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| **Medicare Red Tape Relief Project**  Submissions accepted by the Committee on Ways and Means, Subcommittee on Health  Date: August 25, 2017  Name of Submitting Organization: Physicians Advocacy Institute  Address for Submitting Organization: 1010 Mt. Pleasant Road, Winnetka, IL 60093  Name of Submitting Staff: Kelly Kenney, Executive Vice President/CEO  Submitting Staff Phone: (312) 543-7955  Submitting Staff E-mail: k2strategiesllc@gmail.com  Statutory  Regulatory ✓  **Please describe the submitting organization’s interaction with the Medicare program:**  PAI is a not-for-profit advocacy organization focused on securing fair and transparent payment for physicians. PAI’s Board is comprised of CEOs/former CEOs of state medical associations from California, Connecticut, Georgia, Nebraska, New York, North Carolina, South Carolina, Tennessee and Texas and a Kentucky physician. A significant portion of the members of these and other states’ medical societies treat Medicare patients and submit claims to Medicare. |

**Short Description:** Quality Payment Program (QPP) Virtual Group Implementation

Summary: The CY 2018 Updates to the Quality Payment Program proposed rule aims to provide details about some aspects of virtual groups; however, there are still many aspects that are unclear and could potentially hinder the formation of virtual groups. Without an accessible virtual groups’ option, small and solo physicians are at a disadvantage under the MIPS scoring system.

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**Related Statute/Regulation:** CMS 2017/2018 MACRA Payment Year Regulations

**Proposed Solution:** CMS should consider awarding bonus points to physicians who form virtual groups to both encourage their formation and account for the fact that smaller practices may receive lower MIPS scores.

Additionally, physicians and groups should have the flexibility to be part of more than one virtual group application and ultimately decide which approved group they would like to align with. We foresee a situation where, if a physician is limited to only one virtual group application, that EC may be left with no options if that application to form a virtual group is denied. This physician would then be required to participate in MIPS on their own, which would likely be difficult for that physician given that they committed to and applied to be part of a virtual group in the first place.

PAI also believes that it is important to extend the application of the Federal Trade Commission (FTC) and Department of Justice (DOJ) Statement of Antitrust Enforcement Policy Regarding Accountable Care Organizations (ACOs) Participating in the Medicare Shared Savings Program (MSSP) to virtual groups. This policy statement provides clarity on antitrust issues and guidance on forming procompetitive ACOs. PAI believes that virtual groups will likely incur and have to address similar antitrust issues, and it is important that these be resolved at the beginning rather than mid-year. The agency should also be mindful of other laws and regulations that could be impediments or obstacles for the formation of virtual groups, and that appropriate exemptions should be extended and applied to virtual groups, for example, Stark Law exemptions that are similar to those for group practices.