NACCHO
National Association of County & City Health Officials
The National Connection for Local Public Health

June 27, 2016

Andy Slavitt
Acting Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-5517-P
P.O. Box 8013
Baltimore, MD 21244-8013

RE: Medicare Program; Merit-Based Incentive Payment System (MIPS) and Alternative Payment Model (APM) Incentive under the Physician Fee Schedule, and Criteria for Physician-Focused Payment Models (Docket ID: CMS-5517-P)

Dear Administrator Slavitt:

On behalf of the National Association of County and City Health Officials (NACCHO), I am writing to provide comment on the Center for Medicare and Medicaid Services (CMS) Medicare program; Merit-Based Incentive Payment System (MIPS) and Alternative Payment Model (APM) Incentive Under the Physician Fee Schedule, and Criteria for Physician-Focused Payment Models. NACCHO is the voice of the approximately 2,800 local health departments across the country. These city, county, metropolitan, district, and tribal departments work every day to protect and promote health and well-being for all people in their communities.

NACCHO applauds CMS's efforts to promote better care coordination, smarter spending, and healthier people with a bold Quality Payment System proposal that supports the requirements set by the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA). NACCHO enthusiastically supports the decision to consolidate the eligible professional (EP) Medicare EHR Incentive Program into the Merit-based Incentive Payment System (MIPS) with the transition of Medicare physician payments away from a volume-based model to a system that incentivizes and rewards value. NACCHO particularly supports those proposals that elevate public health reporting as an essential or base component of what an eligible clinical (EC) should do to advance certified EHR technology (CEHRT) use, and healthcare information exchange.

From NACCHO's perspective, the incentive for ECs to use CEHRTs for public health reporting is weaker under the MIPS proposals than it is under the EHR Incentive Program for EPs. Whereas the MIPS ACI proposal requires one public health reporting measure, immunization registry reporting as a base requirement for 50 points in the Advancing Care Information (ACI) score, the EHR Incentive Programs require either two or three measures. Local health departments are strongly supportive of the proposed inclusion of immunization registry reporting and we believe that this requirement will boost EC participation in immunization registries and meaningfully improve the ability of public health agencies (PHAs), including local health departments, to protect population health. However, this decreased requirement may have a negative impact on the public health reporting relationships that PHAs have labored to establish under the Meaningful Use programs. Therefore, NACCHO urges CMS to set final

MIPS rules that more strongly incentive EC use of CEHRTs for public health reporting. Specific recommendations are made on the following pages in Tables 1 and 2.

In addition, NACCHO calls attention to health equity considerations as the rules are finalized. Quality measurement in our nation's health system should not be guided by a one-size-fits-all approach. There is a middle-ground approach that would enable CMS to ensure that health disparities among vulnerable populations are not masked. For those clinicians who serve a largely lower socioeconomic or culturally diverse patient mix with limited English proficiency and health literacy, or have significant challenges with the social and physical determinants of health in their communities, CMS should dedicate more funding and provide meaningful resources to address social determinants of health issues impacting communities of color and other at-risk populations. In addition, CMS should provide employ an equity lens when finalizing the rule to ensure that clinicians serving our most underserved communities are not disadvantaged under this new value-based system.

NACCHO appreciates the efforts of CMS to gather input on how to best incentivize quality care through innovative payment methods. As new payment mechanisms are implemented, both clinical health and public health should be well-resourced to support the technology and workflow enhancements needed to seamlessly interoperate, and to fully measure the resulting positive health outcomes and impacts. NACCHO looks forward to continuing to support CMS' efforts as a partner in this effort.

