

This guidance document is intended to provide clarity on the treatment of clinicians who switch practices while participating in the Merit-based Incentive Payment System (MIPS) and the potential implications for practices who gain these clinicians.¹

Given the complexity around MIPS eligibility, performance assessment, and payment adjustments, this document starts with general reminders about how the Centers for Medicare and Medicaid Services (CMS) operates the MIPS program. It then provides rules for how CMS applies performance in one year to payment for clinicians who switch practices, and also offers scenarios to illustrate how the rules apply.

MIPS Eligibility, Reporting, and Payment Reminders

- 1. Performance Year versus Payment Year.** CMS generally uses performance in one year to determine payment adjustments that apply two-years later. Thus, there is a two-year gap between the MIPS performance year and the MIPS payment adjustment year. For example, MIPS performance during 2018 will be used to assess the 2020 payment adjustment.
- 2. MIPS Eligibility and Scoring at the TIN/NPI Level.** MIPS eligibility, performance and payment adjustments are considered at the TIN/NPI level. For any given TIN/NPI, CMS will determine either:
 - That the TIN/NPI combination is not MIPS eligible. If the TIN/NPI combination is not MIPS eligible for a given performance year, then no MIPS data submission is required, and the corresponding MIPS payment adjustment for that TIN/NPI combination in the payment year is a neutral MIPS payment adjustment – **if** the MIPS submission for that TIN/NPI combination is made at the individual level (see bullets 3 and 4 below). Note that a clinician may be considered not MIPS eligible if he/she (1) falls below CMS' low-volume threshold criteria; (2) is a qualifying APM participant with sufficient participation through an advanced APM; or (3) is new to Medicare. Clinicians should always check their MIPS eligibility status for each practice they belonged to (i.e., each unique TIN/NPI combination) during each applicable performance year using the [QPP Participation Status Look-up Tool](#).
 - OR
 - If MIPS eligible, a MIPS Final Score to be applied to that TIN/NPI combination. If a clinician is eligible for MIPS under multiple TINs, he/she would need to separately satisfy the requirements of MIPS under each unique TIN/NPI combination and would receive a separate MIPS Final Score and payment adjustment under each unique TIN/NPI combination. If no submission is made for a given TIN/NPI combination that is determined to be MIPS eligible for the performance year, then that TIN/NPI combination will receive a MIPS Final Score of 0, which corresponds to the maximum negative payment adjustment that applies for the payment year (-5% for payment in 2020 based on performance in 2018).

¹ The information in this document reflects Hart Health Strategies' understanding of final policies based on available information collected across numerous sources, including regulations, CMS guidance, and CMS staff and contractors, and may be subject to change.

- 3. Importance of Individual versus Group Level Reporting.** For any given TIN/NPI combination, the individual or group practice may choose to report under MIPS at the individual level, at the group level, or both the individual or group level. Note that participation and assessment at the MIPS APM level and the virtual group level may also be applicable, but they are not considered to any further extent in this guidance document for the sake of simplicity.

It is important to confirm with any practice whether it will be reporting on the clinician's behalf, and if so, whether such reporting will be at the individual (TIN/NPI) level, where reporting would only take into consideration performance by that individual clinician, or at the group level (TIN), where reporting would aggregate performance across all eligible clinicians in the TIN. This is true even if the clinician leaves the TIN in the middle of the year, as partial year performance may still contribute to a MIPS Final Score for that TIN/NPI combination.

Note that if there is a MIPS Final Score associated with a TIN/NPI for both individual level reporting and group level reporting for a given performance period, CMS will apply the higher MIPS Final Score when making payment adjustments in the payment year for that TIN/NPI combination.

