



RY 2023 Cycle 2 Payment Error Rate Measurement (PERM) Provider Education – Frequently Asked Questions (FAQs)

Table of Contents

Topic	Page Number
<u>General PERM Questions</u>	2
<u>PERM Contractors</u>	2
<u>Medical Record Requests</u>	3
<u>Medical Review</u>	7
<u>PERM Provider Education Outreach</u>	8
<u>Additional Provider Education Questions</u>	8
<u>Exhibit 1: Medicaid and CHIP Measurement Cycles</u>	9

General PERM Questions

- 1. What is PERM?** The Payment Error Rate Measurement (PERM) program is designed to measure and report a national improper payment rate annually for Medicaid and the Children’s Health Insurance Program (CHIP), as required by the Payment Integrity Information Act (PIIA) of 2019. The program is operating under the PERM final regulation published on July 5, 2017 (Federal Register 82 FR 31158).
- 2. Why did CMS implement the PERM program?** The Office of Management and Budget (OMB) has identified Medicaid and CHIP as programs at risk for significant improper payments. As a result, CMS developed the PERM program to comply with the PIIA of 2019 and related implementing guidance issued by OMB (OMB M–03–13, May 21, 2003 and OMB M– 06–23, August 10, 2006).
- 3. Where can providers find information about PERM?** The following link provides additional PERM program information: <https://www.cms.gov/PERM>.
- 4. How many times can a provider anticipate being reviewed by the PERM program?** CMS uses a 17-state rotation for PERM. Each state, district, and/or territory (referred to herein as “state”) is reviewed once every three years. (See [Exhibit 1: Medicaid and CHIP Measurement Cycles](#).)
- 5. How will a provider know if they are a part of a PERM review?** Providers will know if they are a part of a PERM review because they will receive a telephone call from a PERM Review Contractor (PERM RC) customer service representative and a medical records request letter by fax or first-class mail. The customer service representative will state that they are with NCI calling regarding PERM, a federal audit, on behalf of CMS. During the call, the representative will notify the provider of the claims selected for PERM review and that a written medical records request is forthcoming. The representative will also verify contact information for the provider and for any entity that processes requests for medical records related to the provider’s patients. The representative will confirm whether the provider prefers to receive the medical records request letter by fax or first-class mail. The request letter describes what documentation is needed for the PERM RC to complete the review. The letter will clearly explain the documentation needed, when it is due, and where to send it.

PERM Contractors

- 6. Will a provider be in violation of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 for submitting medical records to the CMS PERM RC?** No. The collection and

review of protected health information contained in medical records for payment review purposes is authorized by U.S. Department of Health and Human Services (HHS) regulations at 45 C.F.R. 164.512(d), as a disclosure authorized to carry out health oversight activities, pursuant to the HIPAA. This regulation covers CMS PERM RC activities.

- 7. Why were claims selected for the PERM review by CMS and not by the state, which usually handles the claims processing?** The PIIA of 2019 requires heads of federal agencies to annually review programs that they administer to identify those that may be susceptible to significant improper payments, estimate the amount of improper payments, submit those estimates to Congress, and submit a report on corrective actions the agency is taking to reduce improper payments. After extensive analysis of the issues related to having states measure improper payments in Medicaid and CHIP, including a review of public comments, CMS adopted the recommendation to engage federal contractors to review state Medicaid and CHIP Fee-for-Service (FFS) and Managed Care claims and to calculate the state-specific and national improper payment rates for Medicaid and CHIP. CMS implemented these recommendations primarily in response to commenters' concerns with the cost and burden the proposed rule would have imposed on states to implement the regulatory provisions at the state level. The PERM Statistical Contractor creates statistically valid random samples from the universe of all FFS Medicaid and CHIP claims. The PERM RC requests medical records from the provider and conducts medical reviews for all FFS claims sampled to determine the appropriateness of the payment.

