

Ethical Implications of Bundled Payments and Value Based Purchasing,

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or,

Morality in the age of M.A.C.R.A.

PRESENTATION TO H.C.C.A. MANAGED CARE CONFERENCE, JANUARY 31ST, 2017

DAVID N. HOFFMAN, PAGNY CHIEF COMPLIANCE OFFICER

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Session Topics

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- ▶ • Payment for episodes of care and rewards for measurable improvement in patient outcome raise quality of care compliance issues that have not been seen since the early days of managed care.
- ▶ • Capitation arrangements in the '80s and '90s motivated some payors to tie provider panel participation to nondisclosure agreements that left patients in the dark about the financial incentives offered for effective management of utilization.
- ▶ • As with those earlier contracting models, health maintenance compensation structures can create ethical challenges for payors and providers, related to disclosure obligations and peer review of specialist referral practices.

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Knowledge is Power.

Bacon

Ignorance is Dangerous.

Martin Luther King, Jr.

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What you will learn:

HCAHPS

CAHPS

VBP

DSRIP?

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5

AND NOW,

M.A.C.R.A.

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First Some Context

FIRST RULE OF CORPORATE COMPLIANCE:

**DON'T BILL FOR CARE
YOU DIDN'T PROVIDE...
THAT'S STEALING**

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SECOND RULE OF CORPORATE COMPLIANCE:

DON'T BILL FOR CARE
YOU PROVIDED, THAT
WASN'T NECESSARY...
THAT'S STEALING

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THIRD RULE OF CORPORATE COMPLIANCE:

DON'T BILL FOR CARE YOU
PROVIDED, THAT WAS
NECESSARY,
BUT WAS OF POOR QUALITY...
THAT'S _____?

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“QUALITY CARE” DID NOT MEAN,
THE PATIENT GOT “ALL BETTER”.

DOCTORS COULDN'T, AND WERE NOT EXPECTED TO
GUARANTEE OUTCOMES.

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WITH MACRA,
THAT HAS ALL
CHANGED.

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EARLIER ACRONYMS THAT RULE OUR LIVES...

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HCAHPS

HOSPITAL CONSUMER ASSESSMENT of
HEALTHCARE PROVIDERS and SYSTEMS

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CAHPS

CONSUMER ASSESSMENT OF
HEALTHCARE PROVIDERS AND SYSTEMS

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VBP

VALUE BASED PURCHASING

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DSRIP(P)

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DELIVERY SYSTEM REFORM
INCENTIVE PAYMENT PROGRAM

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AND NOW...

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M.A.C.R.A.,

A VERY SPECIAL ACRONYM

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M.A.C.R.A.

MEDICARE ACCESS AND C.H.I.P.
REAUTHORIZATION ACT OF 2015

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C.H.I.P....

Child Health Insurance Program

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M.A.C.R.A.

MEDICARE ACCESS AND CHILD
HEALTH INSURANCE PROGRAM
REAUTHORIZATION ACT OF 2015

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What is "MACRA"?

The **Medicare Access and CHIP Reauthorization Act of 2015 (MACRA)** is a bipartisan legislation signed into law on April 16, 2015.

What does Title I of MACRA do?

- **Repeals** the Sustainable Growth Rate (SGR) Formula
- **Changes the way that Medicare** rewards clinicians for **value** over volume
- **Streamlines** multiple quality programs under the new **Merit-Based Incentive Payments System (MIPS)**
- Provides **bonus payments** for participation in eligible **alternative payment models (APMs)**

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SUSTAINABLE GROWTH RATE (SGR)

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WHICH BEGOT...

THE ANNUAL "DOC-FIX" BILLS

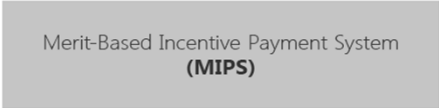
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MIPS changes how Medicare links performance to payment

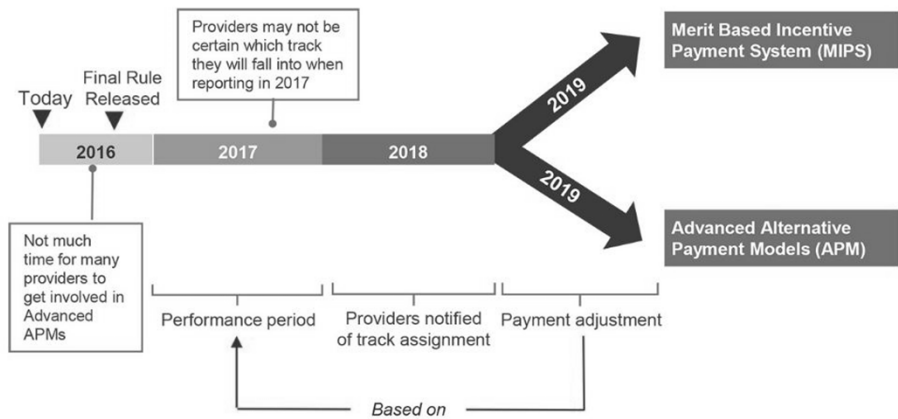
There are currently multiple individual **quality and value** programs for Medicare physicians and practitioners:



MACRA streamlines those programs into **MIPS**:



