



The New PERM Eligibility Review and Other Final PERM & MEQC Changes



*Centers for Medicare & Medicaid Services
Office of Financial Management
Payment Accuracy & Reporting Group
The PERM Eligibility Team*

July 06, 2017

Background

- The Affordable Care Act (ACA) included significant changes to Medicaid and CHIP eligibility processes that impacted the PERM program.
- CMS implemented the Medicaid and CHIP Eligibility Review Pilots which took the place of the PERM and MEQC eligibility reviews for four years. These pilots enabled CMS to update the eligibility component measurement methodology in order to accurately measure improper payments based on the new provisions implemented under the ACA.
- CMS issued the proposed rule outlining the changes to the PERM and MEQC programs in response to the new requirements under the ACA on June 22, 2016 (81 FR 40596).
 - *We received 20 public comments*
- The final rule published on July 5, 2017 (82 FR 31158)

Final Provisions: PERM

| Item | Component Impacted | Previous Regulation | New Regulation | Rationale |
|---------------|--------------------|---|--|---|
| Review Period | All | PERM reviews payments made in a Federal Fiscal Year (October through September) | PERM reviews payments made July through June | <ul style="list-style-type: none"> • Alignment with state fiscal years • Additional time to complete cycle before reporting |

Review Period Shift

October 2017

September 2018

Report Error Rates

November 2019

Previous Review Period



July 2017

June 2018

Report Error Rates

November 2019

New Review Period

Final Provisions: PERM

| Item | Component Impacted | Previous Regulation | New Regulation | Rationale |
|--|--------------------|--|--|--|
| Eligibility Review Responsibility | Eligibility | States are required to conduct their own eligibility reviews and report results to CMS | A federal contractor performs the PERM eligibility reviews with support from the state | <ul style="list-style-type: none"> • Reduce state burden • Decrease review inconsistencies across states |

Final Provisions: PERM

| Item | New Regulation | Notes |
|---|--|--|
| Eligibility Review Responsibility (Cont'd) | A federal contractor performs the PERM eligibility reviews with support from the state | <ul style="list-style-type: none"> • Confirmed experienced contractor can review consistently across states while continuing to recognize state-specific factors • Developed processes to ensure effective and collaborative communication with states that minimizes burden |

Final Provisions: PERM

| Item | New Regulation | Notes |
|---|--|---|
| Eligibility Review Responsibility (Cont'd) | A federal contractor performs the PERM eligibility reviews with support from the state | <u>State Involvement:</u> <ul style="list-style-type: none"> • Provide policy information and case documentation to contractor as requested • Provide access to eligibility system • Monitor findings and request difference resolution/CMS appeal as necessary • Develop corrective action plans to address findings |

PERM Contractor Team

Statistical Contractor (SC):

The Lewin Group

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Review Contractor (RC):

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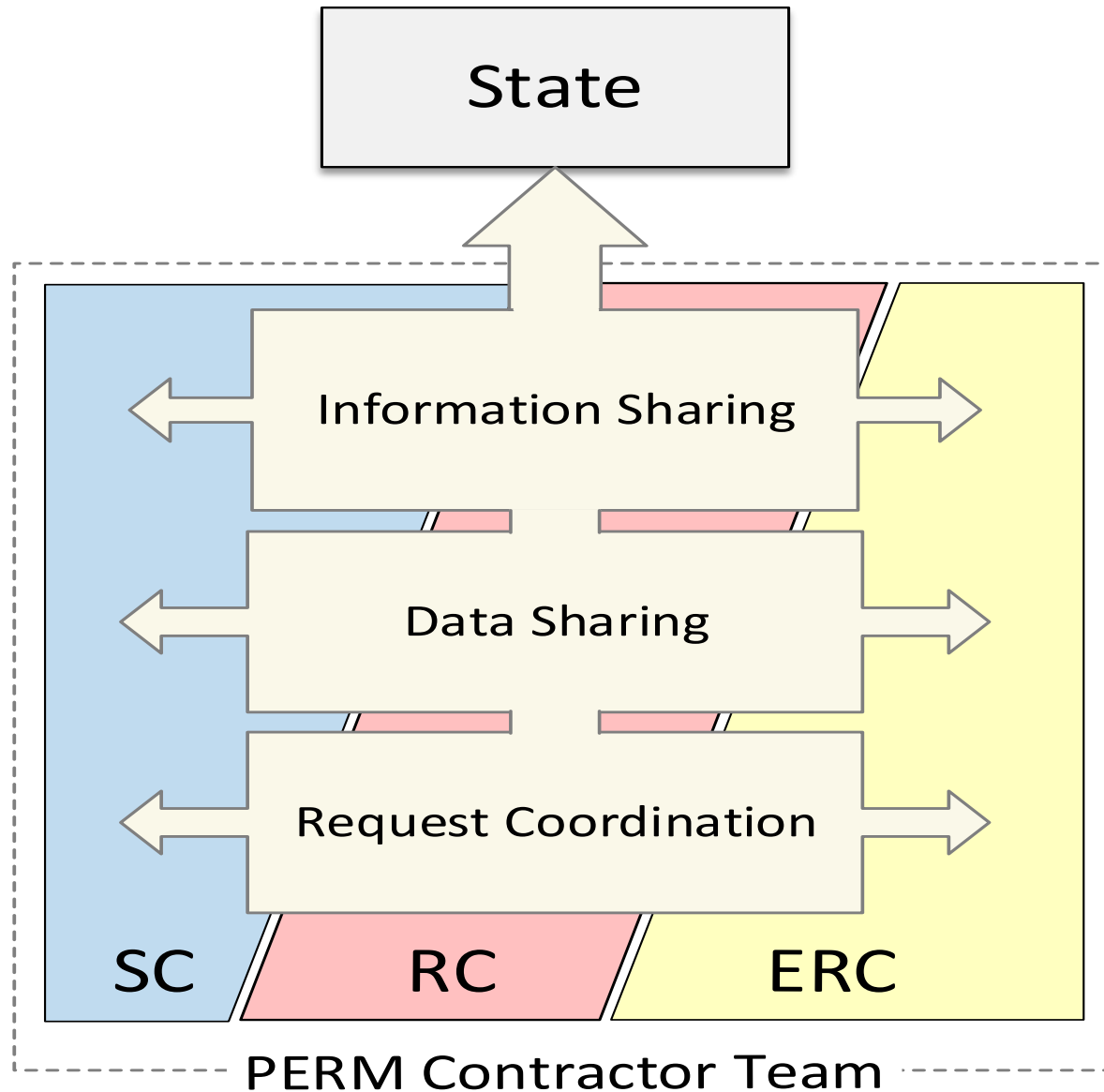
Eligibility Review Contractor (ERC):

