Instead, the AAFP recommends that in these scenarios CMS use a weighted average CPS based on total allowed charges associated with the NPI from the performance period, just as it proposes to do when a MIPS-eligible clinician bills under more than one TIN during the performance period and starts working in a new practice or otherwise establishes a new TIN that did not exist during the performance period. Simply using the highest CPS may reward eligible clinicians for prior performance representing a relatively small portion of his or her practice during the period in question. A weighted average approach takes into account the eligible clinician's entire performance during the period and holds the individual accountable for that entire performance.

b. MIPS Adjustment Factors
a. Determining the Performance Thresholds
(1) Establishing the Performance Threshold
CMS proposes (at §414.1305) to define the term "performance threshold" as the level of performance established for a performance period at the CPS level. To establish the performance threshold for the 2019 MIPS payment year, CMS proposes to model 2014 and 2015 Part B allowed charges, 2014 and 2015 PQRS data submissions, 2014 and 2015 QRUR and supplemental QRUR feedback data, and 2014 and 2015 Medicare and Medicaid EHR Incentive Program data. For the 2019 MIPS payment year, CMS proposes to set the performance threshold at a level where approximately half of the eligible clinicians will be below and half will be above that marker. CMS believes this is consistent with the intent of section 1848(q)(6)(D)(i) of the Act, which requires the performance threshold in year three and beyond to be equal to the mean or median of CPS from a prior period. CMS will determine the performance threshold in accordance with the methodology established in the final rule and publish the threshold on the CMS website prior to the performance period.

AAFP Response
With respect to establishing the performance threshold for 2019, the AAFP repeats our response to the RFI CMS issued last fall.

First, if CMS wants to use existing data on Quality and Resource Use measures as a baseline, threshold, or benchmark, that data must align with the measures included in MIPS in 2019. Where it does, CMS can use the data to calculate composite scores in much the same way it will do so under MIPS and use the mean or median of those composite scores to create performance thresholds for the first two years of the program. Where the data does not align exactly, CMS should not use it for this purpose.

While MACRA states a prior year will set the performance baseline for a practice, the AAFP strongly encourages CMS to consider the issues of having performance data from a different program used as the baseline performance data for the MIPS. For a physician to understand how his or her performance is being measured and what score is expected, the benchmarks for both quality and resource use measures need to be published in advance of the performance year. Additionally, the AAFP urges CMS to hold the benchmark steady for at least two years, if not longer—as is done in the ACO MSSP—instead of reassessing after each performance year. Frequent updating of these benchmarks undermines the business case for providers to improve the effectiveness of care delivery through investments..

The AAFP believes there should be a fairness of thresholds that address the differences in panel composition, available resources, etc., among small and large practices. A one-size-fits-