portions of the nominal risk standard are met. In determining whether such an exception would be appropriate, CMS would consider:

- whether the size of the attributed patient population is small;
- whether the relative magnitude of expenditures assessed under the Other Payer APM is particularly small; and
- in the case of test of limited size and scope, whether the difference between actual expenditures and expected expenditures would not be statistically significant even when actual expenditures are 4 percent above expected expenditures.

CMS also proposes that the payment required by the Other Payer APM could be smaller when actual expenditures exceed expected expenditures by enough to trigger a payment greater than or equal to the total risk amount required under the nominal amount standard (as specified in Table 40). This exception ensures that the marginal risk requirement does not effectively require Other Payer APMs to incorporate total risk greater than the amount required by the total risk portion of the standard in order to become Other Payer Advanced APMs.

AAFP Response
The AAFP believes the nominal risk standard as proposed by CMS is complicated and confusing. Eligible clinicians need to be able to understand the amounts of risk they are being asked to assume. Essentially requiring an eligible clinician to become an actuary to understand this regulation is unrealistic. Such a structure will function as a deterrent to eligible clinicians wishing to join an APM entity. There is a vast amount of variability in the risk arrangements this structure could create. A physician who joins an APM with a complex risk arrangement he or she is unable to understand is being set up to fail.

The AAFP encourages CMS to simplify the standard for nominal risk amount to include only the MLR and total potential risk requirements proposed in the regulation. We believe marginal risk introduces an unneeded and unnecessary level of complexity to the nominal risk standard. The total potential risk should be sufficient to meet the nominal risk requirement of the law and is the key measurement of risk. The AAFP believes the MLR is an important component to insure risk is not being triggered by chance. We ask that CMS modify the total potential risk and base it on an entity's Part A and B revenue to provide the assurance that an entity is not assuming more risk than their potential revenues. Entities of all sizes will be able to assume varying levels of risk. It is critical that CMS ensures the potential of these entities to flourish by allowing for risk structures that support success.

(i) Generally Applicable Other Payer Advanced APM Nominal Amount Standard
CMS proposes that for an Other Payer APM to meet the nominal amount standard the specific level of marginal risk must be at least 30 percent of losses in excess of the expected expenditures and total potential risk must be at least four percent of the expected expenditures.

CMS also proposes that for Medicaid APMs we propose the same standard as for Other Payer APMs. However, CMS recognizes that Medicaid practitioners may be less able to bear substantial financial risk because they are generally reimbursed at lower payment rates and serve both low-income populations and those with significant health disparities.

AAFP Response
The AAFP believes the nominal risk standard as proposed by CMS is complicated and confusing. Eligible clinicians need to be able to understand the amounts of risk they are being