

We agree with CMS that the intent of section 1833(z) of the Act is to incentivize participation in APMs. However, the way to do that, as the law clearly states, is to incentivize QPs, not their affiliated TINs. There is no reward to a QP for participating in an Advanced APM if the QP does not receive the APM Incentive Payment. If a TIN wants to avail itself of a QP's APM Incentive Payment, that is a contractual matter between the TIN and the QP. It is not something for CMS to decide by executive fiat.

Accordingly, we strongly urge CMS to make APM Incentive Payments to QPs (i.e. "to such professional") as identified by either the QP's NPI or TIN/NPI combination. That will incentivize eligible professionals to participate in Advanced APMs. CMS's proposal will not. Further, CMS will not need to worry about scenarios in which a QP changes his affiliation, because the incentive payment will follow the QP regardless, unless the QP has voluntarily surrendered that right by contract with a particular TIN.

(2) Rural Health Clinics (RHCs) and Federally Qualified Health Centers (FQHCs)
Payment for services furnished by eligible clinicians in RHCs and FQHCs is not reimbursed under or based on the Medicare physician fee schedule. Therefore, professional services furnished in those settings would not constitute covered professional services under section 1848(k)(3)(A) of the Act and would not be considered part of the amount upon which the APM Incentive Payment is based. Eligible clinicians that practice in RHCs or FQHCs could still receive an APM incentive payment for covered professional services furnished by those eligible clinicians in other settings.

AAFP Response

We agree with CMS's proposal in this regard.

c. Payment of the APM Incentive Payment

(1) Payment to the QP

CMS proposes that for eligible clinicians that are QPs, CMS would make the APM Incentive Payment to the TIN that is affiliated with the Advanced APM Entity through which the eligible clinician met the threshold during the QP performance period. CMS believes that making the APM Incentive Payments to the TIN associated with the Advanced APM Entity during the QP Performance Period would be most consistent with section 1833(z) of the Act to incentivize participation in Advanced APMs. In scenarios in which an individual eligible clinician may change his or her affiliation between the QP Performance Period and the payment year such that the eligible clinician no longer practices at the TIN affiliated with the Advanced APM Entity, CMS proposes to make the APM Incentive Payment to the TIN provided on the eligible clinician's CMS-588 EFT Application.

AAFP Response

We strongly disagree with CMS's proposal in this regard. Section 1833(z)(1)(A) of the Act explicitly states, "...there also shall be paid *to such professional* an amount equal to 5 percent of the estimated aggregate payment amounts for such covered professional services under this part of the preceding year." (Emphasis added) The law clearly requires the APM Incentive Payment to be made to the QP, not the TIN that is affiliated with the Advanced APM Entity through which the eligible clinician met the threshold during the QP performance period.

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