Booz Allen Hamilton

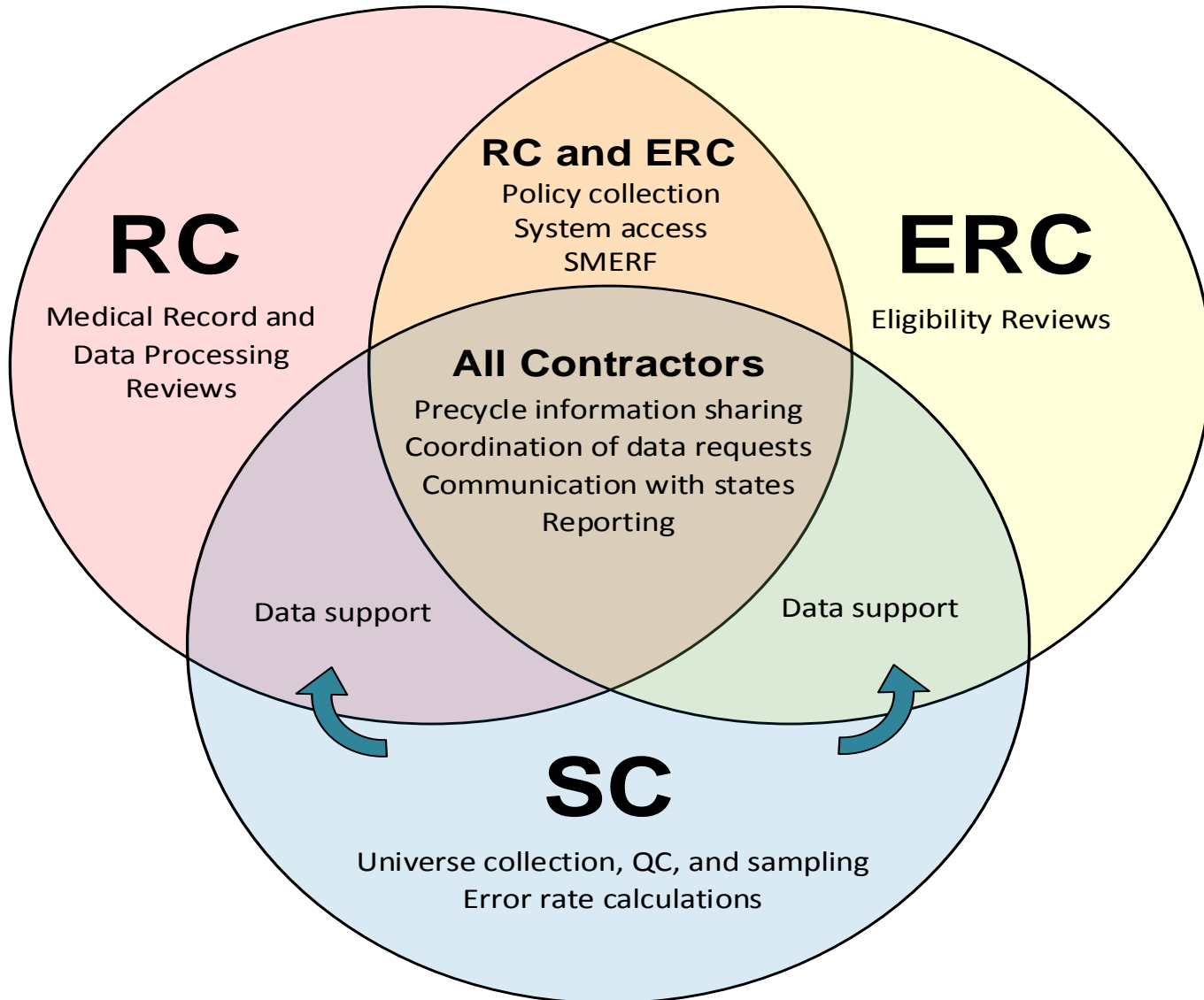
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