



OPERATIONAL MEMO

TITLE:	RY 2023 PAYMENT ERROR RATE MEASUREMENT (PERM) AUDIT
SUPERSEDES NUMBER:	N/A
EFFECTIVE DATE:	APRIL 14, 2022
DIVISION AND OFFICE:	GOVERNMENT RELATIONS, POLICY, COMMUNICATIONS AND ADMINISTRATION; ELIGIBILITY, MEDICAID OPERATIONS; AUDITS, FINANCE
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Purpose and Audience:

The purpose of this Operational Memo is to set expectations and provide guidance regarding the federally required Reporting Year (RY) Payment Error Rate Measurement (PERM) audit for Medical Assistance eligibility determinations. The audience for this memo is all county departments of human/social services, Medical Assistance (MA)

Sites, and Eligibility Application Partners (EAPs), collectively known throughout this memo as Eligibility Sites.

The Department of Health Care Policy and Financing (the Department or HCPF) and eligibility sites who conduct eligibility determinations are subject to review and compliance with federal audit requirements.

Information:

Definitions

ART: Audits Research Team acts as the liaison between the PERM program and eligibility sites by requesting case files and additional information for the Eligibility Review Contractor.

CBMS: Colorado Benefits Management System.

EDMS: Electronic Document Management System found in CBMS.

ERC: Eligibility Review Contractor is the federal government's contractor performing the review of eligibility determinations for PERM.

PERM: Payment Error Rate Measurement is the federal government's audit program that determines improper payment error rates.

What is PERM?

PERM is an audit program developed and conducted by the federal government to comply with law. The program examines eligibility decisions and payments to providers for Health First Colorado (Colorado's Medicaid Program) and Child Health Plan *Plus* (CHP+) for accuracy. PERM helps the Department identify areas for improvement and helps cut down on fraud, waste and abuse.

PERM is required by federal law, known as the Payment Integrity Information Act of 2019. PERM determines improper payment error rates and estimates of improper expenditures must be reported to the federal government. States and counties must create and implement countermeasures to reduce erroneous eligibility determinations and resulting expenditures; these must also be reported.

When PERM determines that an eligibility determination was erroneous resulting in improper expenditures, States are required to return the federal share of overpayments. Per 42 C.F.R. Section 431.1010, if a State's PERM eligibility improper error rate exceeds 3%, the federal government may penalize the State by withholding substantial federal

funding. In addition, it is critical to recognize the cost of incorrect enrollments beyond payment errors. Any time a determination of eligibility is authorized for an individual who is not truly eligible for the program, the state and federal governments must pay for administrative and claims-related costs, such as behavioral health capitation or payments to the Regional Accountable Entity. These costs must be paid for all enrolled members, causing federal and state costs if the individual was incorrectly enrolled.

How does PERM work?

PERM occurs every three years and reviews the State's improper payment error rate resulting from eligibility determinations made for Health First Colorado and CHP+. PERM will pull a random selection of medical services claims and review both the claim and the eligibility determination that allowed for the claim to be paid. The eligibility determination review involves all eligibility sites that conducted the eligibility determination on behalf of the State.

When the eligibility determination review is conducted, the review determines whether the last eligibility determination action made by the eligibility site worker for the member on a medical service claim that was expended was correctly paid. The eligibility determination review is performed by a federal contractor, Booz Allen Hamilton (BAH) and is also known as the PERM Eligibility Review Contractor (ERC).

Only the Department staff will work directly with the ERC; eligibility sites will work directly with the Audit Research Team throughout the PERM review.

Eligibility Determination Review

The eligibility determination review will begin in February 2021 and conclude in spring of 2023. During the review, counties and eligibility sites must comply with federal and state audit requirements and ensure that case files submitted for review are complete and in their entirety.

To complete the review, the ERC will:

- Access the Colorado Benefits Management System (CBMS)
- Review the case and case documents
 - If a case file is not in the State Electronic Document Management System (EDMS), it will be requested from the site that conducted the eligibility determination and/or the site that collected the original document
- Request additional documents from HCPF, if needed
 - The Eligibility Site may have to provide to HCPF any additional documents in an expedited timeframe for the ERC

- Determine if the eligibility determination was correct

Once the PERM auditors have completed their review, HCPF will initiate their desk review process, as found in 10 CCR 2505-5 1.020.10.3, for eligibility sites, resulting in the formal notification of incorrect eligibility determinations resulting from the PERM review. The desk review process would trigger non-compliance notices and corrective action plans for the eligibility site responsible for the incorrect eligibility determination, as described below.

Case File Requests from Eligibility Sites

The Monitoring and Quality Audit Research Team (ART) will email the eligibility sites with specifics of any additional documents requested from the ERC along with the due date. To avoid errors cited, all documents requested must be provided. Documents must be sent through encrypted email or uploaded to CBMS EDMS by the due date. ART will forward the documents received from the eligibility sites to the ERC. The initial request should not be considered final as the ERC may need additional information. If an extension is needed, the eligibility site must send to ART a written request for extension no later than two business days of the date ART emails the request.

Ongoing Cooperation with PERM Requests

Once the case file has been provided by the eligibility site, the ERC will complete the eligibility review. If the ERC or the Department need additional information during the review, the Audits Research team will contact the eligibility site. Prompt response to the Department's request for additional information from the eligibility site is required per 10 CCR 2505-5 1.020.10.1.

PERM Findings and Non-Compliance Processes

At the conclusion of the ERC's reviews, the Department will share final review results with eligibility sites. Per 10 CCR 2505-5 1.020.11, results and findings from the PERM program Eligibility Review are subject to the county administrative non-compliance processes, as PERM is a federal or state review conducted and allowed at 10 CCR 2505-5 1.020.10.1. Findings for the eligibility site from the Eligibility Review will result in a Management Decision Letter (MDL) issued to the eligibility site, per 10 CCR 2505-5 1.020.11. MDLs will be issued after the conclusion of the Eligibility Review in mid-2023.

Upon receipt of the MDL for the eligibility site's findings, the eligibility site will be required to create a Corrective Action Plan (CAP), and no cure period will be allowed.

The CAP is subject to the same completion, review and approval processes as dictated in 10 CCR 2505-5 1.020.11.5 and [HCPF OM 21-078](#). Once an eligibility site CAP is approved, the county or site director will be notified.

The Department reserves the right to submit all eligibility site-created CAPs to the federal government as part of the PERM review process. Therefore, the Department will apply additional scrutiny to all eligibility site-CAPs created as a result of PERM review findings.

PERM Regulations

Section 431.970(a)(9) "The State must submit information to the Secretary for, among other purposes, estimating improper payments in Medicaid and CHIP, that include, but are not limited to – (9) Case documentation to support the eligibility review, as requested by CMS;

Section 431.970(d) "The State must provide the Federal contractor(s) with access to all eligibility system(s) necessary to conduct the eligibility review, including any eligibility systems of record, any electronic document management system(s) that house case file information, and systems that house the results of third-party data matches."

Attachment(s):

None

Department Contact:

For case file requests, PERM finding responses, and PERM questions, contact the Audits Research Team staff member who sent the case file request or error.

For questions regarding county administration corrective action procedures, contact HCPF_CountyRelations@state.co.us