Payment Error Rate Measurement (PERM) Program

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- As part of the Improper Payments Information Act of 2002 (IPIA), the Office of Management and Budget identified the Medicaid and SCHIP programs to be at risk for significant improper payments.
- CMS developed the PERM program to comply with IPIA's requirements to measure and reduce improper payments.
- PERM enables States to identify the causes of improper payments in their claims payment systems and eligibility processes, and to address them with the appropriate corrective action.

CMS "PERM-Difference Resolution Process" (March 20, 2008), p. 3; HHS CMS FY 2009 Justification of Estimates for Appropriations Committees, p. 150.

PERM Program

- PERM measures national and State-specific error rates in three areas:
  a) Fee-for-service payments,
  b) Managed care payments, and
  c) Program eligibility (based on State reviews).

- States are responsible for measuring and calculating State-specific program eligibility error rates.
  - States will report State-specific eligibility error rates to CMS.
  - CMS's statistical contractor will calculate a national eligibility error rate.

CMS "PERM-Difference Resolution Process" (March 20, 2008), p. 1; HHS CMS FY 2009 Justification of Estimates for Appropriations Committees, p. 151; Payment Error Rate Measurement (PERM) Verifying Eligibility for Medicaid and SCHIP Benefits, p. 3.

PERM Program

- States are reviewed once every three years, with 17 States reviewed each year.

FY 2007: North Carolina, Georgia, California, Massachusetts, New Jersey, Tennessee, West Virginia, Kentucky, Maryland, Alabama, South Carolina, Colorado, Utah, Vermont, Nebraska, New Hampshire, and Rhode Island.

FY 2008: New York, Florida, Texas, Louisiana, Indiana, Mississippi, Iowa, Maine, Oregon, Arizona, Washington, District of Columbia, Alaska, Hawaii, Montana, South Dakota, and Nevada.

FY 2009: Pennsylvania, Ohio, Illinois, Michigan, Missouri, Minnesota, Arkansas, New Mexico, Connecticut, Virginia, Wisconsin, Oklahoma, North Dakota, Wyoming, Kansas, Idaho, and Delaware.

HHS CMS FY 2009 Justification of Estimates for Appropriations Committees, p. 150; Payment Error Rate Measurement (PERM) Verifying Eligibility for Medicaid and SCHIP Benefits, p. 3.

PERM Program

- Full measurement cycle takes about 2 years, so multiple cycles occur simultaneously. For example, during FY 2009, contractors will be working on the cycles for FY 2007, FY 2008, FY 2009 and FY 2010.
- In general:
  - During the quarter prior to the sampling year, contractor provides instructions to States and providers, and States start the eligibility review process.
  - Sampling occurred between January and December of the cycle year.
  - Error rate calculation is expected in the summer following the sampling year.

HHS CMS FY 2009 Justification of Estimates for Appropriations Committees, p. 151; CMS Statistical Contractor Introduction at http://www.cms.hhs.gov/PERM/Downloads/StatContractorIntro.pdf; Payment Error Rate Measurement (PERM) Process Frequently Asked Questions about the PERM Program.

PERM Contractors

- Statistical Contractor – The Lewin Group.
  - Collects the universe of claims from providers.
  - Selects a sample of claims from the universe.
  - Reviews States' eligibility sampling plan.
  - Calculates the State and national error rates based on the review contractor's results and State eligibility data.
- Documentation/Database Contractor – Livanta, LLC
  - Collects medical records from providers.
  - Collects Medicaid medical policies from the State.
  - Requests additional information if necessary.
- Review Contractor – HealthDataInsights, Inc.
  - Reviews medical records and claims to determine if claims were properly paid.

CMS Statistical Contractor Introduction at http://www.cms.hhs.gov/PERM/Downloads/StatContractorIntro.pdf;
Documentation Contractor Introduction at http://www.cms.hhs.gov/PERM/Downloads/DocContractorIntro.pdf;
Review Contractor Introduction at http://www.cms.hhs.gov/PERM/Downloads/ReviewContractorIntro.pdf;
Payment Error Rate Measurement (PERM) Process Frequently Asked Questions about the PERM Program.

PERM Process

- **Statistical Contractor (SC)**
  - SC will ask States to submit its universe data files each quarter, which are lists of nearly all Medicaid beneficiary–specific payment records adjudicated by the state during the quarter.
  - SC will select a sample of claims from this universe.
- **Documentation/Database Contractor (DDC)**
  - DDC will obtain more specific data from States regarding sampled claims.
  - DDC will contact the provider identified on the claim as entitled to receive reimbursement.
    - Initial contact will verify provider's name and address, and determine how the provider wants to receive requests (e.g., facsimile, regular mail, etc.).
    - This provider is responsible for timely submission of any and all supporting medical records from any and all providers who rendered services for the claimed reimbursement.
  - Provider must submit an electronic or hard copy of medical records within 60 days of receiving the DDC's request.
    - States can monitor the status of requests (e.g., received, outstanding, additional documents requested) through the DDC's secure website.
    - State may contact the provider to help identify the appropriate documentation to be submitted to the DDC.
  - DDC may request additional information required by the Review Contractor; providers must submit additional documents within 15 days of the request.
  - No Response or Insufficient Documentation will count as an error against the State.