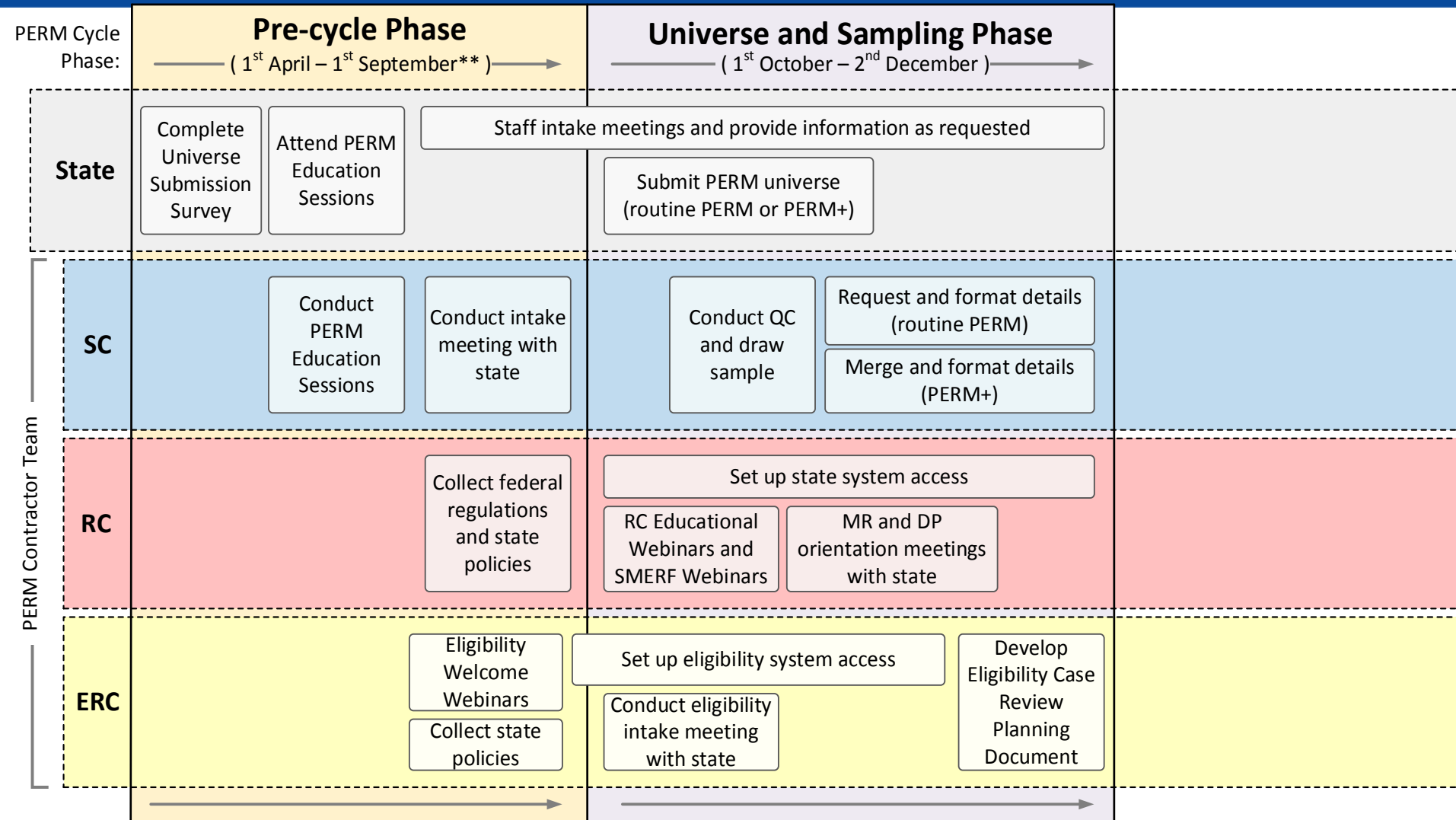
Reducing State Burden