- 8. What authority gives CMS and its contractors the right to request documentation from providers for the PERM review?** Section 1902(a) (27) of the Social Security Act and Code of Federal Regulation 42 C.F.R. 457.950 gives CMS authority to require providers to submit information regarding payments and claims as requested by the Secretary, state agency, or both. CMS contracts with outside entities that assist with collecting and reviewing claims on behalf of CMS. Under the authority of these statutory provisions, those states selected for review in any given year for the Medicaid and CHIP improper payments measurement are to provide the federal contractors with information needed to conduct medical, eligibility, and data processing reviews on FFS claims and data processing and eligibility reviews on managed care claims.

Medical Record Requests

- 9. Will my provider or supplier type be selected for a PERM Medical Review (MR)?** Providers and/or suppliers that received Medicaid and CHIP FFS payments, made on behalf of beneficiaries, may be randomly sampled and reviewed during the reporting year under review. Individual payments (from a universe of original, federally matched, and fully adjudicated) the states made on behalf of individual beneficiaries to providers and other entities for medical services rendered are considered eligible for a PERM medical review. Also, fiscal intermediaries, fiscal agents, brokers, or payroll entities who submit FFS claims

to Medicaid or CHIP may also be selected for PERM RC with the contact information for the custodian of the service records.

The specific entity types that may be selected during a PERM medical review include: Inpatient Hospital Services; Psychiatric, Mental, and Behavioral Health Services; Nursing Facility, Chronic Care Services, or Intermediate Care Facilities (ICFs); ICFs for Individuals with Intellectual Disabilities (ICF/IID) and ICF/Group Homes Clinic Services; Physicians and Other Licensed Practitioners Services (Includes: Advanced Practice Nurse, Physician Assistant, Nurse Midwife, and Midwife); Dental and Oral Surgery Services; Prescribed Drugs; Home Health Services; Personal Support Services; Hospice Services; Therapies (PT, OT, RT), Hearing, Vision, Speech, and Rehabilitation Services; Day Habilitation, Adult Day Care, Foster Care, and School-Based Services; Laboratory, X-Ray, and Imaging Services; Outpatient Hospital Services; Durable Medical Equipment and Supplies, Prosthetic/Orthopedic Devices, and Environmental Modifications; and Transportation and Accommodations.

10. Who should a provider contact with questions or concerns regarding the medical record request letter received? A provider should contact NCI Information Systems Inc., the PERM RC, at 800-393-3068 or PERMRC.ProviderInquiries@nciinc.com right away with any questions or concerns. Please do not transmit Personally Identifiable Information (PII), Protected Health Information (PHI), medical records, or other sensitive information via the PERMRC.ProviderInquiries@nciinc.com email address. ([See FAQ below for how to submit the requested records.](#)) A provider may also contact the PERM RC Medical Records Manager, Allison Keeley, at 804-249-1746 or the state PERM representative listed at the bottom of the medical record request letter for any additional questions or concerns.

11. Where does a provider submit the requested records? Each medical record request letter contains instructions for submitted requested records and documentation to the PERM RC. If a provider does not have the letter available for reference, please use the submission methods below:

a. **Fax** records to: **1-804-515-4220.**

Place the PERM Cover Sheet on top of each record submission. If a provider or facility receive **more than one** PERM ID request for records, please fax each submission separately. Submit documentation for each single PERM ID in as few fax transmissions as possible.

b. **Mail** records to:

CMS PERM Review Contractor, NCI Inc.
8701 Park Central Drive, Suite 400 B
Richmond, VA 23227

Place the PERM Cover Sheet on top of each record submission. All documents must be complete and legible. Please do not staple or paper clip any pages

together. If sending documentation on USB Flash Drive, CD, or DVD, encrypt the file with a password. Submit the password for the encrypted USB Flash Drive, CD, or DVD via email to PERMRC_Encryption@nciinc.com and include the PERM ID in the subject line. Do not submit records via email to this email address as this is not a secure method of transmission. Please note that the PERM RC cannot return a USB Flash Drive, CD, or DVD to providers.

c. Electronic Submission of Medical Documentation (esMD)

Providers with an established relationship with a Health Information Handler (HIH) are encouraged to have their HIH submit requested medical documentation via the gateway to Electronic Submission of Medical Documentation (esMD). If a provider or facility does not have an established relationship with an HIH, esMD will not be an available submission method. For more information, see <http://www.cms.gov/esMD/>.

