

Supporting Statement – Part A
Virtual Groups for Merit-Based Incentive Payment System (MIPS)
CMS-10652

A. Background

The Merit-based Incentive Payment System (MIPS) is a program for certain eligible clinicians that makes Medicare payment adjustments based on performance on quality, cost and other measures and activities, and that consolidates components of three precursor programs—the Physician Quality Reporting system (PQRS), the Value Modifier (VM), and the Medicare Electronic Health Record (EHR) Incentive Program for eligible professionals. As prescribed by the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA), MIPS focuses on the following: quality – both a set of evidence-based, specialty-specific standards as well as practice-based improvement activities; cost; and use of Certified Electronic Health Record Technology (CEHRT) to support interoperability and advanced quality objectives in a single, cohesive program that avoids redundancies.

Section 1848(q)(5)(I) of the Social Security Act (hereafter the Act) as amended by MACRA provides for the use of voluntary virtual groups for certain assessment purposes, including the election of individual MIPS eligible clinicians (solo practitioners) and groups with 10 or fewer eligible clinicians to join or form a virtual group and the requirements under the election process. The virtual group reporting option will be a third option for participation in MIPS in addition to individual-level and group-level reporting. CMS held webinars and small, interactive feedback sessions to gain insight from clinicians as we developed our policies on virtual groups. During these sessions, participants expressed a strong interest in virtual groups, and indicated that the right policies could minimize clinician burden and bolster clinician success.

This Paperwork Reduction Act (PRA) package addresses the information collection related to the statutorily required virtual group election process proposed in the CY 2018 Quality Payment Program proposed rule. Section 1848(q)(5)(I)(ii) of the Act requires, in accordance with section 1848(q)(5)(I)(iii) of the Act, the establishment and implementation of a process that allows an individual MIPS eligible clinician or group consisting of not more than 10 MIPS eligible clinicians to elect, for a given performance period, to be a virtual group with at least one other such individual MIPS eligible clinician or group. We define a virtual group as a combination of two or more TINs composed of a solo practitioner (a MIPS eligible clinician who bills under a TIN with no other NPIs billing under such TIN), or a group with 10 or fewer eligible clinicians under the TIN that elects to form a virtual group with at least one other such solo practitioner

or group for a performance period for a year. The Act also provides for the use of voluntary virtual groups for certain assessment purposes, including the election of practices to be a virtual group and the requirements for the election process.

Section 1848(q)(5)(I)(i) of the Act also provides that MIPS eligible clinicians electing to be a virtual group must: (1) have their performance assessed for the quality and cost performance categories in a manner that applies the combined performance of all the MIPS eligible clinicians in the virtual group to each MIPS eligible clinician in the virtual group for the applicable performance period; and (2) be scored for the quality and cost performance categories based on such assessment.

Section 1848(q)(5)(I)(iii) of the Act also provides that the virtual group election process must include the following requirements: (1) an individual MIPS eligible clinician or group electing to be in a virtual group must make their election prior to the start of the applicable performance period and cannot change their election during the performance period; (2) an individual MIPS eligible clinician or group may elect to be in no more than one virtual group for a performance period, and, in the case of a group, the election applies to all MIPS eligible clinicians in the group; (3) a virtual group is a combination of TINs; (4) the requirements must provide for formal written agreements among individual MIPS eligible clinicians and groups electing to be a virtual group; and (5) such other requirements as the Secretary determines appropriate. The attached Addendum provides a sample template for the formal written agreement.

In the CY 2018 Quality Payment Program proposed rule, we propose that once the election request is approved by CMS, each MIPS eligible clinician who is part of a virtual group would be identified by a unique virtual group participant identifier. Each unique virtual group identifier will be used for purposes of virtual group submission of quality, advancing care information, and improvement activities performance category data on behalf of its participating clinicians. We also propose to use the virtual group identifier for calculation of a final score and the associated MIPS payment adjustment for the virtual group, and to provide performance feedback for each virtual group.