PERM Contractor Collaboration



PERM Cycle Activities



** RY19 will be 1st July through 1st September

Note that each PERM cycle extends over a period of almost 3 years, including:

Year 1: April through March

Year 2: April through March

Year 3: April through February

PERM Cycle Activities (cont'd)

| PERM Cycle Phase: | Review Phase (1 st January – 2 nd April) | Analytics & Reporting Phase (2 nd April – 3 rd November) | |
|-------------------|--|--|--------------|
| | Provide medical records and case documentation as requested Participate in check-in meetings with contractors as needed | | State |
| | Perform review of State's CMS-64 and CMS-21 reports and work with State to reconcile with PERM universe dollars | Calculate national and state improper payment rates Prepare State and national reports | SC |
| | Collect medical records Conduct MR and DP reviews | Compile and submit error data to SC Prepare State and national reports | RC |
| | Collect case documentation Conduct eligibility reviews | Compile and submit error data to SC Prepare State and national reports | ERC |

PERM Contractor Team

Note that each PERM cycle extends over a period of almost 3 years, including:

Year 1: April through March

Year 2: April through March

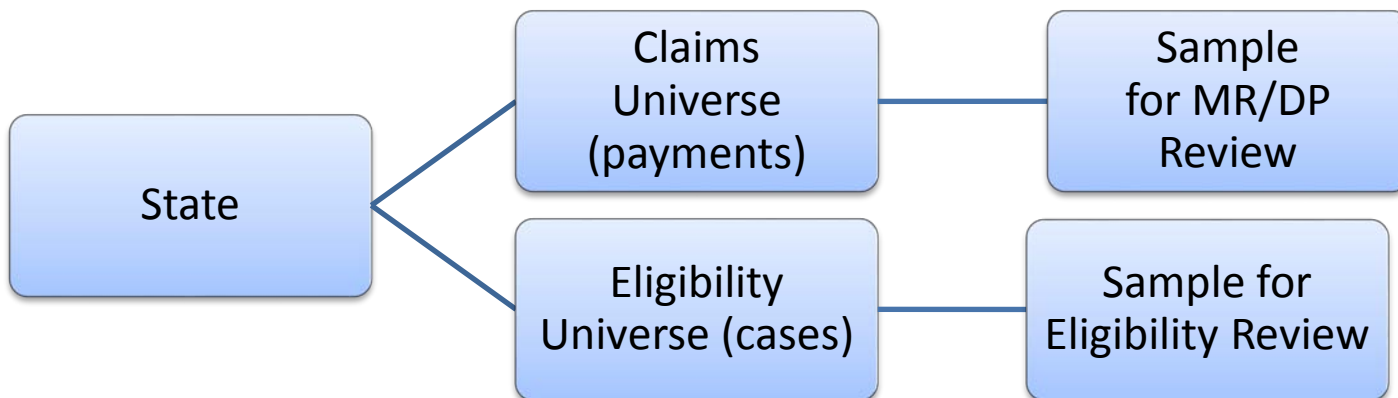
Year 3: April through February

Final Provisions: PERM

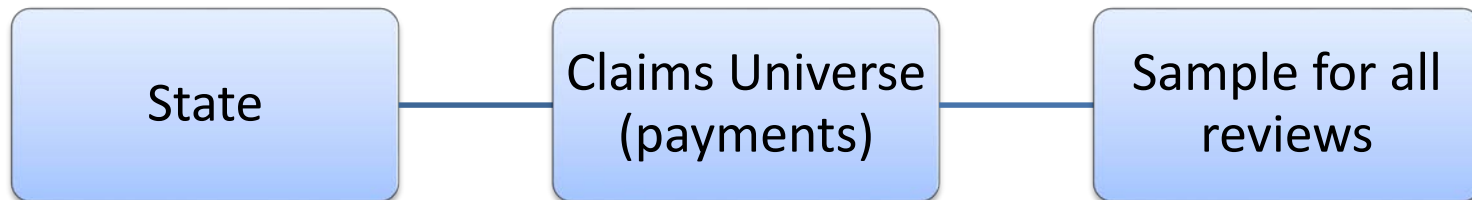
| Item | Component Impacted | Previous Regulation | New Regulation | Rationale |
|----------------------|--------------------|--|---|---|
| Eligibility Universe | Eligibility | <p>States submit universes of Fee-for-Service (FFS) and managed care payments which are sampled for data processing and medical review</p> <p>States create universes of eligible individuals which are sampled for eligibility review</p> | <p>Use sampled FFS and managed care payments for eligibility review in addition to medical and data processing reviews</p> <p>Eligibility review conducted on the beneficiary associated with the sampled claim</p> | <ul style="list-style-type: none"> • Reduce state burden • Reduce program costs by eliminating federal dollars spent on reviewing eligibility cases for which no payments were made |

Eligibility Universe

Previous



New



Final Provisions: PERM

| Item | New Regulation | Notes |
|-----------------------------|---|--|
| Eligibility Universe | <p>Use sampled FFS and managed care payments for eligibility review in addition to medical and data processing reviews</p> <p>Eligibility review conducted on the beneficiary associated with the sampled claim</p> | <ul style="list-style-type: none"> • CMS is not requiring states to develop a separate negative case universe for review as part of PERM • It is possible for negative cases to be reviewed through PERM if relevant denied claims are sampled • Maintain important oversight of negative cases through MEQC pilots |

Final Provisions: PERM

| Item | Component Impacted | Previous Regulation | New Regulation | Rationale |
|---|--------------------|---------------------|---|--|
| Inclusion of Federally-Facilitated Exchange (FFE) Determination Cases | Eligibility | N/A | <p>Errors that result solely from an incorrect determination of eligibility by the FFE will be included in the national improper payment rate, but not in state improper payment rates</p> <p>States are only required to submit corrective actions for errors included in state improper payment rates</p> | States that delegate authority to the FFE are required to accept FFE eligibility determinations with no further action |

Conversely, errors resulting from incorrect state action taken on cases determined and transferred from the FFE or from the state's annual redetermination of cases initially determined by the FFE will be included in state and national improper payment rates