Please route any documents submitted through esMD to PERM NCI Inc. Enter the Reference ID (PERM ID#) from the records request letter into the ESMD CASEID field to ensure the system will be able to identify the records automatically.

12. What is the Electronic Submission of Medical Documentation (esMD) System? The esMD system was implemented in September 2011 as an additional option for Medicare and Medicaid FFS providers to send medical documentation electronically to CMS Medicare and Medicaid Review Contractors. The esMD system is comprised of a CONNECT Gateway, which is capable of exchanging documents with other CONNECT compatible gateways. The gateways are built in accordance with the Office of the National Coordinator for Health Information Technology (HIT) standards. The esMD system facilitates the secure exchange of medical documents from Providers' HIT systems via Health Information Handlers to the CMS CONNECT Gateway. The esMD system also allows for the secure exchange of documentation between review contractors.

Please visit the [esMD for Medicare Providers and Suppliers website](#) for more information. And please send any questions you may have regarding esMD to the esMD Business Owner mailbox via email at: esMDBusinessOwners@cms.hhs.gov.

13. Is it possible for the PERM RC to include all medical record requests on one fax as opposed to receiving multiple faxes? No. To maintain patient confidentiality and adhere to HIPAA regulations, the PERM RC must send each medical record request separately.

14. Does a provider need to obtain a patient authorization or patient consent to submit medical records? No. A provider is not required to obtain patient authorization to respond to medical record requests. CMS and its contractors comply with the Privacy Act and regulations. Section 1902(a) (27) of the Social Security Act and Code of Federal Regulation 42 C.F.R. 457.950 gives CMS authority to require providers to submit information regarding

payments and claims as requested by the Secretary, State Agency, or both. CMS contracts with outside entities that assist with collecting and reviewing claims on behalf of CMS.

15. Does the state contact know when a medical record request has been sent to a provider?

Yes. The state PERM contact receives notification when the PERM RC has sent a medical record request. The state PERM contact receives notification when documentation is submitted or has not been received timely.

16. What happens if a provider does not comply with the PERM RC's request for medical records? CMS recommends that providers respond to the request, **as soon as possible, without waiting** until the due date. If a provider misses the due date, the provider should submit the medical records to the PERM RC as soon as possible.

If a provider does not submit the requested medical record(s) within the **75-day** allowable timeframe, the payment for the claim will be considered an improper payment because no evidence is available for the PERM RC to verify the accuracy of the payment. In other words, the PERM RC will be unable to determine whether the services were provided, were medically necessary, were properly coded, and were supported by the medical record(s). If the PERM RC does not receive the documentation within 75 days of the request, the PERM RC will consider the claim to be an improper payment and assign the case an error code finding. Providers may resolve the error code finding by submitting documentation after the due date but prior to the cycle cutoff date. Additionally, State Agency officials may seek recovery of the payment for the claim from providers.

If the record does not contain sufficient documentation, the PERM RC notifies the provider that additional documentation is necessary. If the PERM RC does not receive the additional documentation within 14 days of the request, the PERM RC will consider the claim to be an improper payment and assign the case an error code finding. Providers may resolve the "Documents Absent from Record" error code finding by submitting additional documentation after the due date but prior to the cycle cutoff date. Additionally, State Agency officials may seek recovery of the payment for the claim from providers.

17. Why is the allowable timeframe 75 days? Per the Code of Federal Regulation 42 C.F.R. 431.970 (b) information submission requirements, providers must submit requested information to CMS for, among other purposes, estimating improper payments in Medicaid and CHIP, which include but are not limited to, Medicaid and CHIP beneficiary medical records within 75 calendar days of the date the request is made by CMS.