We are requesting approval of the virtual group election process via this separate information collection request for which we are requesting a new OMB control number. CMS plans to request approval for two additional information collection requests associated with the CY 2018 Quality Payment Program proposed rule as revisions to previously approved information collect requests. CMS plans to request approval to collect a revised Consumer Assessment of Healthcare Providers and Systems (CAHPS) for MIPS survey via CMS-approved survey

vendors in the revised CAHPS for MIPS PRA package (0938-1222). CMS plans to request approval for collection of information associated with the CY 2018 Quality Payment Program proposed rule (other than virtual group election and CAHPS-related data collection) as a revision of the currently approved MIPS PRA package (0938-1314). The revised MIPS information collection request (0938-1314) will show a reduction in burden for the quality, improvement activities and advancing care information performance categories due to the formation of virtual groups. While this information collection request specifically shows the increase in burden for virtual group election, we expect an overall reduction in burden due to the formation of virtual groups because the data submissions will be more efficient. The CY 2018 Quality Payment Program proposed rule will serve as the 60-day Federal Register notice for the MIPS and the CAHPS for MIPS information collection requests.

We are requesting that the virtual group election process be approved in a separate information collection request with its own standalone Federal Register notice so that we can meet the statutory requirement that the virtual group election process start prior to the beginning of the performance period. Stakeholder feedback has underscored the importance of providing TINs of 10 or fewer MIPS eligible clinicians with sufficient time to form a virtual group prior to the relevant performance period. Many solo practitioners and groups of 10 or fewer MIPS eligible clinicians may have limited resources and technical capabilities, and will need sufficient time to understand the election process and to obtain technical assistance (TA) in forming a virtual group if needed. Stakeholders have indicated that prior to the first performance period with virtual group implementation, they may require as much as 2-3 months to complete the virtual group agreement required for the virtual group election. Majority of our stakeholders have also indicated that they may need at least 6 months prior to the start of the 2018 MIPS performance period for a broader range of activities related to virtual group formation, including preparation of health IT systems and training staff to be ready for the implementation of virtual group related activities by January 1, 2018. To address stakeholder feedback, we are requesting clearance for the virtual group election process under a new OMB control that would enable the election process to begin in Fall of 2017. We believe understanding the election process requirements as soon as possible would allow more time for groups to form, to begin internal staff training and to have their formal written agreements in place.

B. Justification

1. Need and Legal Basis

Section 1848(q)(5)(I)(ii) of the Act establishes that a process must be in place to allow an individual MIPS eligible clinician or group consisting of not more than 10 MIPS eligible

clinicians to elect, with respect to a performance period for a year, to be in a virtual group with at least one other such individual MIPS eligible clinician or group. Section 1848(q)(5)(I)(iii) of the Act establishes the following requirements that pertain to an election process: (1) individual eligible clinicians and groups forming virtual groups are required to make the election prior to the start of the applicable performance period under MIPS and cannot change their election during the performance period; (2) an individual eligible clinician or group may elect to be in no more than one virtual group for a performance period and in the case of the group electing to be in a virtual group for the performance period, the election applies to all eligible clinicians in the group; (3) a virtual group is a combination of TINs; (4) formal written agreements are required among the eligible clinicians (includes individual eligible clinicians and eligible clinicians within the groups) electing to be a virtual group; and (5) the Secretary has the authority to include other requirements determined appropriate.

In electing to be in a virtual group, one virtual group representative from each virtual group would need to provide information on the composition of each TIN in the virtual group via an email to CMS. In addition to providing the information related to the composition of the TIN, the virtual group representative would also need to confirm, through acknowledgment, that a written formal agreement has been established between each TIN within the virtual group prior to election and that each TIN in the virtual group is aware of participating in MIPS as a virtual group for an applicable performance period. Each TIN within the virtual group must also retain a copy of the virtual group's formal written agreement.

2. Information Users

The virtual group election process described herein is needed to implement virtual group provisions of the Social Security Act (as amended by MACRA) related to virtual group election. CMS will use the data collected from virtual group representatives to determine eligibility to participate in a virtual group, approve the formation of that virtual group, based on determination of each TIN size, and assign a virtual group identifier to the virtual group. The data collected will also be used to assign a performance score to each TIN/NPI in the virtual group, and to calculate a MIPS payment adjustment to the TIN/NPIs in the virtual group that are MIPS eligible clinicians.

3. Use of Information Technology

Virtual group representatives will be required to submit virtual group election data via an electronic email in the first year of the virtual group election process. Communication on the

approval of a virtual group and assignment of the virtual group identifier will occur via an electronic email as well between CMS and the virtual group representative. We anticipate the email to request to participate in a virtual group will be sent to the Quality Payment Program Service Center using the following email address: MIPS_VirtualGroups@cms.hhs.gov.

