

Centers for Medicare and Medicaid Services  
U.S. Dept. of Health and Human Services  
Attention: CMS-6026-P  
P.O. Box 8017  
Baltimore MD 21244-8017

Subject: Comments on Medicaid and SCHIP Payment Error Rate Measurement (PERM)  
Proposed Regulations (*Federal Register*, August 27, 2004)

October 27, 2004

Dear Sir or Madam:

The undersigned organizations are writing to express our concerns about the Medicaid and SCHIP Payment Error Rate Measurement (PERM) Proposed Regulations (*Federal Register*, August 27, 2004). If implemented, the regulations will have broad and potentially harmful implications for Medicaid and the State Children's Health Insurance Program and for the millions of children, families, people with disabilities and seniors who rely on these programs for their health care lifeline.

We are concerned that, as written:

- the rule creates unnecessary new bureaucracy that will make running Medicaid and SCHIP even more difficult for states;
- the PERM review process would make it appear that Medicaid and SCHIP have much higher error/fraud-rate problems than they actually do;
- the PERM system could cause states to retract Medicaid or SCHIP policies that simplify enrollment and renewal to protect against the chance that a case will be identified as an error.

We urge CMS to significantly revise the PERM regulation before making it final. Among the revisions we feel strongly should be undertaken are:

- **Eliminating PERM's eligibility component.** The eligibility component of the PERM regulation is redundant with the Medicaid Eligibility Quality Control System already operated by states. Through this system, states have found that eligibility-related errors are a very small share of all errors. Moreover, the PERM system will not uncover errors that prevent eligible people from enrolling in Medicaid or SCHIP.
- **Reducing the number of required PERM reviews.** There is no federal requirement to generate state-specific error rates, and imposing a burden on states to do so at this time of fiscal stress is unreasonable.
- **Taking steps to ensure the fairness and accuracy of PERM reviews.** PERM findings will potentially have a far-reaching impact on Medicaid and SCHIP. There are a range of protections that CMS should include in the regulation to ensure that missing information, technical errors that do not cost any money or data-entry delays do not count against the Medicaid and SCHIP error rates.

- **Redressing the balance between fee for service and managed care claims.** Because PERM requires medical reviews of fee-for-service claims but exempts capitated managed care payments from medical reviews, fee-for-service Medicaid will look significantly more error-prone than managed care. To the extent that this data will inform future policy decisions, this false dichotomy will hinder policy makers' ability to make good decisions.

CMS should undertake the revisions described above in order to achieve its goal of significantly improving error measurement while also supporting policies that make it easier for beneficiaries to achieve and maintain Medicaid enrollment, and reduce the burden on providers.

Sincerely,

African American Health Alliance (Dunkirk, MD)  
 Agenda for Children (New Orleans, LA)  
 Alabama Arise (Montgomery, AL)  
 American Academy of Pediatrics Alaska Chapter (Anchorage, AK)  
 American Network of Community Options and Resources (Alexandria, VA)  
 Anti-Hunger Action Committee (Salt Lake City, UT)  
 Association for Children of New Jersey (Newark, NJ)  
 Cabrini Clinic (Detroit, MI)  
 California Food Policy Advocates (San Francisco, CA)  
 Catholic Charities Inc of Jackson, MS (Jackson, MS)  
 Center for Law and Social Policy (DC)  
 Center on Disability and Health  
 Clark County Legal Services (Las Vegas, NV)  
 Community Action Project of Tulsa County (Tulsa, OK)  
 Community Health Action Information Network, East Central Florida (Ormond Beach, FL)  
 Connecticut Legal Services, Inc (Willimantic, CT)  
 Covering Kids and Families of Indiana (South Bend, IN)  
 Daughters of Charity- West Central Province (St. Louis, MO)  
 Disability Law Center Inc. (Boston, MA)  
 Families USA  
 Family Voices (Albuquerque, NM)  
 Florida CHAIN (Miami, FL)  
 Foster Care Review Inc. (Miami, FL)  
 Georgians for a Common Sense Health Plan (Decatur, GA)  
 Greater Hartford Legal Aid (Hartford, Ct)  
 Health and Disability Advocates (Chicago, IL)  
 Health Care For All - California, Santa Cruz County Affilliate (Santa Cruz, CA)  
 Health Care for All (Boston, MA)  
 Heartland Alliance for Human Needs and Human Rights (Chicago, IL)  
 Hill Concepts, LLC (Fairfield, AL)  
 Home Start Inc. (San Diego, CA)  
 Human Services Coalition of Dade County (Miami, FL)  
 ILC- Independent Living Center (Alabaster, AL)  
 Illinois Maternal and Child Health Coalition (Chicago, IL)

