meaningful Reform Is Unlikely

On June 22, 2023, the US House of Representatives Committee on Energy and Commerce Subcommittee on Oversight and Investigations held a hearing titled “[MACRA Checkup: Assessing Implementation and Challenges that Remain for Patients and Doctors](#).” The purpose of the hearing was to evaluate the successes and remaining challenges associated with the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA).

#### Background: MACRA Implementation Pitfalls

Enacted in 2015, MACRA reformed Medicare physician payments by eliminating the sustainable growth rate formula and making specific updates for payments under the Medicare Physician Fee Schedule. It also created the Quality Payment Program (QPP), the main quality reporting program for physicians in Medicare. Implementation of the law has been uneven, however, and as a result Medicare physician payments are still in need of reform. Medicare’s actuaries predict that unless Congress intervenes, MACRA’s payment updates will eventually drive physician payments lower than if the sustainable growth rate had remained in place.

The QPP has also faced substantial challenges in implementation. The QPP includes two tracks: MIPS and Advanced Alternative Payment Models (APMs). MIPS includes four performance categories: Quality, Cost, Improvement Activities and Promoting Interoperability (formerly Meaningful Use). Performance on these four categories (which are weighted) rolls up into an overall score out of 100 points that translates to an upward, downward or neutral payment adjustment that providers receive two years after the performance period (for example, performance in 2023 will impact Medicare payments in 2025). Providers who successfully participate in Advanced APMs can receive a bonus and are exempt from MIPS. However, the last year a clinician can receive a bonus under current law is 2025, based on the clinician’s participation in the Advanced APM in 2023. Most physicians do not participate in Advanced APMs and therefore must meet the MIPS requirements.

The QPP has proven less successful than intended for several reasons:

- The goal of the QPP was for clinicians to start in MIPS in order to grow accustomed to being held accountable for cost and quality of care, then eventually transition to Advanced APMs, which require clinicians to take on downside financial risk. However, there are no opportunities for most specialists to directly participate in APMs, and even primary care providers in APMs are reticent to take on financial risk—which is required in order to be exempt from MIPS and eligible for a bonus.
- MIPS has been largely unsuccessful in motivating clinicians to make practice-level changes that will improve patient care and lower costs. Instead, clinicians often focus primarily on achieving a bonus and avoiding penalties. In order to surpass a pre-determined “performance threshold,” providers may be motivated to select measures and activities on which they are most likely to perform well, rather than measures and activities that would have the greatest impact on cost and quality of care. Clinicians’ ability to succeed under MIPS has also been based on their size and location—larger provider organizations with higher payrolls have more resources to successfully participate in MIPS and keep up with evolving regulations, while small and rural providers face steeper challenges.



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- Since MACRA passed in 2015, the Obama, Trump and Biden Administrations have not properly implemented key aspects of the law. For example, MACRA created the Physician Focused Payment Technical Advisory Committee (PTAC). The PTAC's mission was to evaluate proposals for physician-focused payment models from the public, and to recommend models to the Secretary of the US Department of Health and Human Services (HHS) for implementation. The HHS Secretary in turn was charged with responding to the PTAC's recommendations and making his or her own recommendations regarding which models the Centers for Medicare & Medicaid Services (CMS) should implement. Initially, the PTAC received several proposals and recommended some of them to the HHS Secretary. The HHS Secretary issued responses to the recommendations and instructed CMS to review and consider the models. However, CMS never implemented any of the models recommended by PTAC or the HHS Secretary. As a result, the public eventually stopped submitting proposed payment models. The PTAC hasn't received a new proposal in years.

Another major MACRA provision relates to clinical data registries owned and operated by physician specialty associations. MACRA called on CMS to support the use of these registries, but CMS has instead made it more difficult and expensive for these registries to remain functional. The registries have the potential to be excellent sources of data on clinical conditions, but under current regulations, they cannot be utilized to their full extent. Thus, lack of access to data continues to hamper MIPS.

During the last five MIPS performance years (2019-2023), clinicians have been able to claim an exception to MIPS because of the COVID-19 pandemic. As a result, MIPS hasn't functioned as intended for this entire period.

### The June 22 Hearing

At the June 22, 2023, Oversight and Investigations Subcommittee hearing, congressional members and witnesses reiterated many of the issues discussed above. Members who represent rural areas were particularly concerned about small and rural providers' ability to succeed under MIPS and ensure that high-quality care is provided in these areas. Several congressional members who are physicians highlighted the urgent need to provide stable updates to physician payments and ensure that payments keep up with the rising costs of providing services. Members and witnesses also discussed the lack of opportunities for specialists to participate in APMs and noted that the overall number of APM participants will decline if and when the incentive payments cease.

Harvard University health policy professor J. Michael McWilliams, MD, PhD, argued that MIPS should be eliminated entirely. He pointed out that because clinicians who fare well in MIPS have little incentive to join an Advanced APM, eliminating MIPS could actually speed up the transition to Advanced APMs. He also advocated for expanding the Advanced APM bonus to include APMs that do not include downside financial risk, since those APMs have proven successful.

### What's Next?

Despite the points raised in the hearing, it is doubtful that Congress will use this discussion as a launching point for meaningful MACRA reform. Congress may continue to gather information regarding potential changes to MACRA, but is unlikely to act on stakeholder recommendations at this time. The physician community therefore will once again face a potential cut to Medicare payments, and Congress will likely enact more temporary fixes, continuing to kick the can down the road.

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