CMS Statistical Contractor Introduction at http://www.cms.hhs.gov/PERM/Downloads/StatContractorIntro.pdf; PERM Process Flow sheet; Payment Error Rate Measurement (PERM) Process Frequently Asked Questions about the PERM Program; CMS PERM "Universe Data Submission Instructions" (Feb. 26, 2008).

PERM Process

- **Review Contractor (RC)**
  - RC performs on-site data processing reviews on sampled claims to validate that the claims were processed correctly (e.g., correct line item for FFS claims; correct capitation payment or premium for managed care claims).
  - RC performs medical reviews of medical records for the sampled FFS claims.
  - RC requests additional information (though the DDC) as needed.
  - RC posts results of its review on its secure website (Disposition Report).
- **After Initial RC Review:**
  - State may dispute the review decisions using the Difference Resolution process and CMS Appeals process.
  - Error findings from the initial review and from the Difference Resolution and CMS Appeals process are sent to the SC.
  - SC calculates the national and State claims error rates and the national eligibility error rate.
  - SC and RC present a final PERM report to CMS.
  - CMS reports the error rates in the Performance and Accountability Report (PAR).

PERM Process Flow sheet; Payment Error Rate Measurement (PERM) Process Frequently Asked Questions about the PERM Program; PERM – Difference Resolution Process (March 20, 2008).

States' Responsibilities Under PERM

States must submit the following information:

(1) All adjudicated fee-for-service (FFS) and managed care claims information, on a quarterly basis, from the review year;
(2) Upon request from CMS, provider contact information that has been verified by the State as current;
(3) All medical and other related policies in effect and any quarterly policy updates;
(4) Current managed care contracts, rate information, and any quarterly updates applicable to the review year . . . , as requested, for Medicaid;
(5) Data processing systems manuals;
(6) Repricing information for claims that are determined during the review to have been improperly paid;
(7) Information on claims that were selected as part of the sample, but changed in substance after selection, for example, successful provider appeals;
(8) Adjustments made within 60 days of the adjudication dates for the original claims or line items with sufficient information to indicate the nature of the adjustments and to match the adjustments to the original claims or line items;
(9) For the eligibility improper payment measurement, information as set forth in Sec. 431.978 through Sec. 431.988;
(10) A corrective action plan for purposes of reducing erroneous payments in FFS, managed care, and eligibility; and
(11) Other information that the Secretary determines is necessary for, among other purposes, estimating improper payments and determining error rates in Medicaid . . . . [42 C.F.R. §431.970 (2008).]

42 C.F.R. §431.970 (2008).

PERM Eligibility Data Sample

- **Sampling Requirements:**
  - Must be performed in accordance with a CMS-approved sampling plan that meets the requirements set forth in 42 CFR §431.978.
  - Eligibility reviews must be conducted in accordance with 42 CFR §431.980.
- **Sampling Plan must be submitted to CMS by Aug. 1 before the review year, and must be approved by CMS prior to implementation.**
  - States must update plans as needed. (Updates also require CMS approval.)
  - Sampling Plan must address Active and Negative Cases.
    - "Active Cases" are individuals currently enrolled in Medicaid.
    - "Negative Cases" are individuals denied or terminated from Medicaid.
- **Sample Size and Selection.**
  - Eligibility data is sampled monthly.
    - Active Case universe is stratified into (1) program applications, (2) redeterminations of eligibility, and (3) all other cases; an equal number of cases are selected from each stratum.
    - Negative Case universe is not stratified.
  - Sample size must be estimated to achieve a 3 percent precision level at 95 percent confidence level.
    - First year, 504 Active Cases and 204 Negative Cases are sampled.
    - After the first year, the sample size is based on the previous year's error rate.

Payment Error Rate Measurement (PERM) Process Frequently Asked Questions about the PERM Program; 42 CFR §§431.958, 431.974 and 431.978.

PERM Reviews

- **PERM eligibility reviews must be conducted by a State agency that is functionally and physically independent of the State agency that makes Medicaid policy and eligibility determinations.**
- **States must review Active Cases for compliance with State eligibility criteria, and then:**
  - Classify each as eligible/ineligible/undetermined; and
  - Determine the amount of erroneous payments.
- **States must review Negative Cases for proper denial or termination.**
  - Classify each as correct or "no valid reason for the denial or termination."
  - Identify the reason for ineligibility, when applicable.
- **States must report the following to CMS by July 1 following the review year:**
  - Case and payment error rates for active cases;
  - Case error rates for negative cases;
  - Number and amount of undetermined cases and the total amount of payments from all undetermined cases; and
  - The number of cases dropped from review due to active fraud investigations.
- **States must also report detailed findings on the reviewed cases and a summary of findings to CMS.**

