

## PERM Final Rule: Overview of Major Changes

Topic	Previous Policy	New Policy Based on Final Regulation	Notes	Cycle Impact
Error rate calculation - claims and eligibility	N/A	FY07 and FY08 states have the option to accept or reject their CHIP error rates from the FY07 and FY08 cycles	Further clarification on the process by which states can choose to accept or reject FY07 and FY08 CHIP error rates can be found in the State Health Official letter to be released with the rule.	FY07/FY10 and FY08/FY11
Sample size - claims and eligibility	Each state had the same sample size for each component of the measurement	Beginning in FY 2011, state-specific sample sizes will be calculated based on the prior year's component-level error rates	CMS' Statistical Contractor will calculate each state's sample size for each component If states choose to reject their FY07 or FY08 CHIP error rates, the state's sample size in the next cycle will be the base year sample size	FY11 and beyond
Sample size - claims and eligibility	No maximum sample size	The maximum sample size is set at 1,000 claims or cases for each component	Because reviewing claims requires both staff and monetary resources, a maximum sample size puts a limit on expenditures Statistical tests suggest that if state-level precision cannot be met with a sample size of 1,000 claims, it is unlikely to be met with any reasonable sample size; however, a substantial increase in the probability of reaching precision goals can be gained by increasing the sample size from 500 to 1,000	FY11 and beyond
Universe - eligibility	N/A	Express Lane eligibility cases should be excluded from the sampling universe	CHIPRA sets forth the policy for excluding express lane eligibility cases; CMS is charged with developing an alternative process for reviewing Express Lane cases outside of the PERM measurement	FY11 and beyond
Error determination - claims and eligibility	No distinction between types of errors	The revised regulation distinguishes between state or provider errors; separate error rates will not be calculated	Data processing errors and eligibility review errors are categorized as state errors and medical review errors as provider errors	N/A

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Review process - claims	Providers must submit documentation within 60 days	Providers must submit documentation within 75 days	CMS changed policy based on comments on original policy	FY10 and beyond
Self-declaration - eligibility	States were required to verify items that were self-declared	States can accept current self-declaration documentation in the case file	Self-declaration statement must be: <ul style="list-style-type: none"> <li>▪ Present in the record</li> <li>▪ Not outdated (more than 12 months old)</li> <li>▪ In a valid, state-approved format</li> <li>▪ Consistent with other facts in the case record</li> </ul>	FY10 and beyond
Difference resolution - claims	Appeals to CMS needed to be on errors in the amount of \$100 or more	States can now appeal errors below \$100	All errors regardless of their dollar amount ultimately contribute to a state's error rate and hence the national error rate	FY10 and beyond
Difference resolution - eligibility	No eligibility appeals process	There is a defined process for states to appeal eligibility errors	Appeals for eligibility review findings should be conducted in accordance with the state's appeal process, as eligibility reviews are conducted at the state level For states that may not have a state appeals process in place, CMS will: <ul style="list-style-type: none"> <li>▪ make state findings available to each respective state's Medicaid and CHIP agency</li> <li>▪ facilitate documentation exchange between the state Medicaid or CHIP agency and the agency conducting the PERM eligibility reviews to resolve differences</li> <li>▪ address appeals if any eligibility appeals issues involve federal policy</li> </ul>	FY10 and beyond

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Difference resolution - claims	States had 10 business days to request difference resolution and 5 business days to request an appeal	States now have 20 business days to request a difference resolution and 10 business days to request an appeal to CMS	CMS changed policy based on comments on original policy	FY10 and beyond
PERM/MEQC harmonization - eligibility	N/A	CHIPRA allows states to use traditional MEQC to replace PERM in a state's given PERM cycle; the new PERM regulation allows states to use PERM to replace MEQC as of the publication of the new rule	The PERM regulation and forthcoming revised PERM guidelines provides states with additional detail on PERM/MEQC harmonization	FY09 for MEQC for PERM FY11 for PERM for MEQC
Sampling unit - eligibility	"Case" was defined as an individual	"Case" now defined as an individual or family	States can use either definition; universe totals will need to reflect the sampling unit used by the state	FY11 and beyond
Error rate calculation - eligibility	States were required to calculate their eligibility error rates	The SC will calculate eligibility error rates	States will be required to submit data (rather than error rates) by July 1	FY10 and beyond
Universe - eligibility	Active cases needed to be stratified	States have the option to stratify active cases or not stratify active cases	CMS changed policy based on comments on original policy	FY11 and beyond
Corrective action plans - claims and eligibility	Previous guidance was not documented in the PERM regulation	States will be required to submit and implement corrective action plans no later than 90 days from the date the State's error rate is posted to the CMS Contractor's website	The proposed regulation required the plans to be submitted no later than 60 days from the date the State's error rate is posted to the CMS Contractor's website; CMS changed policy in the final regulation based on comments received to original policy	FY09 and beyond

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Corrective action plans - claims and eligibility	Previous guidance was not documented in the PERM regulation	State responsibilities for corrective action include: <ul style="list-style-type: none"> <li>▪ Data Analysis - States must conduct data analysis</li> <li>▪ Program Analysis - States must review the findings of the data analysis</li> <li>▪ Corrective Action Planning - States must determine the corrective actions to be implemented</li> <li>▪ Implementation and Monitoring - States must implement the corrective actions in accordance with an implementation schedule</li> <li>▪ Evaluation - States must evaluate the effectiveness of the corrective action</li> </ul>		FY09 and beyond
Corrective action plans - claims and eligibility	N/A	CMS will not approve state-submitted corrective action plans	In the proposed regulation, CMS indicated that they would approve corrective action plans; based on comments received, CMS is not adopting an approval process in the final regulation  CMS will be available to provide states with technical assistance as requested	N/A