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CAROL A. HERRMANN-STECKEL, MPH
Commissioner

July 24, 2006

CMS
Office of Strategic Operations and Regulatory Affairs
Division of Regulations Development – A
Attention: Melissa Musotto, Room C4-26-05
7500 Security Blvd.
Baltimore, Maryland 21244-1850

Rec'd
JUL 26 2006
- BUT PERMATTERS (DHL) ON 7/25/06

Dear Ms. Musotto:

Thank you for the opportunity to comment on the Information Collection – Payment Error Rate Measurement in Medicaid and the State Children’s Health Insurance Program (SCHIP). Alabama’s comments are listed below in the form of questions.

- If the State is not selected to participate in the PERM review, should they continue with the traditional sample or pilot sampling methodology?
- It states that traditional sampling can be considered as meeting the error rate requirement in order to reduce cost to the states. Are we to assume that if selected for PERM review no traditional sampling is required? If traditional sampling methods are used for PERM, is standardized review methodology permitted?
- Should claim information be submitted for all files selected for PERM review or is claim review a separate process and files are not interchangeable.
- Are states required to compute a new formula for calculating the error rate to be submitted to the federal contractor?
- It states that states selected for review will submit an initial eligibility sampling plan to CMS for approval 60 days prior to the fiscal year being reviewed. This will be August 1, 2006. Will states be notified of the sampling methodology to be used for PERM or should the states submit the sampling plan currently being used for the traditional sample or pilot sample?

Again, thank you for the opportunity to comment.

Sincerely,

Jacqueline G. Thomas
Director
Program Integrity Division

/JGT



**DELAWARE HEALTH
AND SOCIAL SERVICES**

DIVISION OF
MEDICAID & MEDICAL ASSISTANCE

TELEPHONE: (302) 255-9500

July 24, 2006

Centers for Medicare & Medicaid Services
Office of Strategic Operations and Regulatory Affairs
Division of Regulations Development – A
Attention: Melissa Musotto
Room C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

Attention: CMS-10184

Re: Agency Information Collection Activities: Proposed Collection; Payment Error Rate Measurement of Eligibility in Medicaid and the State Children's Health Insurance Program (SCHIP)

Dear Sir/Madam:

The purpose of this letter is to submit comments for Delaware Health and Social Services/Division of Medicaid & Medical Assistance (DMMA) on the Proposed Collection; Payment of Error Rate Measurement of Eligibility in Medicaid and the State Children's Health Insurance Program (SCHIP). Please respectfully accept our comments that are outlined below.

“To comply with the IPIA, CMS will use a national contracting strategy to produce error rates for Medicaid and SCHIP fee-for-service and managed care improper payments. The Federal contractor will review states on a rotational basis so that each state will be measured for improper payments, in each program, once and only once every three years.”

*We understand that states can only be selected for **each program** once every three years, however, it is not defined as to whether a state can be selected for more than one program in one year. It also does not address whether a state will be selected for eligibility reviews during the same year that the other two programs are being audited. Please clarify how the states will be selected to participate in the PERM Project and when states will be notified that they were selected for a particular program. This is extremely important for states to have the requested information for fiscal and staffing planning that has to occur prior to the implementation of the project.*

“As outlined in the October 5, 2005 interim final rule (70 FR 58260), CMS convened an eligibility workgroup comprised of the Department of Health and Human Services, the Office of Management and Budget (OMB) and representatives from two states.”

Delaware participated in the Payment Accuracy Measurement (PAM) Pilot Project and the Payment Error Rate Measurement (PERM) Pilot Project. On various occasions in response to regulations and on conference calls we requested to be a part of the eligibility workgroup as we believe that our experiences in the eligibility reviews during the pilot projects would be extremely beneficial in the development of eligibility review guidelines. How were states selected to be a part of the eligibility review workgroup? Why were there only two states selected to offer input (one that did not participate in the pilot projects)? Finally, how often did the eligibility workgroups meet prior to the development of the Supporting Statement for Eligibility Error Rate Measurement in Medicaid and the State Children’s Health Insurance Program?

“Based on the eligibility workgroup’s recommendations and public comments, we developed an eligibility review methodology that we expect will provide consistency in the reviews of active (i.e., beneficiaries receiving Medicaid or SCHIP) and negative cases (i.e., beneficiaries whose benefits were denied or terminated) as well as achieve the confidence and precision requirements at the national level required by the IPIA.”