Sincerely,

LaMar Hasbrouck, MD, MPH
Executive Director

NACCHO
National Association of County & City Health Officials
The National Connection for Local Public Health

Specific NACCHO Comments

Table 1: Comments on proposals for (7) Advancing Care Information Performance Category Objectives and Measures Specifications, (a) MIPS Objectives and Measures Specifications, (b) Modified Stage 2 Advancing Care Information Objectives and Measures Specifications for MIPS, (c) Exclusions

NPRM		Joint Public Health Informatics Taskforce (JPHIT)	
Paragraph	**Text**	**Comment(s)**	**Recommendation(s)**
81 FR 28226	(a) MIPS Objectives and Measures Specifications: We propose the objectives and measures for the advancing care information performance category of MIPS as outlined in this section of the proposed rule. We note that these objectives and measures have been adapted from the Stage 3 objectives and measures as finalized in the 2015 EHR Incentive Programs Final Rule (80 FR 62829-62871), however, we have not proposed to maintain the previously established thresholds for MIPS. Any additional changes to the objectives and measures are outlined in this section of the proposed rule. For a more detailed discussion of the Stage 3 objectives and measures, including explanatory material and defined terms, we refer readers to the 2015 EHR Incentive Programs Final Rule (80 FR 62829-62871).	The proposed inclusion into MIPS of the Stage 3 objectives and measures from the EHR Incentive Programs Final Rule (a.k.a., meaningful use or MU) is a welcomed consolidation and simplification in federal programs that promote public health information sharing between healthcare providers and public health agencies (PHAs). We anticipate that this consolidation will have a more lasting positive effect on how eligible clinicians (ECs) view public health reporting. However, we are concerned that: A. the proposal for scoring the Advancing Care Information (ACI) component of MIPS is a weaker incentive for public health reporting than MU; and B. that PHAs will be unable to use Medicaid 90/10 matching funds to support the expense of on-boarding MIPS ECs Please see comments made in Table 2 (below) on 81 FR 28387 that regard ACI scoring for further detail on these concerns and recommendations.	See recommendations in Table 2 on 81 FR 28387 for alternative ACI scoring methodologies that we believe would make parity in incentives for public health reporting between MIPS and MU. We request that CMS create a funding mechanism that will aid state and local public health agencies in on-boarding MIPS public health reporting measures with ECs.

NPRM		Joint Public Health Informatics Taskforce (JPHIT)	
Paragraph	**Text**	**Comment(s)**	**Recommendation(s)**
81 FR 28228	(a) MIPS Objectives and Measure Specifications - **Objective: Public Health and Clinical Data Registry Reporting**	It is essential that the final MIPS and APM rule require immunization registry reporting as a base scoring component for ACI. This provision is a strong incentive for ECs to provide immunization information to PHAs The proposed measures are written in alignment with MU Stage 3 measures. It is especially important that the terms, "active engagement," and "in accordance with applicable laws and practices," remain in the final rule. We are concerned that this proposal will lead to an overall decline in public health reporting as compared to reporting under MU, because: A. Immunization registry reporting is the only required measure in ACI; B. The single bonus point for optional public health reporting measures cannot significantly increase an ECs ACI score nor increase their Composite Performance Score (CPS); and C. ECs can also earn the ACI bonus point by reporting to a clinical data registry	We recommend that the MIPS incentive for ECs to participate in public health reporting be made equal to that found in the MU programs by: A. In the base ACI score for… 1. CY 2017, requiring two (2) public health reporting measures in the public health category of the base ACI score; i. Reporting to immunization registries should be required; ii. The second measure could be any of the optional public health measures; 2. CY 2018 and beyond, requiring three (3) public health reporting measures; i. Reporting to immunization registries, and electronic case reporting should be required; ii. The third measure could be any of the other optional public health measure. B. Increasing the possible bonus score to award one point for each additional public health measure or clinical data registry measure performed.
81 FR 28230	(b) Modified Stage 2 Advancing Care Information Objectives and Measures Specifications for MIPS - **Objective: Public Health Reporting**	The proposed objective and measures for public health and clinical data registry reporting in MIPS are aligned well with MU Stage 2.	None
81 FR 28230	(c) Exclusions	The proposed exclusions for public health reporting are aligned with MU Stages 2 and 3	None

Table 2: Comments on CMS Proposed Amendment: 42-CFR-414.1300, Subpart O - Merit-Based Incentive Payment System and Alternative Payment Model Incentive