- 4. MIPS Eligibility at the TIN Level.** For practices that decide to report at the group level, CMS will also consider MIPS eligibility at the TIN level. Thus, if the practice reports at the group level, then the group (and all NPIs associated with the TIN for the performance year) will be considered MIPS eligible for the performance year. Note that, in some cases, an individual may not be considered MIPS eligible for a performance year at the individual level, but if the practice reports at the group level and the group is determined to be MIPS eligible, then the individual will be considered MIPS eligible as part of the group.
- 5. Role of Timing in Determining MIPS Eligibility and Scoring for a Performance Year.** *The 2018 MIPS eligibility determination window spans from 9/1/2016 – 8/31/18, which is further broken down into two separate windows: (1) 9/1/2016 – 8/31/2017 and (2) 9/1/2017 – 8/31/2018.* CMS uses a clinician's status in each of these periods to determine whether a clinician or group is eligible to participate in MIPS for 2018. If a clinician is determined to be not MIPS eligible based on the first period, then that status will apply for the 2018 MIPS eligibility period, regardless of whether the clinician is determined to be MIPS eligible based on the second period.
- If a TIN/NPI only exists for a sufficiently short time during an eligibility determination window, then it is possible that the TIN/NPI will not meet the low-volume threshold, and therefore it will not be considered MIPS eligible for the associated performance period. For example, if a clinician joined a practice (i.e., formed a new TIN/NPI) toward the end of the 2018 MIPS eligibility determination window (e.g. starting 6/1/2018), then it is likely that such TIN/NPI combination will be determined to be not MIPS eligible at the individual level for the 2018 performance period due to insufficient Medicare volume.
 - For 2018, if a MIPS eligible clinician joins an existing practice after the close of the 2018 MIPS eligibility window (e.g. 9/15/2018) and that TIN is not participating in MIPS as a group, CMS will re-weight all four categories of MIPS to zero percent for that TIN/NPI, meaning that the clinician will not have to report MIPS data for that performance period and will be subject to a neutral payment adjustment for that TIN/NPI combination in 2020. However, if the existing TIN *does* participate in MIPS as a group, then CMS will apply the TIN's MIPS Final Score to the new clinician's TIN/NPI for the performance year.
 - CMS will also re-weight all MIPS categories to zero for a practice that is newly formed (i.e., a new TIN) at any point after the close of the 2018 eligibility window through the end of the 2018 performance year (i.e., 9/1/18 – 12/31/18) regardless of whether the clinicians in the practice participate as individuals or as a group.

- Note that these policies will generally remain the same for the 2019 performance period, except that:
 - For the 2019 performance year, CMS has shifted the MIPS eligibility determination window so that it now spans from 10/1/17 – **9/30/19**, again with two separate windows: (1) 10/1/2017 – 9/30/2018 and (2) 10/1/2018 – 9/30/2019. This will impact the treatment of certain clinicians who join a practice or form a new TIN from 10/1/2019-12/31/2019.
 - For 2019, for groups submitting data at the TIN level, CMS will apply the group final score to all of the TIN/NPI combinations that bill under that TIN during a 15-month window that starts with the second segment of the MIPS determination period (i.e., three months prior to the performance year) and goes through the end of the performance year (10/1/18 – 12/31/19).

Overarching Rules for Determining Payment Year Adjustments Based on Performance Year TIN Affiliations

- 6. Primacy of Matching TIN/NPI Performance in the Performance Year to the Same TIN/NPI's Payment in the Payment Year.** If a clinician provides Medicare services under a TIN/NPI combination for a performance year, and that same TIN/NPI combination exists in the payment year, CMS will use the TIN/NPI's performance year MIPS Final Score to adjust payment for the same TIN/NPI in the payment year.
- 7. Application of Performance Year MIPS Final Scoring to New TINs in Payment Year.** If a clinician practices with a new TIN and therefore has a new TIN/NPI combination in the payment year that did not exist in the performance year, CMS will rely on the NPI's MIPS Final Score for the TIN(s) he/she was billing under during the performance period for purposes of determining the payment adjustment under the new TIN. If the clinician practiced under multiple TINs in the performance period, and therefore has multiple MIPS Final Scores for his or her NPI (none of which correspond to the new TIN), then CMS will apply the highest MIPS Final Score that is available from among all the MIPS Final Scores that were calculated for the NPI.

