

March 7, 2024

The Honorable Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare & Medicaid Services  
U.S. Department of Health and Human Services  
Hubert H. Humphrey Building, Room 445-G 200  
Independence Avenue, SW  
Washington, DC 20201

Dear Administrator Brooks-LaSure:

On behalf of the physician and medical student members of the American Medical Association (AMA), I write to urge the Centers for Medicare & Medicaid Services (CMS) to provide relief from financial penalties in the Merit-based Incentive Payment System (MIPS) for physicians and other eligible clinicians who are impacted by the Change Healthcare cyberattack.

Many physician practices are experiencing dire consequences due to the February 21, 2024, cyberattack on Change Healthcare, which is the largest processor of claims in the country. Many physician practices are seeing their payments for services dwindle while simultaneously implementing labor-intensive workarounds to submit new claims. As the AMA has expressed in [correspondence](#) to the U.S. Department of Health and Human Services, there are myriad downstream impacts as well. Similar to the beginning of the COVID-19 pandemic, physicians face substantial uncertainty about when they will be able to resume the daily transactions that sustain their practice and must make unenviable decisions about how to continue to meet their obligations, including paying their staff salaries, while continuing to care for their patients. The AMA is deeply concerned about the particularly negative impact on small, rural, independent practices, as well as those practices who care for the underserved, as they are the most resource strapped, run on the thinnest margins, and employ the fewest administrative staff to navigate the currently dysfunctional system.

Notably, this attack on our nation's health care infrastructure coincides with the 2023 MIPS data submission window, which opened on January 2 and closes on April 1. While physician practices prioritize keeping their practices open to continue to care for Americans, we are concerned that many will not have the resources to expend on MIPS data submission and therefore will be subject to a -9 percent penalty as a consequence of the cyberattack and not as a result of their performance. **To prevent unfair financial penalties, the AMA strongly urges CMS to automatically apply the Extreme and Uncontrollable Circumstances (EUC) hardship exception to all MIPS eligible clinicians for the 2023 performance period.** At a minimum, CMS should reopen the hardship exception application for the 2023 performance period and allow eligible clinicians to claim an exception due to the Change Healthcare cyberattack. Given the circumstances, the recommendations for avoiding a penalty are the least resource intensive and administratively burdensome on practices. However, **if the flexibilities are completely not feasible, CMS must extend the 2023 MIPS data submission window until after the cyberattack has been resolved and practices are back to normal operations.**

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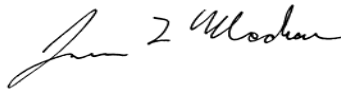
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While it will be many weeks, if not months, before the country fully reckons with the fallout from this cyberattack, we also anticipate that there may be unforeseen consequences for the 2024 MIPS performance period, particularly related to reconciliation of claims data for purposes of quality and cost measures. We encourage CMS to provide transparency about the impact of the Change Healthcare cyberattack on the 2024 MIPS measures and, if appropriate, provide flexibility so physicians are not inadvertently penalized for things outside of their control. **Therefore, we recommend CMS allow practices to apply for a 2024 EUC hardship due to the Change Healthcare cyberattack.**

**The Change Healthcare cyberattack clearly falls under the definition of extreme and uncontrollable circumstances, which CMS defines as “rare events entirely outside of your control and the control of the facility in which you practice.”** In addition, these circumstances would “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; and/or impact your normal processes, affecting your performance on cost measures and other administrative claims measures.”

Thank you for your consideration of our recommendations to avert unintended MIPS penalties because of the Change Healthcare cyberattack. If you have any questions or if we can be of assistance to you in implementing the recommendations, please contact Margaret Garikes, Vice President of Federal Affairs, at [margaret.garikes@ama-assn.org](mailto:margaret.garikes@ama-assn.org).

Sincerely,

A handwritten signature in cursive script, appearing to read "James L. Madara".

James L. Madara, MD