NPRM	Proposed Section of 42-CFR-414.13 Subpart O			Joint Public Health Informatics Taskforce (JPHIT)	
Paragraph	Section	Title	Text	Comment(s)	Recommendation(s)
81 FR 28379	414.1305	Definitions.	Certified electronic health record technology (CEHRT)	The definition should more clearly include those health information technologies certified for public health reporting per the ONC's 2014, 2015, and future certification criteria editions.	Explicitly include reference to health information technologies certified for public health reporting in the definition of CEHRT. Ensure that the final definition is not limited to only those CEHRTs that support meaningful use objectives with a percentage-based measures.
81 FR 28381			Meaningful EHR user for MIPS	The definition adequately aligns the proposed quality payment system with the public health purposes served by the Medicare parts of the EHR incentive programs.	none
NA			*Missing: Public Health Agency*	Public health agencies (PHAs) are critical health information exchange entities under the advancing care information (ACI) category for the MIPS composite score. An absence of a clear definition, or reference to a definition for PHAs may introduce ambiguity that undermines the purpose of ACI.	Add "public health agency" to the definitions provided. The definition must clearly identify those governmental agencies that possess legal authority for public health services, and their designees, at local, state, and federal governmental levels; e.g., local boards of health, local health departments, state public health departments, or the Centers for Disease Control and Prevention.
81 FR 28382	414.132	MIPS performance period.	For purposes of this subpart, the performance period for the year is the calendar year (January 1 through December 31) 2 years prior to the year in which the payment	The proposed performance period is a welcome improvement over the 90-day attestation period in the EHR incentive program, since it will further emphasize the need for sustained public health reporting by ECs.	none

NPRM	Proposed Section of 42-CFR-414.13 Subpart O			Joint Public Health Informatics Taskforce (JPHIT)	
Paragraph	Section	Title	Text	Comment(s)	Recommendation(s)
			adjustment applies.		
81 FR 28382	414.1325	Data submission requirements.	(a), (b), (c), (d), (e), (f), (g)	Absent the financial resources for this work, PHAs must not be responsible for any part of the data submission requirements that ECs have under the proposed MIPS and APM tracks. It is concerning that EPs currently participating in both the Medicare and Medicaid EHR incentive programs acquire a dual reporting burden once MIPS is implemented.	Streamline and automate reporting for MIPS wherever possible.
81 FR 28385	414.1375	Advancing care information performance category.	(a) Composite performance score	The weight of 25% of the MIPS Composite Performance Score (CPS) reflects the importance of electronic care information capture, exchange, and use to healthcare system reform. As the MIPS and APM programs mature, we believe that the weight of Advancing Care Information (ACI) in the CPS must always promote public health reporting from ECs to public health agencies. Decreasing the ACI weight below 25% of the CPS will also decrease incentives for	
81 FR 28385			(b), (1) Use CEHRT as defined at § 414.1305 for the MIPS performance period	A revised definition for CEHRT, and an additional definition for “public health agency” should be made to minimize ambiguity in these regulations.	See above comments and recommendations regarding definitions above.

NPRM	Proposed Section of 42-CFR-414.13 Subpart O			Joint Public Health Informatics Taskforce (JPHIT)	
Paragraph	Section	Title	Text	Comment(s)	Recommendation(s)
81 FR 28385			(b), (2) Report MIPS - advancing care information objectives and measures	The rule for reporting ACI for MIPS only describes those measures that have numerators and denominators, and may be null due to an exception. The rule omits a description of those measures that are yes or no; i.e., patient information privacy, and public health reporting. This omission may cause confusion.	Add statement to this section that describes the Boolean measures or categories in ACI; i.e., the required, yes/no categories for patient information privacy, and public health reporting.
81 FR 28386			(3) Support information exchange and the prevention of health information blocking, and cooperate with authorized surveillance of CEHRT.	It is critical that MIPS contain this provision as it will replace part of the Medicare EHR incentive program for EPs It is concerning, however, that the requirement that ECs merely state compliance will inadequately assure information exchange, prevent information blocking, and facilitate cooperation with ONC's CEHRT surveillance.	
81 FR 28387	414.138	Scoring.	(b) Performance categories, (4) advancing care information,	The ACI scoring proposal for public health is not in parity with the MU program incentive for public health reporting. Whereas the MIPS ACI proposal requires one public health reporting measure, the public health reporting requirement is higher under both the modified Stage 2 and final Stage 3 rules; i.e., two of three optional measures are required under the modified MU Stage 2, and three of five optional measures are required under MU Stage 3.	We urge CMS to strengthen MIPS rules for ACI scoring so that ECs are required and incentivized to meet the minimums finalized for EPs under the MU programs. See below for specific recommendations.