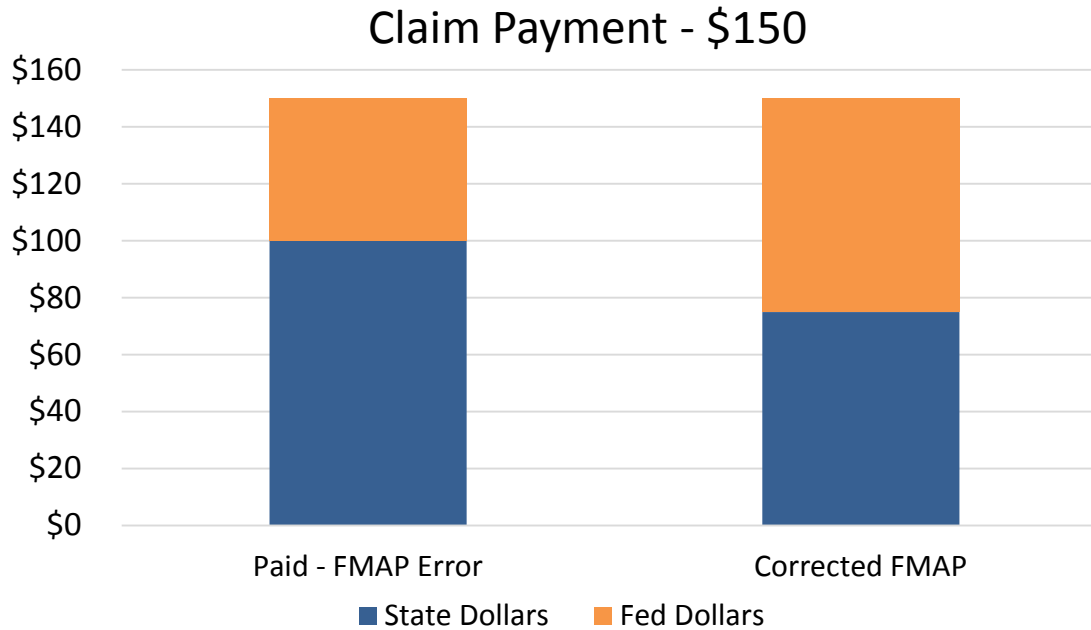
Final Provisions: PERM

| Item | Component Impacted | Previous Regulation | New Regulation | Rationale |
|-----------------------------------|--------------------|---------------------|--|---|
| System Access Requirements | All | N/A | States grant access to federal contractors to facilitate reviews to eligibility systems, and all systems that authorize payments, contain beneficiary demographics and provider enrollment information | Decrease delays and burden associated with the review process |

Final Provisions: PERM

| Item | Component Impacted | Previous Regulation | New Regulation | Rationale |
|----------------------------------|--------------------|---|--|--|
| Federal Improper Payments | All | Improper payments only cited on total computable amount (i.e., federal share + state share) | Improper payments cited if the federal or state share is incorrect (even if total computable amount correct) | <ul style="list-style-type: none"> • An incorrect eligibility category assignment can result in the incorrect federal medical assistance percentage (FMAP) being claimed by the state • Size of the newly eligible adult category makes this change necessary to accurately identify federal improper payments |

FMAP Calculation



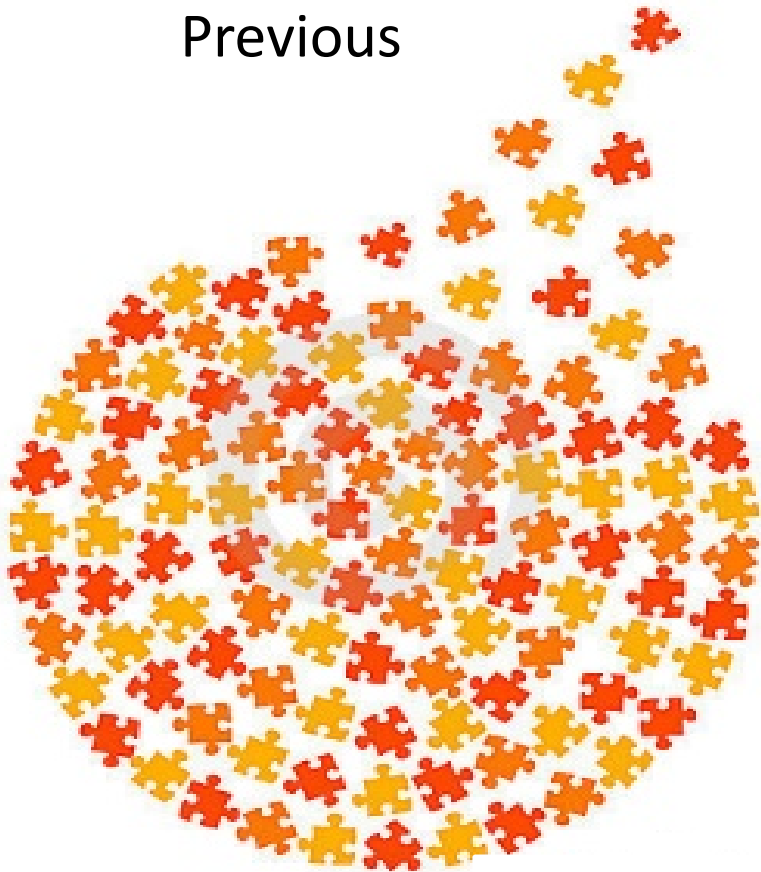
| | Total Amount in Error Cited | State Dollars in Error Cited | Federal Dollars in Error Cited |
|---------------------|-----------------------------|------------------------------|--------------------------------|
| Previous Regulation | \$0 | - | - |
| New Regulation | \$0 | \$25 (overpayment) | \$25 (underpayment) |

