

MIPS 2020, the COVID-19 Pandemic, and Applying for Hardship Exceptions

Under the Merit-Based Incentive Payment System (MIPS), you will get a MIPS final score based on your performance in up to four performance categories: quality, promoting interoperability, improvement activities, and cost. Why does this matter? In 2022, your Medicare payments may be adjusted up or down based on your 2020 MIPS final score.

What about COVID-19? The Centers for Medicare & Medicaid Services (CMS) has acknowledged that the pandemic might make MIPS participation unfeasible for some practices, but CMS says that those practices can be accommodated by two existing policies:

- the *extreme and uncontrollable circumstances* hardship exception
- the promoting interoperability performance category hardship exception, which includes a provision for extreme and uncontrollable circumstances

What happens if CMS approves your application for hardship exception(s)? If extreme and uncontrollable circumstances prevent you from participating in one or more MIPS performance categories, you can apply to have CMS disregard the affected category (or categories) when calculating your MIPS final score. Suppose, for example, you successfully apply for a hardship exception for improvement activities but are scored on the other three performance categories. When CMS calculates your MIPS final score, it would reduce the

weight of the improvement activities performance category to 0% and increase quality's weight accordingly (see table, page 61). If you successfully apply to have three or four performance categories reweighted to 0%, CMS will assign you a 2020 MIPS final score of 45 points, which is high enough to avoid a MIPS payment penalty in 2022 but not high enough to get a bonus.

Are you reporting MIPS as part of a group? If your practice is participating in MIPS as a group, the practice can apply for a hardship exception at the group level; however, every MIPS eligible clinician within the group must be impacted sufficiently to meet the hardship exception's requirements.

Important: Do not submit data to CMS on performance categories that are accepted for reweighting. In general, CMS will not reweight a performance category if you report data on it after the triggering extreme and uncontrollable event. If you receive an exception for all MIPS categories and still report data on two or more MIPS categories, CMS will score you on MIPS. (Note: CMS has said that if you submit quality measure data via claims, that should not deter you from requesting a hardship exception.)

Don't miss the Dec. 31 deadline. The deadline to apply for an extreme and uncontrollable circumstances hardship reweighting is 8:00 p.m. Eastern time on Dec. 31, 2020.

What Requirements Does CMS Expect You to Meet?

Extreme and uncontrollable. CMS defines extreme and uncontrollable circumstances as "rare events entirely outside of your control and the control of the facility in which you practice."¹ Examples include hurricanes and public health emergencies, such as the COVID-19 pandemic.

A pandemic alone is not enough. Circumstances may meet the CMS definition of extreme and uncontrollable, but that fact alone won't be enough for CMS to approve your hardship exception. The agency also will consider 1) the extent to which those circumstances prevented you from participating in MIPS and 2) how long you were subject to those circumstances.

To what extent were you prevented from taking part in MIPS? The extreme and uncontrollable circumstances, in the words of CMS,¹ should:

- cause you to be unable to collect information necessary to submit for a MIPS performance category;
- cause you to be unable to submit information that would be used to score a MIPS performance category for an extended period of time (for example, if you were unable to collect data for the quality performance category for three months); and/or
- impact your normal processes, affecting your performance on cost measures and other administrative claims measures.

How long were you prevented from participating in MIPS? If you are applying for a hardship exception for

the quality or cost performance categories, CMS generally would require the circumstances to have lasted for at least three months.

If you are applying for the improvement activities or promoting interoperability performance categories, CMS would generally require the circumstances to have lasted for longer than three months.

Why the difference? For quality and cost, the MIPS performance period is the entire 2020 calendar year; for improvement activities and promoting interoperability, it is just 90 consecutive days. Consequently, even if your practice is disrupted for part of the year, you might still be able to perform improvement activities and promoting interoperability measures if your practice is not disrupted for at least 90 consecutive days.

Were You Prevented From Taking Part in MIPS?

How did the COVID-19 pandemic affect your practice, and to what extent did it prevent you from taking part in MIPS? When you apply for a hardship exception, examples that you might cite include the following.

Prolonged practice closure. This would prevent data collection on quality measures, potentially skew cost measures, and potentially prevent performance of the promoting interoperability measures and improvement activities.

Practice was unable to schedule nonessential surgeries. Since ophthalmology is a surgical specialty, an inability to perform nonessential surgeries would generally prevent the collection of data for many quality measures. Furthermore, the fact that you only saw emergency patients for part of the year could skew your performance rates for cost and quality measures, and, if prolonged, could prevent your performance of improvement activities and promoting interoperability measures.

Practice was unable to see follow-up patients. For part of the year, a strict shelter-in-place protocol may have prevented your practice from seeing follow-up patients. And even after shelter-in-place restrictions were lifted,

Automatic Hardship Exceptions

For some calamities (but not COVID), CMS may waive the application requirement for individuals. For example, if the Federal Emergency Management Agency declares a major disaster or public health emergency, CMS may decide to implement an automatic extreme and uncontrollable circumstances policy. This would mean that affected clinicians could have their performance categories reweighted without having to go through the application process. The agency decided not to apply this policy to the COVID-19 pandemic.