4. Duplication of Efforts

The information to be collected will not duplicate similar information currently collected by CMS. The 2018 MIPS performance period is the first performance period that small practices will be able to elect to form virtual groups.

5. Small Businesses

We expect that some practices (TINs) that elect to join virtual groups will qualify for small business status under the Small Business Administration (SBA) standards. The SBA standard for a small business is \$11 million in average receipts for an office of clinicians and \$7.5 million in average annual receipts for an office of other health practitioners. (For details, see the SBA's website at https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf (refer to the 620000 series)).

We expect that electing to participate in a virtual group will reduce burden for these same TINs that might otherwise be required to participate independently across all four performance categories.

CMS plans to provide technical support to reduce the burden of the virtual group election process as discussed above.

6. Less Frequent Collection

If the virtual group election process did not take place, we would have no mechanism to implement the statutory requirement to permit MIPS eligible clinicians to participate in MIPS as virtual groups.

7. Special Circumstances

There are no special circumstances.

8. Federal Register/Outside Consultation

The 60-day Federal Register notice was published on June 14, 2017 (82 FR 27257).

9. Payments/Gifts to Respondents

There will be no payments/gifts to respondents.

10. Confidentiality

Consistent with federal government and CMS policies, CMS will protect the confidentiality of the requested proprietary information. Specifically, any confidential information (as such terms are interpreted under the Freedom of Information Act and the Privacy Act of 1974), and will be protected from release by CMS to the extent allowable by law and consistent with 5 U.S.C. § 552a(b).

11. Sensitive Questions

There are no sensitive questions included in the information request.

12. Burden Estimates (Hours & Wages)

Virtual groups will experience burden as part of the election process. To derive wage estimates, we used data from the U.S. Bureau of Labor Statistics' (BLS) May 2016 National Occupational Employment and Wage Estimates for Computer Systems Analysts and Legal Support Workers, All Others.¹ Table 1 shows the average hourly wage for a Computer Systems Analyst to be \$81.10 (calculated at 100 percent of salary), and the average hourly wage for a Legal Support Worker to be \$63.62, which is the cost of fringe benefits and overhead, and the adjusted hourly wage. As indicated, we are adjusting our employee hourly wage estimates by a factor of 100 percent. This is necessarily a rough adjustment, both because fringe benefits and overhead costs vary significantly from employer to employer, and because methods of estimating these costs vary widely from study to study. Nonetheless, there is no practical alternative, and we believe that doubling the hourly wage to estimate total cost is a reasonably accurate estimation method.

¹ Source: <https://www.bls.gov/oes/current/oes151121.htm>

TABLE 1: Hourly Wages Used in Burden Estimate

Occupation Title	Occupational Code	Mean Hourly Wage (\$/hr.)	Fringe Benefits and Overhead (\$/hr.)	Adjusted Hourly Wage (\$/hr.)
Computer Systems Analysts	15-1121	\$44.05	\$44.05	\$88.10
Legal Support Workers, All Other	23-2099	31.81	\$31.81	\$63.62

Source: “Occupational Employment and Wage Estimates May 2016” U.S. Department of Labor, Bureau of Labor Statistics. http://www.bls.gov/oes/current/oes_nat.htm.

