



August 20, 2010

Dear State Health Official:

This letter is to provide you with information on an operational change to the Payment Error Rate Measurement (PERM) program as a result of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA, P.L. 111-3). Under Section 601 of CHIPRA, States measured for Fiscal Year (FY) 2007 or FY 2008 may elect to accept any Children's Health Insurance Program (CHIP) PERM error rate determined in whole or in part for the State on the basis of data for the fiscal year for which they were measured (FY 2007 or FY 2008) as their base year, or may elect instead to consider its CHIP PERM measurement conducted for FY 2010 or FY 2011 as the first FY for which PERM applies to the State. Additional detail on the implementation of Section 601 of CHIPRA was published in a Final Rule in the August 11, 2010 Federal Register (75 FR 48816).

According to Section 601(b) of CHIPRA, CMS is required to publish a final rule implementing new requirements for PERM and cannot calculate or publish any national or State-specific CHIP error rates until 6 months after the final rule is in effect. Due to the timing of the publication of the new final rule for PERM, CMS has decided that CHIP PERM will begin again with the FY 2011 measurement cycle and no retroactive reviews will be done for FYs 2009 and 2010. For this reason, States measured in FY 2007 will not have FY 2010 measured, but will be measured again in FY 2013, and will have the option to consider FY 2013 as their first or second measurement cycle for CHIP PERM.

If a State elects to accept the CHIP program error rate or any of its components (fee-for-service, managed care or eligibility) from FY 2007 or FY 2008:

- The error rate(s) accepted will count as their first year under PERM.
- For FY 2008, CMS will use the data that has been collected to date plus the data collected after the State informs CMS through the attached acceptance form of its election of FY 2008 as the State's first fiscal year CHIP measurement under PERM.
- The State will be subject to measurement under PERM in FY 2013 or FY 2011, which will count as their second year under PERM for the accepted components.
- Overpayments identified in both measurements will be subject to recovery, as detailed at 42 CFR §§ 431.1002 and 457.232.

If a State elects to consider FY 2013 or FY 2011 as their first PERM measurement for CHIP:

- The error rate will count as their first year under PERM.
- Overpayments identified in that measurement will be subject to recovery, as detailed at 42 CFR §§ 431.1002 and 457.232.
- In accordance with sections 1903(d)(2) and 2105(e) of the Social Security Act, and regulations at 42 CFR §§ 433.300 et seq. and 457.232, overpayments identified during the already conducted FY 2007 and FY 2008 measurements are subject to recovery, although they will not be used to calculate error rates for those fiscal years.

Attached is an acceptance sheet that States must complete if electing to accept the CHIP program error rate or any of its components from FY 2007 or FY 2008. This acceptance notice must be provided to CMS within 30 days after this State Health Official letter is released. In addition, the acceptance sheet shows which States are impacted by this notice. A State does not need to complete and return this form if it elects to consider FY 2011 or FY 2013 as its first PERM measurement for CHIP for all components.

States scheduled for PERM measurement in FY 2009 will not have the CHIP program reviewed and error rates calculated after the final rule is in effect. Those States CHIP programs will next be measured in FY 2012. Furthermore, the FY 2009 and FY 2010 Medicaid measurements are proceeding with no delays as a result of the CHIPRA.

We appreciate the cooperation that States have afforded CMS in the implementation of the PERM program. We look forward to our continued partnership in the forthcoming years as we work to ensure the integrity of the Medicaid and CHIP programs. If you have any questions, please contact Cindy D'Annunzio at 410-786-1878 or Cynthia.Dannunzio@cms.hhs.gov.

Sincerely,

/s/

Deborah A. Taylor
Director
Office of Financial Management

Jackie Garner
Consortium Administrator
Consortium for Medicaid and Children's Health
Operations

Attachment

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cc:

CMS Associate Regional Administrators
Division of Medicaid and Children's Health

Ann C. Kohler
NASMD Executive Director
American Public Human Services Association

Joy Wilson
Director, Health Committee
National Conference of State Legislatures

Matt Salo
Director of Health Legislation
National Governors Association

Debra Miller
Director for Health Policy
Council of State Governments

Christie Raniszewski Herrera
Director, Health and Human Services Task Force
American Legislative Exchange Council

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Association of State and Territorial Health Officials

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Office of Financial Management
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7500 Security Boulevard
Baltimore, Maryland 21244-1850



Statement of Election of First Fiscal Year Measurement Under PERM

The undersigned hereby acknowledges receipt of the August 13, 2010 State Health Official Letter from CMS outlining the provision for the option of the first application of the PERM requirements as set forth in CHIPRA. I certify the following:

I elect FY 2007 as the State's first fiscal year CHIP error rate determined under PERM for the following component(s):

- CHIP Fee-for-Service
- CHIP Managed Care
- CHIP Eligibility

I elect FY 2008 as the State's first fiscal year CHIP error rate determined under PERM for the following component(s):

- CHIP Fee-for-Service
- CHIP Managed Care
- CHIP Eligibility

Printed State Health Official Name

Printed Name

Signature of State Health Official

Signature

Date

Please convert the acceptance to PDF and e-mail to: Cynthia.Dannunzio@cms.hhs.gov

Medicaid and CHIP State Selection	
FY 2007	Alabama, California, Colorado, Georgia, Kentucky, Maryland, Massachusetts, Nebraska, New Hampshire, New Jersey, North Carolina, Rhode Island, South Carolina, Tennessee, Utah, Vermont, West Virginia
FY 2008	Alaska, Arizona, District of Columbia, Florida, Hawaii, Indiana, Iowa, Louisiana, Maine, Mississippi, Montana, Nevada, New York, Oregon, South Dakota, Texas, Washington