Intercultural Center for Health and Wellness Inc. (Marietta, GA)  
Jefferson County Department of Health (Birmingham, AL)  
LA Health Action (Los Angeles, CA)  
Latino Coalition for a Healthier California (Sacramento, CA)  
Legal Assistance Corporation of Central Massachusetts (Worcester, MA)  
Legal Assistance Resource Center of Connecticut (Hartford, CT)  
Maine Primary Care Association (Augusta, ME)  
Maniilaq Public Health Nursing (Kotzebue, AK)  
Maternity Care Coalition (Philadelphia, PA)  
Mental Health Legal Advisors Committee- Commonwealth of Massachusetts (Boston, MA)  
Michigan Consumer Health Care Coalition (Haslett, MI)  
Michigan County Social Services Association (Lansing, MI)  
Michigan League for Human Services (Lansing, MI)  
Mississippi Human Services Coalition (Jackson, MS)  
National Association for Children's Behavioral Health  
National Association of School Psychologists  
National Association of Social Workers  
National Education Association (NEA)  
National Health Law Program, Inc.  
National Mental Health Association  
National Women's Law Center  
Nebraska Appleseed Center for Law in the Public Interest (Lincoln, NE)  
New Haven Legal Assistance Association (New Haven, CT)  
Northwest Health Law Advocates (Seattle, WA)  
Oklahoma Institute for Progressive Policy (Oklahoma City, OK)  
Parent to Parent of Vermont (Williston, VT)  
Planned Parenthood Mar Monte (Reno, NV)  
Progressive Leadership Alliance of Nevada (Reno, NV)  
Public Justice Center (Baltimore, MD)  
Racial and Ethnic Health Disparities Coalition (DC)  
Salt Lake Community Action Program (Salt Lake City, UT)  
South Carolina Appleseed Legal Justice Center (Columbia, SC)  
South Dakota Peace and Justice Center (Watertown, SD)  
State Public Policy Group (Des Moines, IA)  
Summit Health Institute for Research and Education, Inc. (DC)  
The Ability Center of Greater Toledo (Defiance, OH)  
The Alan Guttmacher Institute  
The Center For Civil Justice (Saginaw, MI)  
The Greater Upstate Law Project, Inc. (Rochester, NY)  
The National Hispanic Medical Association  
The Sargent Shriver National Center on Poverty Law (Chicago, IL)  
Title II Community AIDS National Network (TIICANN)  
Tulsa Area Alliance on Disabilities (Tulsa, OK)  
United Way of Greater Cincinnati (Cincinnati, OH)  
Universal Health Care Action Network of Ohio (UHCAN Ohio) (Columbus, OH)  
Virginia Poverty Law Center (Richmond, VA)

Washoe Legal Services (Reno, NV)  
Welfare Law Center (NY, NY)  
Western Illinois Area Agency on Aging (Rock Island, IL)  
Women's Policy Group (Atlanta, GA)

#### Individual Consumers

Patti Anderson of Rollinsford, NH  
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Linda Erickson of Anchorage, AK  
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Susan House of Anchorage, AK  
Judith Lelchhook of Alexandria, VA  
Penelope Pestronk of Grand Blanc, MI  
Anne Peticolas of Austin, TX  
Leah Vinton of Liberty, MO  
William Porro of Miami, FL  
Robin Sims of Bloomfield, NJ  
Barbara Stoops of Grand Rapids, MI  
Virginia Vogts of Columbus, OH