NPRM	Proposed Section of 42-CFR-414.13 Subpart O			Joint Public Health Informatics Taskforce (JPHIT)	
Paragraph	Section	Title	Text	Comment(s)	Recommendation(s)
				If MIPS is to replace MU in advancing care information and CEHRT use for public health purposes, then MIPS requirements for public health reporting should be equal to the MU requirements.	
81 FR 28387			(b),(4),(A) MIPS eligible clinicians earn a base score by reporting the numerator (of at least one)/denominator or yes/no statement as applicable (only a yes statement would qualify for credit under the base score) in the objectives and measures.	Reporting to immunization registries must be a minimum requirement for the public health category of ACI. The proposal is less than what MU requires for public health reporting participation by EPs. The proposal will likely result in a decrease of clinician participation in the other public health reporting measures, because the requirement is diminished from MU. Particularly concerning from a public health perspective is a potential loss of interest in electronic public health care reporting (eCR), because eCR will be greatly benefit the quality and efficiency of patient and population/public health care.	For there to be parity with the MU programs, CMS should amend MIPS ACI so that: A. In 2017, ECs will be required to be in active engagement with a PHA for a total of **two** public health reporting measures i.e., immunization registry reporting, and one other optional public health measure; B. In 2018 and beyond, ECs will be required to be in active engagement in **three** public health reporting measures; i.e., immunization registry reporting, electronic public health care reporting, and one other optional public health measure Reporting to a clinical data registry must not be permitted to count toward an ECs base requirement for public health in ACI
81 FR 28387			(b),(4),(C) MIPS eligible clinicians earn one additional bonus point for reporting any additional measures above the base score	The proposed addition of a bonus point to an ECs ACI score makes public health reporting a visible component of ACI. The proposed single bonus point, regardless of how many public health or clinical data reporting measures an ECs	We recommend that the MIPS incentive for ECs to participate in public health reporting be made equal to that found in the MU programs by increasing the possible bonus score to a maximum of **one point**; i.e., one point for each optional public health reporting measure, or sub-measure (e.g., cancer registry reporting)

NPRM	Proposed Section of 42-CFR-414.13 Subpart O			Joint Public Health Informatics Taskforce (JPHIT)	
Paragraph	Section	Title	Text	Comment(s)	Recommendation(s)
			requirement for the Public Health and Clinical Data Registry objective.	participates, under values public health reporting and insignificantly incentivizes participation. Public health reporting or clinical data registry reporting do not serve the same public good from a public health perspective. Therefore, clinical data registry reporting should not be a stand-in for a public health reporting bonus point.	performed.
81 FR 28387			Advancing care information performance category weight: 25 Percent for the 2019 MIPS payment year.	The 25% weight on ACI in the CPS is appropriate given that MIPS is intended to replace MU. As EC use of CEHRT and health information exchange matures, any change in the weight of ACI in the CPS must be done with consideration to the effect on incentives for public health reporting.	The ACI weight in the CPS must always be significantly affected by an ECs participation in public health reporting. We recommend that no EC should receive an upward payment adjustment if they do not meet required public health reporting measures. From CY 2018 and beyond, the required measures should be, at a minimum: Immunization registry reporting, electronic public heath case reporting, and one specialized public health registry.