42 CFR §§ 431.974, 431.980 and 431.988; 42 CFR §431.974.

PERM Eligibility Tracking Tool

- PERM Eligibility Tracking Tool (PETT) is available for States to submit eligibility reporting forms.
  - Register at *https://www.cmspett.org/*
  - Website Instructions and User Guide available at *http://www.cms.hhs.gov/PERM/Downloads/Eligibility_Tracking_Tool_Instruction.pdf*

- Note the following warning on the PETT website:

  The PERM Eligibility Tracking Tool (PETT) will serve as a vehicle for states to submit their eligibility sampling reporting forms. The site will allow states to either download a form template and upload the completed form back to the site, or fill out the form directly in to the website. Submitted data cannot be overwritten. Once data has been uploaded it cannot be changed, but states will be able to review and print copies of each report. If changes are necessary, the state will need to re-submit the data to the website.

PERM Program

- Implementation of PERM error measurement:
  - FY 2006: started implementation of PERM for FFS error rate for 17 States.
  - FY 2007: started full implementation of PERM for FFS, managed care and eligibility error rates for 17 States.
- In November 2007, CMS announced preliminary FFS error rate for the 17 States measured in FY 2006.
- Expected reports:
  - FY 2008 PAR: Report of final FFS error rate for 17 States measured in FY 2006.
  - FY 2008 PAR: Report of national error rate for 17 States measured in FY 2007.
  - FY 2009 PAR: Report of national error rates on 17 States measured in FY 2008.
  - FY 2010 PAR: Report of national error rates on 17 States measured in FY 2009.

HHS CMS FY 2009 Justification of Estimates for Appropriations Committee, p. 106; DHHS Performance Highlights (Feb. 4, 2008), Appendix 5-2; CMS Online Performance Appendix to the FY 2009 CMS Congressional Justification, p. 24.

PERM Appeals

- **CMS published "PERM – Difference Resolution Process" on March 20, 2008.**
  - Allows States to dispute the review contractor's medical and data processing error findings.
  - Subsequent Letter from Center for Medicaid and State Operations (SHO#08-001) clarifies that States may dispute errors due to insufficient documentation.
- **If the State disagrees with the RC's findings, it may file a Notice of Difference in Finding within 10 business days from the posting of the Disposition Report.**
  - RC must make a final determination within 15 business days from the date of the Notice.
- **State may appeal the RC's determination to CMS if the difference in findings is $100 or more.**
  - "Difference in Findings" is the difference between the amount claimed and the amount that should have been paid.
  - Must request the appeal within 5 business days of the date of the RC finding under the difference resolution procedure.
  - CMS must make a determination within 30 days.
  - This is a final determination on the claim.

PERM – Difference Resolution Process (March 20, 2008), pp. 3-7; 42 CFR §431.998.

PERM Appeals

- Difference Resolutions and Appeals that are not resolved by July 15th will be considered improper payments for purposes of calculating the error rate.

- States may request that the SC calculate a new error rate based on resolution of outstanding differences.

PERM – Difference Resolution Process (March 20, 2008), p. 8.

PERM Recoveries

- Recovery of the federal share of the overpayment is governed by 42 CFR Part 433, Subpart F.
  - Overpayments must be refunded within 60 days of notification.
  - States are officially notified of the improper payments by the posting of the PERM errors on the RC's website, which occur on the first day of each month.
    - Results are posted under "Final Errors for Recoveries" tab at https://smerf.healthdatainsights.com/smerf_prod/login.aspx (a secure website).

PERM – Difference Resolution Process (March 20, 2008), p. 7; CMS Letter SHO#08-001 (April 10, 2008).

Corrective Action Plan

- Corrective Action Plan
  - States must analyze the improper payment error rates and program eligibility error rates; and
  - Submit to CMS a Corrective Action Plan (CAP) to reduce improper payments based on this analysis.
- States must review their error rates, determine the root causes of errors, and develop corrective actions to address the major causes.
  - Goal is to reduce payment error rates.
  - CAP must describe corrective actions that the States plan to implement to address the major causes of improper payments.
- Oct. 23, 2007 Letter from CMSO and the Office of Financial Management describes the essential steps for a CAP, instructions for developing a CAP, and a timeline for submitting a CAP to CMS.

42 CFR §431.992; 72 FR 50490, 50493 (Aug. 31, 2007).

States' Primary Responsibilities Under PERM

- Provide a representative to coordinate PERM activities;
- Provide Medicaid data to CMS contractors;
- Assist CMS contractors with on-site data processing reviews;
- Assist medical providers with document submission for medical reviews;
- Conduct improper payment reviews based on erroneous eligibility determinations;
- Provide subject matter expertise and information on the Medicaid payment process and program policies;
- Participate in CMS-sponsored cycle calls;
- Identify and prioritize potential vulnerabilities through data analysis;
- Develop and implement corrective actions to reduce improper payments; and
- Provide feedback and updates to CMS and its contractors and other interested parties.

Payment Error Rate Measurement (PERM) Process, Frequently Asked Questions about the PERM Program, p. 3.