18. Why must a provider use the PERM cover sheet sent with the request for medical records? The provider must use the PERM cover sheet when sending in medical records because it contains a control number (PERM ID) that corresponds to each claim. Provider submission of all **relevant** documents listed on each PERM cover sheet ensures records

processing and review can be expedited without delays.

19. What if a provider has a limited number of staff available to collect medical records?

The PERM RC will work with provider staff in pinpointing the exact documentation needed and will provide suggestions on how these records can be easily obtained. Please reach out to the PERM RC customer service staff at 800-393-3068 or PERMRC.ProviderInquiries@nciinc.com for assistance. Please do not transmit PII, PHI, or medical records via the PERMRC.ProviderInquiries@nciinc.com email address.

20. What if a provider has a delayed mailing system and does not have access to a fax machine? Is there an alternative to faxing in medical records?

The CMS PERM RC will contact each provider by phone to explain the reason for the call, describe the authority for CMS to collect medical records for audit purposes, and confirm the provider contact information before sending out the medical record request. Please inform the PERM RC of any access issues including the use of a delayed mailing system, and the PERM RC will make sure to allow the complete 75 days to respond based on the date that the medical record request was made. In addition, providers with an established relationship with a participating health information handler have the option to submit medical records via the esMD. Providers may work with the state PERM representative listed at the bottom of the records request letter to submit records to the State Agency office.

21. If a provider receives a medical record request letter and the provider is not the provider who has the medical records to support the claim, who should be notified?

The CMS PERM RC will contact the provider by phone to determine who has the medical record before mailing or faxing the request letter. If the provider is not the records custodian, notify the PERM RC during this initial call. If possible, provide the name and contact information for the records custodian. If a provider receives a records request letter in error, contact the PERM RC immediately at 800-393-3068 or PERMRC.ProviderInquiries@nciinc.com. Please do not transmit PII, PHI, or medical records via the PERMRC.ProviderInquiries@nciinc.com email address.

22. Who can a provider contact with questions about medical records requests, including questions on the terminology used in some of the communications from the PERM RC?

Contact the PERM RC customer service representatives at 800-393-3068 or PERMRC.ProviderInquiries@nciinc.com right away with any questions or concerns. Please do not transmit PII, PHI, medical records, or other sensitive information via the PERMRC.ProviderInquiries@nciinc.com email address. A provider may also contact the PERM RC Medical Records Manager, Allison Keeley, at 804-249-1746 or the state PERM representative listed at the bottom of the medical record request letter. Providers may also go to the CMS website at <https://www.cms.gov/PERM> and click on the cycle year being measured for the contractor's contact information.

23. How do providers know what documentation to submit to the PERM RC? The PERM RC will send the provider a PERM cover sheet containing a control number that corresponds to each claim along with information detailing what to submit to support payment of the claim undergoing medical review. If the cover sheet includes bolded items in the list of requested documentation, please make every attempt to include the bolded items with the record submission. If the list of requested documentation is not applicable to the claim, please submit the documentation that supports the service(s) billed as shown on the Claim Summary page of the record request. The letter will also have information on who to contact with questions.

24. Will the provider be notified once the PERM RC receives the medical record(s)? The PERM RC will not contact the provider upon receipt of records. The provider may contact the PERM RC at 800-393-3068 or PERMRC.ProviderInquiries@nciinc.com or the state PERM representative listed at the bottom of the record request letter to verify the PERM RC received the medical record and requires no additional documentation. Please do not transmit PII, PHI, medical records, or other sensitive information via the PERMRC.ProviderInquiries@nciinc.com email address. The PERM RC will contact the provider after the initial submission of records only when additional documentation is required to complete the review.