Final Provisions: PERM

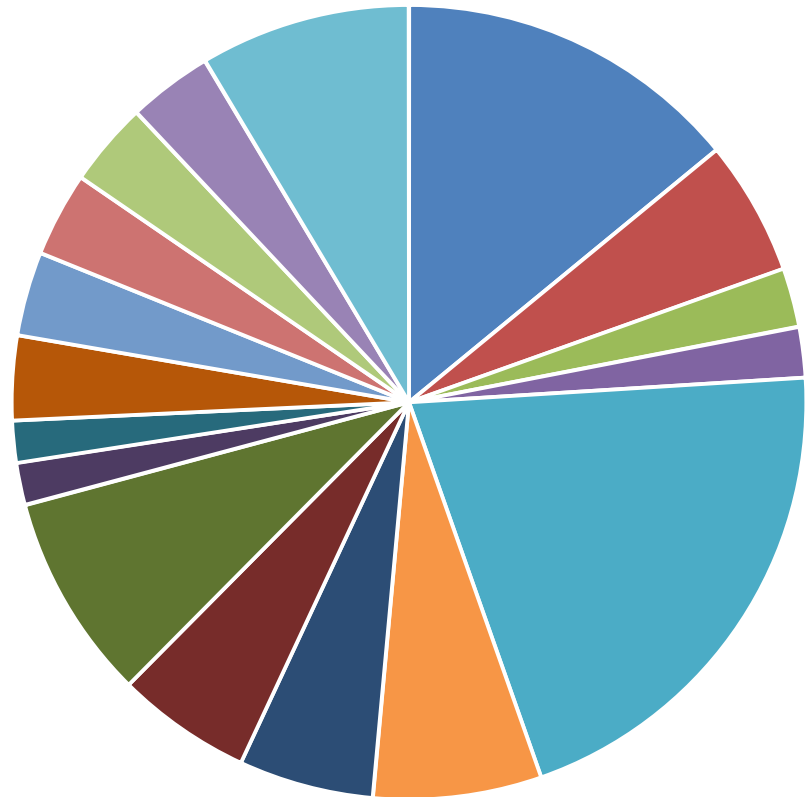
| Item | Component Impacted | Previous Regulation | New Regulation | Rationale |
|--------------|--------------------|---|---|--|
| Sample Sizes | All | State-specific sample sizes calculated based on the state's previous error rate and state-level precision requirement | Establish a national annual sample size, which will then be distributed across states | <ul style="list-style-type: none"> • More stable sample sizes for each state • Increase control over the PERM program's budget |

Sample Size

Previous



New



National Sample Size

| | Medicaid | CHIP |
|--------------|----------|-------|
| FFS | 9,000 | 5,400 |
| Managed Care | 1,000 | 600 |
| Eligibility | 6,000 | 4,000 |

Estimated Number of Reviews

| Review Type | Medicaid | CHIP | Total |
|-----------------|----------|-------|--------|
| Data Processing | 10,000 | 6,000 | 16,000 |
| Medical Review* | 9,000 | 5,400 | 14,400 |
| Eligibility | 6,000 | 4,000 | 10,000 |

*Note that the number of Medical Reviews may be slightly lower, since not all FFS claims will be eligible for a Medical Review.

State Sample Size Allocation

- A form of optimal allocation is used and takes into account a state's:
 - Expenditures
 - Previous Improper Payment Rate
 - Improper Payment Rate Variation
- Generally, states with higher expenditures and higher improper payment rates will be sampled more.

Final Provisions: PERM

| Item | Component Impacted | Previous Regulation | New Regulation | Rationale |
|--------------------------------|--------------------|---|--|--|
| Corrective Action Plans (CAPs) | Eligibility | States implement CAPs for all errors and deficiencies identified in the FFS, managed care and eligibility reviews | <p>States continue to implement CAPs for all errors and deficiencies</p> <p>*States will provide an evaluation of whether actions they take to reduce eligibility errors will also avoid increases in improper denials*</p> <p>More stringent requirements added for eligibility should a state have consecutive PERM eligibility improper payment rates over the 3% national standard set per 1903(u) of the Act</p> | Allowable threshold for eligibility error rates is set by section 1903(u) of the Act |

Final Provisions: PERM

| Item | New Regulation | Notes |
|---------------------------------------|--|---|
| Corrective Action Plans (CAPs) | More stringent requirements added for eligibility should a state have consecutive PERM eligibility improper payment rates over the 3% national standard set per 1903(u) of the Act | Additional requirements include: <ul style="list-style-type: none"> • More frequent status updates on corrective actions • More details surrounding state implementation and evaluation of corrective actions <ul style="list-style-type: none"> • Information about setbacks with alternative corrective actions or workarounds • Examples demonstrating that corrective actions led to improvements that will reduce errors • Summary that demonstrates how the planned and implemented corrective actions will enable the state to meet the 3% threshold |