We assume that virtual group participation will be relatively low in the first year because we have heard from stakeholders that they need at least 3-6 months to form groups and establish agreements before signing up. We are not able to give them that much time in the first year, rather closer to 60 days or potentially less. Because of this we expect the number of virtual groups will be very small in the first year of virtual group implementation. Our assumptions for participation in a virtual group are shown in Table 2. We assume that only those eligible clinicians that reported historically will participate in virtual groups in the first year because of the limited lead time to create processes. Also, while virtual groups may use the same submission mechanisms as groups, we are estimating based on stakeholder feedback that the 16 virtual groups reflected in Table 2 will report by registry. Table 2 also shows that we estimate that approximately 765 MIPS eligible clinicians will decide to join 16 virtual groups for the 2018 MIPS performance period. The virtual groups could range in size from a few clinicians to hundreds of clinicians, as long as each participant is a solo practice or TIN with 10 or fewer clinicians. In order to estimate the number of clinicians available to participate in virtual groups, we used the data prepared to support the 2017 performance period initial determination of clinician eligibility (available via the NPI lookup on qpp.cms.gov) using a date range of September 1, 2015 – August 31, 2016. We also used the initial small practice determinations made on the same date range. We estimated the number of clinicians who would not participate due to being a Qualifying Alternative Payment Model Participant Participant (QP) using a version of the file used for the predictive QP analysis made available on qpp.cms.gov on June 2, 2017 and prepared using claims for services between January 1, 2016 and August 31, 2016. We assume an average of 5 TINs per virtual group with an average of 9.5 clinicians in each TINs across each virtual group or approximately 48 eligible clinicians per virtual group (5 TINs x 9.5 clinicians per TIN). For purposes of this burden estimate for the 2018 MIPS performance period, we assumed that approximately one percent of eligible clinicians will participate in approximately 16 virtual groups consisting of approximately 5 TINs per virtual group will be formed (765 MIPS eligible clinicians ÷ 48 eligible clinicians per virtual group) or 80 TINs total that will participate in virtual groups (16 virtual groups X 5 MIPS eligible clinicians per TIN).

We assume that the virtual election process will require 10 hours per virtual group, similar to the burden of QCDR or registry self-nomination process. We assume that 8 hours of the 10 burden hours per virtual group will be computer systems analyst's time or the equivalent with an average labor cost of \$88.10/hour, and an estimated cost of \$704.80 per virtual group ($\$88.10/\text{hour} \times 8 \text{ hours}$). We also assume that 2 hours of the 10 burden hours per virtual group will be legal support services professionals assisting in formulating the written virtual agreement with an average labor cost of \$63.62/hour, with a cost of \$127.24 per virtual group ($\$63.62/\text{hour} \times 2 \text{ hours}$). Therefore, the total burden cost per virtual group associated with the election process is \$832.04 ($\$704.80 + \127.24). We also assume that 16 new virtual groups will go through the election process leading to a total burden of \$13,313 ($\$832.04 \times 16 \text{ virtual groups}$). We estimate that the total annual burden hours will be 160 (16 virtual groups \times 10 hours).

TABLE 2: Estimated Burden for Virtual Group Election Process

Steps to Estimate Burden	Burden Estimate
Total Estimated Number of MIPS eligible clinicians in TINs of 10 eligible clinicians or fewer submitting data in MIPS (a)	765
Total Estimated Number of eligible TINs (10 eligible clinicians or fewer) (b)	80
Estimated # of Virtual Groups (c)	16
Estimated Total Annual Burden Hours for Virtual Group to prepare written formal agreement (d)	2
Estimated Total Annual Burden Hours for Virtual Group Representative to Submit Application to Form Virtual Group (e)	8
Estimated Total Annual Burden Hours per Virtual Group (f)	10
Estimated Total Annual Burden Hours for Virtual Groups (g) = (c)*(f)	160
Estimate Cost to Prepare Formal Written Agreement (@ legal support services professional's labor rate of \$63.62) (h)	\$127.24
Estimated Cost to Elect Per Virtual Group (@ computer systems analyst's labor rate of \$88.10/hr.) (i)	\$704.80
Estimated Total Annual Burden Cost Per Virtual Group (j)	\$832.04
Estimated Total Annual Burden Cost (k) = (c)*(j)	\$13,313

13. Capital Costs

There will be no capital costs.

14. Cost to Federal Government

There will be an initial cost to building the capabilities to develop a virtual group identifier and score virtual groups based on the identifier. CMS intends to leverage the MIPS infrastructure created for group data submission and scoring to the fullest extent possible.

15. Changes to Burden

This is a new information collection request.

16. Publication/Tabulation Dates

CMS plans to publish summary level information on the number of virtual groups, and the number of MIPS eligible clinicians (TIN/NPIs) and groups (TINs) electing to participate in virtual groups. We anticipate that the summary-level information will be published in the CY2019 Quality Payment Program proposed rule.

17. Expiration Date

There are no paper forms involved in this data collection activity. The expiration date will be displayed on the CMS guidance for the election process for a virtual group. Also, once approved, the public can always search for the status of the valid OMB control number on OMB's website, <http://www.reginfo.gov>.

18. Certification Statement

There are no exceptions to the certification statement.