Groups must apply for a hardship exception. The automatic reweighting would only be applied to individuals; if you are reporting as part of a group, your group would have to apply for the reweighting.

Even if you are in a disaster zone, you may still need to submit an application. In some years, CMS has not been able to publish a list of affected areas eligible for an automatic exemption before the end of the calendar year. If you are in a disaster zone, and your area hasn't yet been flagged as eligible for an automatic exemption, consider applying for an extreme and uncontrollable circumstances reweighting before you miss the Dec. 31 deadline.

patients may have been too concerned about COVID-19 to come to the office. This can prevent data collection on quality outcome measures, and it can result in worse performance rates for quality measures.

Reduced patient volume. Shelter-in-place restrictions and patients' fears of COVID-19 have both contributed to reduced patient volume. This can limit your ability to collect data on quality measures, skew performance rates for quality measures, and—if significant and prolonged—may prevent you from performing improvement activities and promoting interoperability measures.

Staffing issues. During the pandemic, have staffing limitations prevented your practice from performing MIPS-related administrative tasks? For example, many ophthalmology practices were forced to lay off or furlough staff. On top of that, remote schooling, day care closures, and suspension of summer camps meant that some staff had to stay home with their children, which has played havoc with staffing schedules. Furthermore, COVID-19-related changes to work protocols may have reduced staff productivity.

In your application, spell out for CMS why such staff limitations should be considered a hardship, and consider buttressing your reasoning with some documentation.

Applying for an Exception

This year, CMS started accepting hardship exceptions in June.

You will need a HARP account. To submit an application for a hardship exception, you will need a HCQIS Access Roles and Profile (HARP) account. For the QPP User Access Guide, and to learn about registering for HARP, visit <https://qpp.cms.gov/login?page=register>.

Next steps. Use your HARP credentials to sign in at <https://qpp.cms.gov/login>; select “Exceptions Application” on the left-hand navigation; and then select “Extreme and Uncontrollable Circumstances.”

Have the following information handy. To submit your application, you'll need to provide the following information:

- An identifier: If participating in MIPS as an individual, you will need your National Provider Identifier (NPI); if as part of a group, you will need your group Taxpayer Identification Number (TIN).
- Contact information of the individual who is submitting information on behalf of the individual clinician or group: Submitter's first and last name; email address (this is how CMS will communicate with the person who submitted the application); and telephone number (including the area

MIPS 2020: How CMS Weights (and Reweights) the Performance Categories

Reweighting Scenario		Weighting in MIPS Final Score			
		Quality	PI	Improvement Activities	Cost
No Reweighting Needed					
You are scored on all four performance categories	Weight	45%	25%	15%	15%
	Points	Up to 45	Up to 25	Up to 15	Up to 15
Reweight One Performance Category to a Zero Weight					
No cost		55%	30%	15%	0%
No PI		70%	0%	15%	15%
No quality		0%	70%	15%	15%
No improvement activities		60%	25%	0%	15%
Reweight Two Performance Categories to a Zero Weight					
No cost and no PI		85%	0%	15%	0%
No cost and no quality		0%	85%	15%	0%
No cost and no improvement activities		70%	30%	0%	0%
No PI and no quality		0%	0%	50%	50%
No PI and no improvement activities		85%	0%	0%	15%
No quality and no improvement activities		0%	85%	0%	15%
No Score for Three or Four Performance Categories					
If CMS can only score you on fewer than two performance categories, you would be assigned a MIPS final score of 45 points, which is enough to avoid the payment penalty.					

CORRECTION: EyeNet's MIPS supplement (May 2020) incorrectly stated the reweighting of quality and PI in the "no cost" scenario, and also incorrectly stated that weights are never redistributed to cost. EyeNet regrets those errors.

PI = promoting interoperability

code and, if applicable, the extension number).

- The dates when the extreme and uncontrollable circumstances started and ended.

MIPS tip. CMS recommends that you do not use Internet Explorer to complete and submit your hardship application.

Look for a confirmation. After submitting your application, you should receive a confirmation email that your application was received and is considered pending, approved, or denied. Applications will be processed on a rolling basis.

If your application is approved, this will also be added to your eligibility profile in the QPP Participation Status

lookup tool (<https://qpp.cms.gov/participation-lookup>); however, it might not appear there until CMS opens the MIPS submission window in early January 2021.

Keep supporting documentation on file. You generally don't need to include any documentation when you submit your hardship application. However, in case you are audited, you should keep all supporting documentation for at least six years.

Stay Current

CMS policies can change. For the most up-to-date information on extreme and uncontrollable circumstances hardship exceptions, visit aao.org/medicare/resources/MIPS-extreme-hardship-ex

ceptions.

For the latest information on the promoting interoperability hardship exception, visit aao.org/medicare/promoting-interoperability/exceptions.

Check your email. For the latest updates on MIPS, check your email in-box for the Academy's *Medicare Physician Payment Update* (sent to you on the first Saturday of each month), *Washington Report Express* (Thursdays), and—if you are a member of the American Academy of Ophthalmic Executives—*Practice Management Express* (Sundays).

1 <https://qpp.cms.gov/mips/exception-applications#extremeCircumstancesException-2020>. Accessed Sept. 1, 2020.