Medical Review

25. What is the process for reviewing the medical record documentation submitted to the PERM RC? The PERM RC conducts a comprehensive medical review on each medical record that includes reviewing medical record documentation, federal regulations, and state-specific guidelines and policies related to the claim to determine whether the services were medically necessary, provided in the appropriate setting, billed correctly, and properly coded. The PERM RC examines the medical record(s) to ensure sufficient documentation exists to support the claim as billed. The documentation needs to support the medical necessity of the service and coding accuracy of the claim. If the record does not contain sufficient documentation to support the service as billed, the PERM RC notifies the providers that additional documentation is needed.

Once the reviews are complete, the PERM RC documents the outcome of each review in the State Medicaid Error Rate Findings (SMERF) website, which can be reviewed by the state PERM representative.

PERM Provider Education Outreach

- 26. Where may a provider find PERM education materials?** The CMS PERM website includes a provider page which contains useful information to educate providers on PERM. Please visit the CMS PERM website at <https://www.cms.gov/PERM>. A provider may contact the PERM RC with questions via email at PERMRC.ProviderInquiries@nciinc.com. Please do not transmit PII, PHI, medical records, or other sensitive information via the PERMRC.ProviderInquiries@nciinc.com email address. CMS also encourages providers to partner with their state PERM representatives for all PERM needs. Providers may contact the PERM RC as needed to obtain contact information for the state PERM representative.
- 27. How can a provider determine if the state has any PERM education opportunities available?** PERM education opportunities vary by state, and all states do not have PERM education opportunities available on a regular basis. Providers should check the state Medicaid/CHIP website or contact the state PERM representative for educational opportunities. If you are unsure of who your PERM state representative is, you can contact the PERM RC at PERMRC.ProviderInquiries@nciinc.com. Please do not transmit PII, PHI, or medical records via the PERMRC.ProviderInquiries@nciinc.com email address.

Additional Provider Education Questions

- 28. What is the definition of an improper payment?** The term improper payment means any payment that should not have been made or that was made in an incorrect amount, including an overpayment or underpayment, under a statutory, contractual, administrative, or other legally applicable requirement; and includes any payment to an ineligible recipient; any payment for an ineligible good or service; any duplicate payment; any payment for a good or service not received, except for those where authorized by law; and any payment that does not account for credit for applicable discounts.
- 29. What are examples of improper payments?** Improper payments include the following:
- Payments to an ineligible beneficiary.
 - Payments for an ineligible service.
 - Duplicate payments.
 - Payments for services not received.
 - Payments for an incorrect amount.
 - Payments for services where there is a lack of supporting documentation necessary to verify the accuracy of a payment.
 - Payments for services not medically necessary.

30. What should a provider do if they no longer own the practice or records were destroyed as part of a FEMA related disaster? Contact the PERM RC’s Medical Records Manager, Allison Keeley, immediately at 804-249-1746. Alternatively, a provider may contact the state’s Medicaid or CHIP agency.

31. How do improper payment errors cited on payments made by the state for claims submitted by a provider, or on the provider’s behalf, affect a provider? The state may request the return of improper payments found during the measurement. State Medicaid Agencies have the authority to pursue recovery of overpayments for any claims cited as improper during the PERM review. Providers should contact the state PERM representative for specific guidance.

**Exhibit 1:
Medicaid and CHIP Measurement Cycles**

Cycle	<u>Includes Payments from States These Reporting Years (RY)</u>	States
One	RY22, RY25, etc.	Arkansas, Connecticut, Delaware, Idaho, Illinois, Kansas, Michigan, Minnesota, Missouri, New Mexico, North Dakota, Ohio, Oklahoma, Pennsylvania, Virginia, Wisconsin, Wyoming
Two	RY23, RY26, etc.	Alabama, California, Colorado, Georgia, Kentucky, Maryland, Massachusetts, Nebraska, New Hampshire, New Jersey, North Carolina, Rhode Island, South Carolina, Tennessee, Utah, Vermont, West Virginia
Three	RY21, RY24, etc.	Alaska, Arizona, District of Columbia, Florida, Hawaii, Indiana, Iowa, Louisiana, Maine, Mississippi, Montana, Nevada, New York, Oregon, Puerto Rico (Beginning RY24), South Dakota, Texas, Washington