Final Provisions: PERM

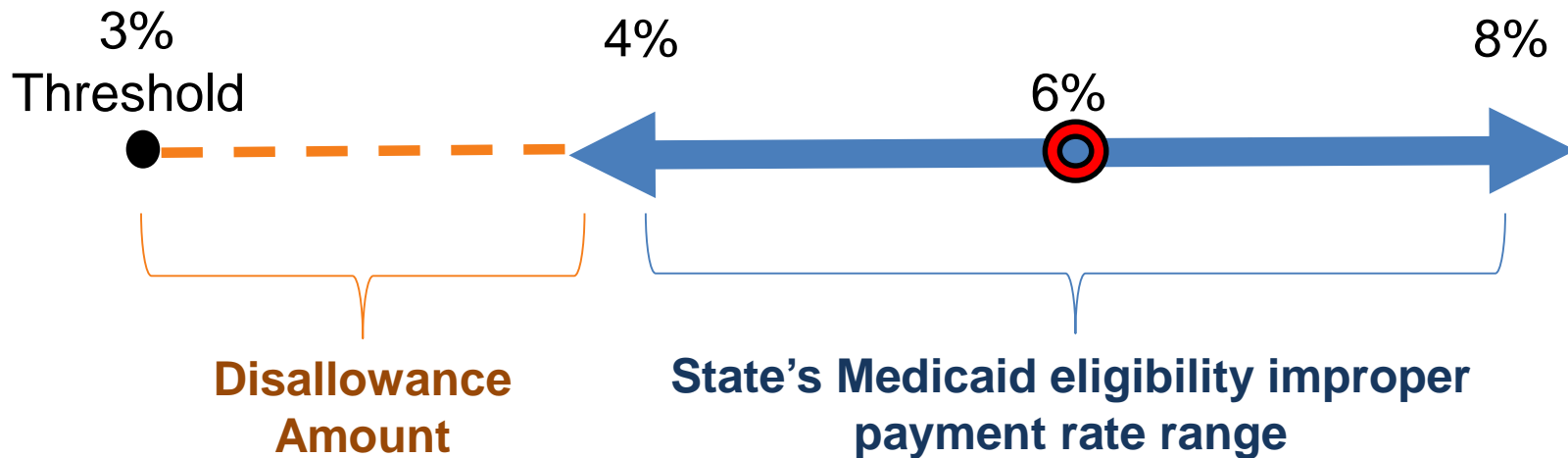
| Item | Component Impacted | Previous Regulation | New Regulation | Rationale |
|--------------------------------------|--------------------|---------------------|--|------------------------------------|
| Payment Reductions/ Disallowances | Eligibility | N/A | <p>Payment reductions/disallowances under 1903(u) of the Act will only be applicable for eligibility reviews conducted during PERM years</p> <p>States have the ability to demonstrate a good faith effort if unable to meet the national standard; A good faith effort is defined as meeting PERM CAP and MEQC pilot requirements</p> | Complies with 1903(u) requirements |

Final Provisions: PERM

| Item | New Regulation | Notes |
|--|--|--|
| <p>Payment Reductions/Disallowances</p> | <p>Payment reductions/disallowances under 1903(u) of the Act will only be applicable for eligibility reviews conducted during PERM years</p> <p>States have the ability to demonstrate a good faith effort if unable to meet the national standard; A good faith effort is defined as meeting PERM CAP and MEQC pilot requirements</p> | <ul style="list-style-type: none"> • Eligibility improper payment rates only calculated in a state's PERM year • CMS will only pursue disallowances if a state does not demonstrate a good faith effort to meet the national standard • Not effective until a state's second PERM eligibility measurement under the new final rule • Disallowance amount is the percentage by which the <u>lower limit</u> of the state's eligibility improper payment rate exceeds 3% |

Disallowance Example

A state's Medicaid eligibility improper payment rate is 6% with a confidence interval of +/- 2%



In this example, the lower limit of the state's Medicaid eligibility improper payment rate = 4%; The disallowance would be calculated by subtracting the 3% threshold from the lower limit: (4% lower limit – 3% threshold) = 1%

Result: FFP would be reduced by 1%

Final Provisions: PERM

| Item | Previous Regulation | New Regulation | Notes |
|---|--|--|---|
| Difference Resolutions / Appeals | Difference Resolution: 20 business days Appeals: 10 business days | Difference Resolution: 25 business days Appeals: 15 business days | Extended the difference resolution time allowance and the appeal time allowance to allow states more time to research errors while still allowing the PERM process to be completed within a reasonable timeframe. |

