



MLR Calculations – What’s In, What’s Out

Disclaimer: The information in this summary does not constitute legal advice or a legal opinion or conclusion. The information only summarizes and describes selected provisions in the regulations. Readers should consult and rely on the actual language of the regulation and not this summary with regard to specific inquiries.

What’s In:

Reimbursement for clinical services provided to enrollees.

Direct claims paid to or received by providers.

Activities that improve health care quality.

Activities conducted by an issuer to improve quality must meet the following requirements:

(1) The activity must be designed to:

(i) Improve health quality.

(ii) Increase the likelihood of desired health outcomes in ways that are capable of being objectively measured and of producing verifiable results.

(iii) Be directed toward individual enrollees or incurred for the benefit of specified segments of enrollees.

(iv) Be grounded in evidence-based medicine, widely accepted best clinical practice, or criteria issued by recognized professional medical associations, accreditation bodies, government agencies or other nationally recognized health care quality organizations.

(2) The activity must be primarily designed to:

(i) Improve health outcomes.

(A) Examples include the direct interaction of the issuer, providers and the enrollee or the enrollee’s representative (for example, face-to-face, telephonic, web-based interactions or other means of communication) to improve health outcomes, including activities such as:

(1) Case management, care coordination, chronic disease management, and medication and care compliance initiatives.

(2) Identifying and addressing ethnic, cultural or racial disparities in effectiveness.

(3) Quality reporting and documentation of care in non-electronic format.

(4) Health information technology to support these activities.

(5) Accreditation fees directly related to quality of care activities.

(ii) Prevent hospital readmissions through a comprehensive program for hospital discharge. Examples include:

(A) Comprehensive discharge planning to help avoid readmission to the hospital;

(B) Patient-centered education and counseling.

(C) Personalized post-discharge reinforcement and counseling.

- (D) Any quality reporting and related documentation in non-electronic form for activities to prevent hospital readmission.
- (E) Health information technology to support these activities.
- (iii) Improve patient safety, reduce medical errors, and lower infection and mortality rates.
 - (A) Examples of activities primarily designed to improve patient safety, reduce medical errors, and lower infection and mortality rates include:
 - (1) Appropriate identification and use of best clinical practices to avoid harm.
 - (2) Activities to identify and encourage evidence-based medicine in addressing clinical errors or safety concerns.
 - (3) Activities to lower the risk of facility-acquired infections.
 - (4) Prospective prescription drug utilization review aimed at identifying potential adverse drug interactions.
 - (5) Quality reporting and related documentation in non-electronic form for activities that improve patient safety and reduce medical errors.
 - (6) Health information technology to support these activities.
- (iv) Implement, promote, and increase wellness and health activities:
 - (A) Examples of activities primarily designed to implement, promote, and increase wellness and health activities, include—
 - (1) Wellness assessments;
 - (2) Wellness/lifestyle coaching programs designed to achieve specific and measurable improvements;
 - (3) Coaching programs designed to educate individuals with a specific chronic disease or condition;
 - (4) Public health education campaigns performed in conjunction with State or local health departments;
 - (5) Actual rewards, incentives, bonuses, reductions in copayments, that are not already reflected in premiums or claims;
 - (6) Any quality reporting and related documentation in non-electronic form for wellness and health promotion activities;
 - (7) Coaching or education programs and health promotion activities designed to change member behavior and conditions; and
 - (8) Health information technology to support these activities.
- (v) Enhance the use of health care data to improve quality, transparency, and outcomes and support meaningful use of health information technology.

Expenditures related to health information technology and meaningful use requirements.

(a) *General requirements.* An issuer may include as activities that improve health care quality such health information technology (HIT) expenses required to accomplish the activities above and that are designed for use by health plans, health care providers, or enrollees for the electronic creation, maintenance, access, or exchange of health information, as well as those consistent with Medicare and/or Medicaid meaningful use requirements, and which may in whole or in part improve quality of care, or provide the technological infrastructure to enhance current quality improvement or make new quality improvement initiatives possible by doing one or more of the following:

- (1) Making incentive payments to health care providers for the adoption of certified electronic health record technologies and their “meaningful use” as defined by HHS to the extent such payments are not included in reimbursement for clinical services;
- (2) Implementing systems to track and verify the adoption and meaningful use of certified electronic health records technologies by health care providers;
- (3) Providing technical assistance to support adoption and meaningful use of certified electronic health records technologies;

- (4) Monitoring, measuring, or reporting clinical effectiveness including reporting and analysis of costs related to maintaining accreditation by nationally recognized accrediting organizations.
- (5) Tracking whether a specific class of medical interventions or a bundle of related services leads to better patient outcomes.
- (6) Advancing the ability of enrollees, providers, issuers or other systems to communicate patient-centered clinical or medical information rapidly, accurately and efficiently to determine patient status, avoid harmful drug interactions or direct appropriate care.
- (7) Reformatting, transmitting or reporting data to national or international government-based health organizations for the purposes of identifying or treating specific conditions or controlling the spread of disease.
- (8) Provision of electronic health records, patient portals, and tools to facilitate patient self-management.

What's Out: (as activities that improve health care quality)

(c) *Exclusions.* Expenditures and activities that must not be included in quality improving activities are:

- (1) Those designed primarily to control or contain costs;
- (2) The pro rata share of expenses that are for lines of business or products other than those being reported;
- (3) Those activities paid for with grant money;
- (4) Those activities that can be billed by a provider for care delivery and which are, therefore, reimbursed as clinical services;
- (5) Establishing or maintaining a claims adjudication system;
- (6) That portion of the activities of health care professional hotlines that does not meet the definition of activities that improve health quality;
- (7) All retrospective and concurrent utilization review;
- (8) Fraud prevention activities, other than fraud detection/recovery expenses up to the amount recovered that reduces incurred claims;
- (9) Cost of developing and executing provider contracts and fees associated with establishing or managing a provider network;
- (10) Provider credentialing;
- (11) Marketing expenses;
- (12) Costs associated with calculating and administering individual enrollee or employee incentives;
- (13) That portion of prospective utilization that does not meet the definition of activities that improve health quality; and
- (14) Any other function or activity, unless otherwise approved by and within the discretion of the Secretary.

The final regulation can be found at: <http://edocket.access.gpo.gov/2010/pdf/2010-29596.pdf>