MACRA Implementation Timeline



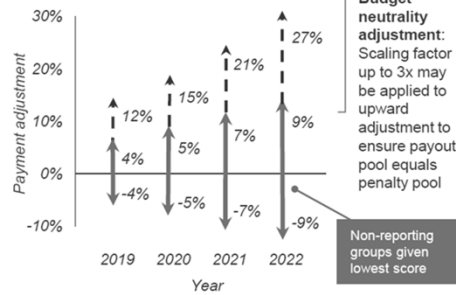
Merit-Based Incentive Payment System (MIPS)

Proposed Reporting Requirements Under Four Performance Categories

- Quality**
 - Adopted from PQRS
 - Requires clinicians to report six quality measures to CMS
 - Over 200 measures to choose from, 80% tailored to specialists
- Resource Use**
 - Adopted from VBPM
 - No reporting requirement
 - Assesses clinician cost performance based on Medicare claims data
- Clinical Practice Improvement Activities**
 - New performance category for clinicians
 - Measures performance by assessing clinical practice improvement activities such as activities focused on care coordination, beneficiary engagement, and patient safety
- Advancing Care Information**
 - Adopted from the Medicare EHR Incentive Program (Meaningful Use)
 - Measures clinician certified EHR use
 - Applies to all clinicians¹ and no longer requires all-or-nothing measure reporting

Financial Implications

Maximum Provider Penalties and Bonuses



Budget neutrality adjustment: Scaling factor up to 3x may be applied to upward adjustment to ensure payout pool equals penalty pool

Annual Update for MIPS Track

0.25% Annual update to physician fee schedule from 2026 onwards

1) Eligible clinicians include physicians, physician assistants, nurse practitioners, clinical nurse specialists, certified registered nurse anesthetists, and groups that include such clinicians.
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About the AMA's STEPS Forward™

Health care is changing rapidly. Physicians are transforming their practices into organizations that can achieve the Quadruple Aim: better patient experience, better population health and lower overall costs with improved professional satisfaction. To navigate this environment, we leveraged the findings from the AMA-RAND study, "Factors affecting physician professional satisfaction and their implications for patient care, health systems and health policy," to develop the STEPS Forward™ practice transformation series.

STEPS Forward™ offers innovative strategies that will allow physicians and their staff to thrive in the new health care environment.

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Medical Group Management Association

Together, MGMA and the AMA provide practice managers and clinicians with the data, tools, education, certification, and relationships needed to ensure success in a value-based payment environment.

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- Patient Care (13)
- Workflow and Process (12)
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- Professional Well-Being (4)
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Quality Reporting and the importance of Qualified Clinical Data Registries (QCDRs) in maximizing your success
 Ensure your practice's quality reporting success. [Get started >](#)

What is MACRA?

The Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) repealed the sustainable growth rate formula replacing a broken, frustrating and needlessly unpredictable system. This transition stabilizes Medicare payments and has the potential to reward physicians for what they do best— providing quality, high-value care. From education materials to customized practice insights, we'll help you get a clear view of your payment model options and your practice's financial wellness throughout the payment and care delivery reform process.

Learn About MACRA

Take MACRA Assessment



↓ How Will MACRA Affect Me

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How does MACRA affect the
Standard of Care?

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By Turning Conflicts of Interest
on their heads!

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Which begs the question:

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Which begs the question:

WHAT IS A CONFLICT OF INTEREST?

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GLOBAL AMNESIA: EMBRACING FEE-FOR-NON-SERVICE—AGAIN

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J Gen Intern Med. 2014 May; 29(5): 693–695.
Published online 2014 January 7. doi: 10.1007/s11606-
013-2745-1
PMCID: PMC4000328

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“LET’S HOPE THAT ORWELL’S MEMORY HOLE
REMAINS IN GOOD REPAIR. AS 1984 FANS WILL
RECALL, THAT APPLIANCE INCINERATED
REMINDEES OF THINGS MORE CONVENIENTLY
FORGOTTEN.”

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What was the Problem:

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“PHYSICIANS WERE PRESSURED TO WITHHOLD CARE, AND TO HIDE THAT PRESSURE FROM PATIENTS;”

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And,

BONUSES OF UP TO \$150,000 ANNUALLY WERE OFFERED TO DOCTORS WHO MINIMIZED SPECIALTY REFERRALS, INPATIENT CARE, ETC.

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And,

“OUR PROTEST OF THOSE INCENTIVES,
AND A CONTRACT PROVISION
FORBIDDING THEIR DISCLOSURE (A
“GAG CLAUSE ”) LED TO “DELISTING.
AWARD-WINNING PHYSICIANS—WHO
OFTEN ATTRACT UNPROFITABLY SICK
PATIENTS—WERE ALSO DELISTED.”

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And,

AN ACADEMIC LEADER ADMONISHED
PHYSICIANS: “[WE CAN] NO LONGER TOLERATE
HAVING COMPLEX AND EXPENSIVE-TO-TREAT
PATIENTS ENCOURAGED TO TRANSFER TO OUR
GROUP.”

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What should we do differently this time?

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What should we do differently this time?

CREATE REWARDS FOR ETHICAL
ADVOCACY BY CLINICIANS

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BUT HOW?

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And the answer is...

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And the answer is...

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THE INTERNET, OF COURSE.

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What does
the future
hold?

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A wonderful challenge:

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Changing a flat tire on a bus...

While the bus is moving.

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