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.

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.

This Paperwork Reduction Act (PRA) package addresses the information collection related to the statutorily required virtual group election process finalized in the Calendar Year (CY) 2018 Quality Payment Program final rule (82 FR 53601 through 53609). 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 Taxpayer Identification Numbers (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. A sample template for the formal written agreement is included as Appendix A.

While this information collection request specifically shows the burden associated with virtual group election, the formation of virtual groups is associated with an overall reduction in burden due to consolidated data submission opportunity for the quality, Promoting Interoperability, and improvement activities performance categories.

We are requesting approval of the information collection request associated with the virtual group election process as an extension to the currently approved information collection request submitted under OMB control number 0938-1343 (CMS-10652). CMS is awaiting approval for collection of information associated with the revised QPP/MIPS PRA package under OMB control number 0938-1314 and the CAHPS for MIPS survey package under OMB control number 0938-1222.[1]

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

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[1] The revised QPP/MIPS PRA package (0938-1314) includes all information collections associated with the CY 2024 PFS proposed rule other than virtual group election and CAHPS for MIPS survey-related information collections.

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.

As part of the virtual group election submitted to CMS, each virtual group must select an official virtual group representative and provide the representative's name, TIN/practice affiliation, and contact information. The official virtual group representative is required to provide information on each TIN and National Provider Identifier (NPI) associated with the virtual group and 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

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. We anticipate that CMS will use the data collected from the virtual group election process to inform the development of future regulations around virtual groups.

The data submitted by the clinicians in the virtual group will be used to assign a performance score to each TIN/NPI in the virtual group and to calculate the MIPS payment adjustment to the TIN/NPIs in the virtual group that are MIPS eligible clinicians. We discuss the estimated burden associated with the information collection related to the MIPS data submission for the virtual groups in the revised QPP/MIPS PRA package under OMB control number 0938-1314.

3. Use of Information Technology

Virtual group representatives will be required to submit virtual group election data via email to CMS. Communication on the approval of a virtual group and assignment of the virtual group identifier will occur via email as well between CMS and the virtual group representative. 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.

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 $16 million in average receipts for an office of clinicians and $10 million in average annual receipts for an office of other health practitioners. For details, see the SBA's website at https://www.sba.gov/document/support-table-size-standards (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 provides technical assistance to reduce the burden of the virtual group election process discussed above.

6. Less Frequent Collection

   The virtual group election process is required to be performed once annually during the period of October 1st through December 31st of the calendar year prior to the applicable MIPS performance period. Under MACRA, a virtual group election is only applicable to one MIPS performance period, and as a result, a virtual group is required to make an election for each MIPS performance period that it seeks to participate in MIPS as a virtual group.

7. Special Circumstances

   There are no special circumstances.

8. Federal Register/Outside Consultation

   The 60-day Federal Register notice published on XXXX (FR Cite).

9. Payments/Gifts to Respondents

   There will be no payments/gifts to respondents. We will 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.

10. Confidentiality

As part of the virtual group election process, CMS collects proprietary information such as the TIN and NPI of the practices forming the virtual group. CMS does not collect or use personally identifiable information (PII) as part of the virtual group election process. 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) 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

Other than requested proprietary information noted above in section 10, 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 2022 National Occupational Employment and Wage Estimates for all salary estimates (https://www.bls.gov/oes/2022/may/oes_nat.htm) for Computer Systems Analysts and Legal Support Workers, All Others.

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 other indirect costs vary significantly from employer to employer, and because methods of estimating these costs vary widely from study to study. Therefore, we believe that doubling the hourly wage to estimate total cost is a reasonably accurate estimation method. Table 1 shows the mean hourly wage, the cost of fringe benefits and other indirect costs (calculated at 100 percent of salary), and the adjusted hourly wages for a Computer Systems Analyst ($103.40/hr) and a Legal Support Worker ($74.22/hr). The adjusted hourly wage is used to calculate the labor costs associated with our finalized requirements.

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	$51.70	$51.70	$103.40
Legal Support Workers, All Other	23-2099	37.11	$37.11	$74.22

For the CY 2025 performance period/2027 MIPS payment year, we estimate that 16 virtual groups will make an election. Assuming the average number of TINs per virtual group remains consistent, this equates to 272 TINs. We assume that the virtual group election process will require 10 hours per virtual group, consistent with the currently approved burden estimate. We estimate that the total annual burden hours will be 160 (16 virtual groups x 10 hours). We 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 $74.22/hour, with a cost of $148.44 per virtual group ($74.22 x 2 hours). We also 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 $103.40/hour, and an estimated cost of $827.20 per virtual group ($103.40 x 8 hours). Therefore, the total annual cost burden per virtual group associated with the election process is $975.64 ($148.44 + $827.20). We also assume that 16 virtual groups will go through the election process leading to a total burden of $15,610 ($975.64 x 16 virtual groups).

TABLE 2: Estimated Burden for Virtual Group Election Process

Burden and Respondent Descriptions	Burden Estimate
Estimated # of Virtual Groups (a)	16
Estimated Total Annual Burden Hours for Virtual Group to prepare written formal agreement (b)	2
Estimated Total Annual Burden Hours for Virtual Group Representative to Submit Application to Form Virtual Group (c)	8
Estimated Total Annual Burden Hours per Virtual Group (d) = (b) + (c)	10
Estimated Total Annual Hours (e) = (a) [x] (d)	**160**
Estimate Cost to Prepare Formal Written Agreement (@ legal support services professional's labor rate of $74.22/hr) (f) = (b) [x] $74.22/hr	$148.44
Estimated Cost to Elect Per Virtual Group (@ computer systems analyst's labor rate of $103.40/hr.) (g) = (c) [x] $103.40/hr	$827.20
Estimated Total Annual Burden Cost Per Virtual Group (h) = (f) + (g)	$975.64
Estimated Total Annual Cost (i) = (a) [x] (h)	**$15,610**

Information Collection Instruments/Instructions

Appendix A (See Table 2): Virtual Group Agreement Template (Unchanged)

13. Capital Costs

There will be no capital costs.

14. Cost to Federal Government

Other than the cost of the federal staff overseeing the virtual group election process, we do not anticipate any additional costs to the virtual group election process because CMS leverages the MIPS infrastructure used for group data submission and scoring. A rough estimate of the federal government labor cost is estimated to be $303,407 for CY 2024 and subsequent years. The federal government labor cost is estimated as follows: beginning with CY 2024 and for subsequent years, we assume 1 full-time equivalent GS-13 with salary of approximately $126,949 and 1 full-time equivalent GS-14 Step 5 with a salary of $176,458.

15. Changes to Burden

We are not estimating any changes to the currently approved number of respondents or total burden hours. Any changes to our estimate of total cost are due to the use of updated wage rate data. The total annual cost increased from $13,720 to $15,610.

16. Publication/Tabulation Dates

MIPS information is publicly reported through the Compare Tools website (https://www.medicare.gov/care-compare/) both on public profile pages and via the Downloadable Database as discussed at https://www.cms.gov/medicare/quality-initiatives-patient-assessment-instruments/care-compare-dac-initiative. Quality Payment Program performance information from 2017, 2018, 2019, 2020 and 2021 has been made available for public review.

17. Expiration Date

The expiration data will be displayed on all data collection forms.

18. Certification Statement

There are no exceptions to the certification statement.