It's important to keep in mind that switching TINs does not necessarily erase performance history under MIPS, like it did under the Value Modifier program. Under the Value Modifier, a clinician who moved to a new practice would assume the performance score and payment adjustment of the new TIN, even if he/she did not contribute to the TIN's performance. Under MIPS, if a clinician switches to a new TIN after the MIPS performance period, his past MIPS performance will follow him from the previous practice to the new practice. According to the 2017 Quality Payment Program (QPP) Final Rule: "In response to concerns about the adverse effect on a new TIN that hires an individual that had a lower final score in the performance period, we want to reiterate that the MIPS payment adjustment is only being applied to that individual TIN/NPI and not all NPIs in that same hiring TIN and that in some cases the MIPS payment adjustment is positive." According to CMS, these policies ensure that MIPS eligible clinicians who qualify for a positive MIPS payment adjustment are able to keep it, even if they change practices; for those who have a negative MIPS payment adjustment, this policy ensures MIPS eligible clinicians are still accountable for their performance. CMS also clarifies that TINs are not required to perform any calculations to account for this movement of clinicians—CMS will apply the specific MIPS payment adjustment that needs to be applied for that specific TIN/NPI for the payment year.

Illustrative Scenarios

Scenario 1: Dr. Smith worked in TIN A during all of the 2018 performance year. Dr. Smith left TIN A and joined TIN B in 2019 (i.e., after the performance year), and remained in TIN B through the 2020 MIPS payment year. How will CMS determine Dr. Smith's 2020 payment adjustment?

A: If a clinician starts to work for a new practice or creates a new TIN that did not previously exist during the performance period, there is no historical performance information or MIPS Final Score for the new TIN/NPI. Since there is no MIPS Final Score on which to base the payment adjustment associated with the new TIN/NPI combination, CMS will use the NPI's performance for the TIN(s) the NPI was billing under during the performance period. In the example above, since there is no 2018 MIPS Final Score associated with Dr. Smith under TIN B, CMS will use Dr. Smith's MIPS Final Score under TIN A to determine his 2020 MIPS payment adjustment under TIN B.

Scenario 2: Dr. Smith left TIN A in 2018 and joined TIN B that same year. He then left TIN B and joined TIN C in 2019, where he remained through 2020. How would CMS determine Dr. Smith's MIPS payment adjustment for 2020?

A: If Dr. Smith was determined by CMS to be eligible to participate in MIPS under both TIN A and TIN B in 2018, CMS would use the higher of these two performance scores to determine his payment adjustment under TIN C in 2020. If Dr. Smith (or his practice on his behalf) did not submit data under TIN A or TIN B in 2018, he would receive a MIPS score of 0 and receive the maximum downward payment adjustment under TIN C in 2020 (i.e., -5%).

Scenario 3: Dr. Smith left TIN A during the 2018 performance period. He did not join any other practices in 2018, but then joined TIN B in 2019 and remained there through 2020. How would CMS determine his 2020 payment adjustment and how would TIN A be impacted by the loss of this clinician?

A: This depends on how TIN A chooses to participate for the 2018 performance period.

If TIN A participates in MIPS at the **individual level** in 2018 (i.e., submits data on behalf of each MIPS eligible NPI separately):

- TIN A is not required to submit individual data on behalf of an NPI who left the practice during the 2018 performance period, but CMS encourages TINs to consider doing so if they have the data available to ensure the clinician does not receive a MIPS Final Score of 0 and a payment penalty in 2020 under any other new TIN he/she might have joined after the performance year.
- If TIN A submits data on behalf of Dr. Smith on 2018, even though he left the practice that year, Dr. Smith will receive a MIPS Final Score greater than 0 for 2018 performance and a corresponding 2020 payment adjustment under TIN B based on his or her performance under TIN A in 2018. Here, performance follows this clinician to the new TIN since he or she joined a new practice after the performance year. CMS has no other performance from 2018 on which to adjust this clinician's payments under TIN B other than his or her performance under TIN A.
- As noted above, if TIN A does not submit data on behalf of Dr. Smith and Dr. Smith does not submit data on his own under TIN A, he would receive a MIPS Final Score of 0 for 2018 performance and a -5% payment adjustment under TIN B in 2020 (note that this payment adjustment would not affect TIN A).
- Note that these policies would generally apply regardless of what time of year Dr. Smith left TIN A in 2018. However, if Dr. Smith left so early in the year that he did not have enough Medicare patients/revenue to meet the low-volume threshold and to be considered a MIPS eligible clinician under TIN A, then he would receive a neutral MIPS payment adjustment under TIN B.

- Keep in mind that different policies apply if the clinician leaves one practice and joins a different practice **during the performance period** and remains in that new practice until the payment year. These scenarios and associated policies are described in Scenario 2, Scenario 4, and Scenario 5.