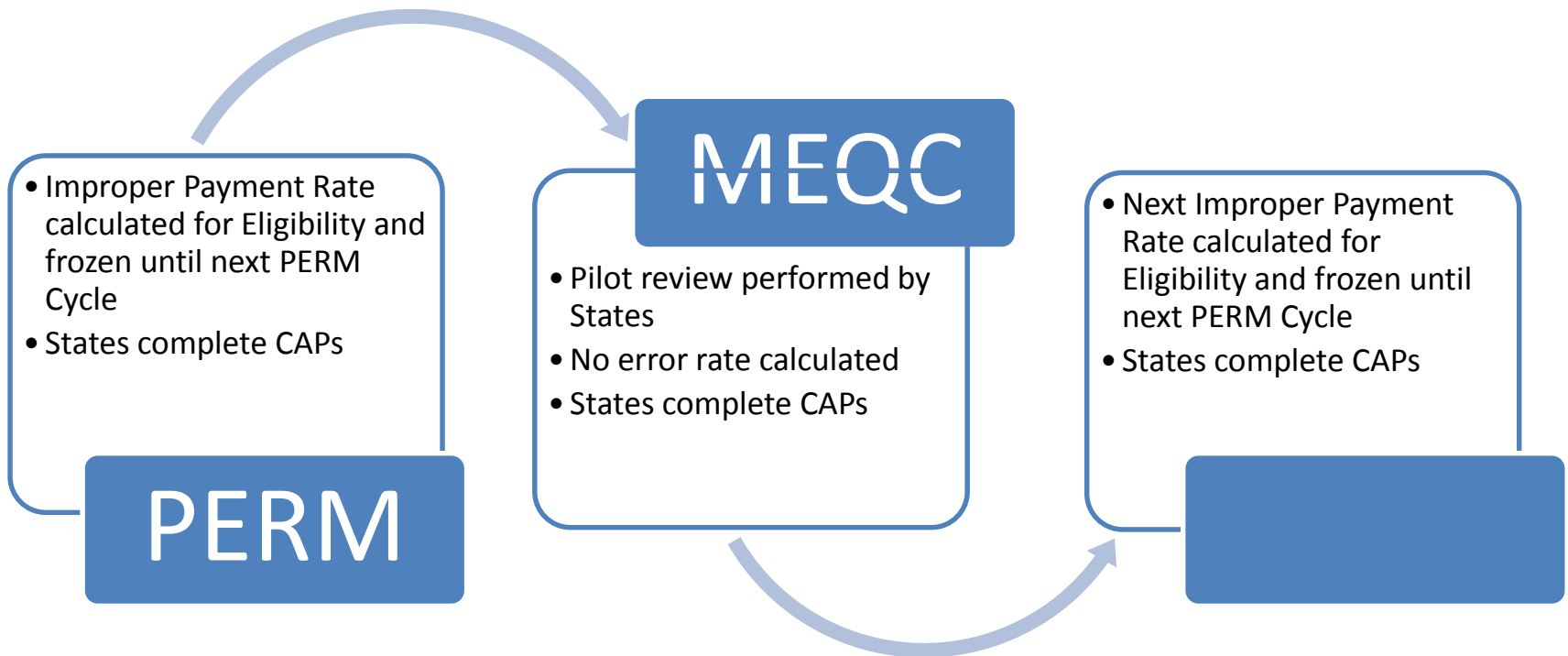
Final Provisions: MEQC

The final rule restructures the MEQC program into a pilot program that states will be required to conduct during their off-years from the PERM program.

- States will conduct an MEQC pilot during the 2 off-years between PERM cycles
- MEQC pilots will focus on areas not addressed through PERM reviews (e.g. negative cases) and permit states to conduct focused active case reviews on areas identified as error prone through PERM
- The calculated PERM eligibility improper payment rate will remain frozen at that level during each state's 2 off-years when it conducts its MEQC pilot. Error rates will not be calculated through MEQC, allowing states time to work on corrective actions before their next PERM eligibility improper payment rate will be measured

RATIONALE: PERM/MEQC rotations will be operationally complementary, and treated in a manner that allows for states to review identified issues, develop corrective actions, and effectively implement prospective improvements to their eligibility determinations.

PERM-MEQC Operational Relationship



CMS will provide states detailed guidance for conducting MEQC pilots. States must submit MEQC pilot planning documents for CMS approval.

Review Requirements

- Includes both Medicaid & CHIP eligibility determinations
- Includes both active and negative case reviews
 - State flexibility for active case reviews
 - A state may conduct a comprehensive review or focus active case reviews on:
 - Recent changes to eligibility policies and processes*
 - Areas where the state suspects vulnerabilities*
 - Proven error prone areas*
- **Justification for a focused active case review will be required**
 - If a state's PERM eligibility improper payment rate is above 3% for two consecutive PERM cycles, CMS will provide direction for active case reviews
- Pilots must include comprehensive review of negative cases to ensure continuing oversight of the accuracy of state determinations to deny or terminate eligibility

Minimum Sample Sizes

- Active cases: 400 total minimum (Medicaid and CHIP); at least 200 Medicaid cases
- Negative cases: 400 total minimum; 200 Medicaid minimum & 200 CHIP minimum

Timeline

- PERM review period: July – June
- MEQC pilot planning document due: November 1
- MEQC pilot review period: January – December
- MEQC pilot findings and corrective actions due: August 1

MEQC Timeline



Final Provisions: MEQC

Timeline

Following final rule publication, states will not all be at the same point in their MEQC/PERM timeline

| Cycle 1 States | Cycle 2 States | Cycle 3 States |
|---|---|---|
| <ul style="list-style-type: none"> • First PERM review period: July 2017 – June 2018 • MEQC planning document due: November 1, 2018 • MEQC review period: January 1 – December 31, 2019 • MEQC findings and CAP due: August 1, 2020 | <ul style="list-style-type: none"> • CMS will provide guidance regarding a modified MEQC pilot that will occur prior to the beginning of your first PERM cycle • First PERM Review Period: July 2018 – June 2019 | <ul style="list-style-type: none"> • MEQC planning document due: November 1, 2017 • MEQC review period: January 1 – December 31, 2018 • MEQC findings and CAP due: August 1, 2019 • First PERM review period: July 2019 – June 2020 |

Next Steps

- Cycle Specific call will be held during the following dates and times:
 - ❖ Cycle 1 Day, July 20, 2017, 1:00 p.m.
 - ❖ Cycle 2 and Cycle 3-Late Summer

CMS PERM Contacts

Please send regulation questions to the
PERM-MEQC Regulation Mailbox @
PERM-MEQCRegulation@cms.hhs.gov

Final Regulation located @

<https://www.federalregister.gov/documents/2017/07/05/2017-13710/medicaidchip-program-medicare-program-and-childrens-health-insurance-program-chip-changes-to-the>