If TIN A participates in MIPS at the **group level** in 2018 (i.e., submits aggregated data on behalf of the entire group):

- TIN A would be responsible for including data from **all** eligible clinicians who were at the practice during the performance period, as appropriate to the measures and activities the group has selected. This would include any relevant data from Dr. Smith during his time working at TIN A in 2018.
- All MIPS eligible clinicians in the TIN A would receive a MIPS Final Score based on the group's performance in 2018. This would include clinicians such as Dr. Smith, who left the practice **during** the performance period, did not join any other practices during the 2018 performance year, and then moved to another practice after 2018. In other words, TIN A's 2018 group score would apply to Dr. Smith and would determine his payment adjustment under TIN B.
- Assuming that TIN A exceeded the low-volume threshold and was eligible to participate in MIPS in 2018 at the group level, the aforementioned policies would apply regardless of what time of year Dr. Smith left TIN A. It would not matter if Dr. Smith left early in the year and did not exceed the low-volume threshold as an individual since the group, as a whole, is MIPS eligible and has opted to participate at the group level.

Scenario 4: Dr. Smith joined TIN B on 9/15/18 and remained in TIN B through 2020, after spending the majority of the year in TIN A. What does this mean in terms of Dr. Smith's and TIN B's 2018 reporting obligations and 2020 MIPS payment adjustments?

A: This depends on how TIN B chooses to participate for the 2018 performance period, as described in the two scenarios below.

If TIN B is participating in MIPS in 2018 at the individual level (and submits data on behalf of each MIPS eligible NPI separately):

- No individual data needs to be submitted by or on behalf of Dr. Smith who started billing under TIN B after the close of the 2018 eligibility window (i.e. 8/31/2018).
- Any data that is submitted by or on behalf of Dr. Smith will be considered a voluntary submission and will not qualify him for a positive or negative payment adjustment.
- Dr. Smith will receive a neutral payment adjustment under TIN B in 2020. Note: this is only because all NPIs in TIN B are reporting at the individual level (see below for different policies that apply in the context of group reporting).
- Also note that if Dr. Smith moved to TIN B earlier in 2018 (e.g., 6/1/18), he might not exceed the low-volume threshold at the individual level since it would be based on Medicare patients or charges under TIN B during the short span of 6/1/18 – 8/31/18. If Dr. Smith did not exceed the low-volume threshold and TIN B was participating at the individual level, Dr. Smith would be exempt from MIPS in 2018 and not subject to a payment adjustment in 2020. So long as Dr. Smith stayed in TIN B from the 6/1/2018 through 2020, his performance under TIN A would be ignored and would not impact his payments under TIN B, since CMS will consider performance for a TIN/NPI combination in the performance year if the same TIN/NPI combination exists in the payment year.

If TIN B participates in MIPS at the **group level** in 2018 (i.e., submits aggregated data on behalf of the entire group):

- TIN B would be expected to include Dr. Smith's performance data from 9/1/2018 – 12/31/2018 as part of the group's submission, as appropriate to the measures and activities selected.
- Dr. Smith will receive a MIPS Final Score and payment adjustment based on the group's submission.

****As noted earlier, this policy will generally remain the same for 2019; however, the MIPS eligibility determination window has been pushed back for 2019 so that it spans from 10/1/17 – 9/30/19. Therefore, the policies described above will impact clinicians who switch practices on or after 10/1/19 through 12/31/18.***

Scenario 5: Dr. Smith works at TIN A, B, C, and D in 2018 and is eligible for MIPS at all four practices. He leaves TIN A and joins TIN E on 9/15/18, but remains in TIN B, C, and D through 2020. What are Dr. Smith's reporting obligations under MIPS in 2018 and payment implications for 2020?

A: If TIN E reports at the individual level, then Dr. Smith would not have to report anything for MIPS under TIN E in 2018 and would receive a neutral adjustment under TIN E in 2020. If TIN E participated in MIPS as a group, Dr. Smith's data would be included as applicable and he would receive a MIPS Final Score and payment adjustment based on the TIN E's group submission. Keep in mind that Dr. Smith would receive separate payment adjustments for each of TINs B, C, and D for 2020, based on the MIPS Final Score each unique TIN/NPI combination earned based on performance in 2018, respectively.