Is there a copy of the eligibility workgroup’s recommendations that can be shared with states that were not involved in the eligibility review methodology to review and add comments?

Supporting Statement: Eligibility Error Rate Measurement in Medicaid and the State Children’s Health Insurance Program

Background:

“Based on the eligibility workgroup’s recommendations and public comments, we developed an eligibility review methodology that we expect will provide consistency in the reviews of active (i.e., beneficiaries receiving Medicaid or SCHIP) and negative cases (i.e., beneficiaries whose benefits were denied or terminated) as well as achieve the confidence and precision requirements at the national level required by the IPIA.”

As requested previously we would like to have a copy of the eligibility workgroup’s recommendations. Will there be an opportunity for states to comment?

“We indicated in the proposed rule and the interim final rule that states would be expected to take some part in the eligibility reviews. We determined that states shall...Using a standard formula, states will then calculate and report to CMS, state-specific eligibility rates based on the review results.”

We participated in the Year 3 PAM Pilot Project and the PERM Pilot Project and during those projects the sample size was 200 eligibility cases, and 100 respectively. It appears that the responsibility and amount of workload required in performing the eligibility reviews falls directly on the states with no support or guidance from our CMS partners except for the approval of the sampling plan. Our state does not currently have any staff members assigned to the PERM Project or fiscally planned to conduct this level of eligibility reviews. We strongly believe that this level of eligibility is redundant of the MEQC Process and states should be able to utilize the existing organizational structure to replace the MEQC reviews without sanction or disallowance. Additionally, the monthly reporting requirement is extremely labor intensive to states since the pilot projects only required an annual report.

“The federal contractor will calculate national eligibility error rates for Medicaid and SCHIP based on the states’ error rates.”

We strongly believe that the information collected from individual states will not result in an accurate national error rate due to the variations in implementation of the project. How will an accurate national error rate be determined if states are selected on a rotating basis for the individual programs over a 3 year period?

Justification:

4. Duplication of Efforts

“This information collection does not duplicate any other effort and the information cannot be obtained from any other source for SCHIP.”

As stated previously, we believe that the PERM efforts are in duplication of the MEQC reviews. If SCHIP payments are not audited in any other effort CMS should consider only conducting the PERM reviews on the SCHIP portion of the project. In the years aht states are selected to audit the SCHIP program we recommend that CMS waive the SCHIP’s administrative cap.

“Similarly, to reduce cost and burden for states, at state option and upon CMS approval, the SCHIP program integrity requirements can be considered as meeting the PERM eligibility requirements if the SCHIP program integrity efforts meet the PERM sampling, review and error rate requirements.”

We are unfamiliar with what the SCHIP program integrity requirements are. Can you please provide a definition of what is being referred to in this statement?

6. Less Frequent Collection

“Failure to acquire this information will prevent CMS from effectively collecting state-specific eligibility payment error rates on which to base national eligibility error rates for Medicaid and SCHIP.”

We do not believe that the original intent of the pilot programs was to collect a state by state eligibility payment error rate. Additionally, as stated previously we do not believe that an accurate national payment error rate will be determined if states are selected on a rotating basis for various programs.

7. Special Circumstances

“CMS does not anticipate that states would be required to submit information more often than monthly in the year the states are reviewed (once every three years per program).”

Please provide clarification on the selection of states for each program. The statement above as written suggests that it is possible for states to be selected each year for each program and then eligibility requiring that states report to CMS monthly. Again, please clarify the timeline and selection of states for each of the programs and the eligibility.

“States will provide a sampling plan in the beginning of the year of selection, monthly selection lists at the beginning of each month, findings on the cases reviewed including error rates and a corrective action plan.”

We think this is an enormous amount of workload on states as it is ongoing every month. Can you provide a sample of the type of correction action plan that will be required?

12. Burden Estimate (Total Hours & Wages)

Sample Size Development

Case Reviews

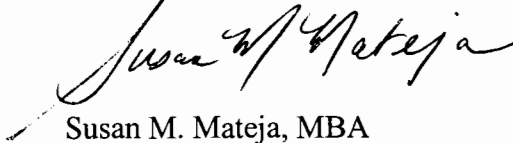
We believe that the burden estimate included in this section is grossly understated. As a state that participated in the pilot projects we recognize the level of coordination required to review only 100-200 eligibility records. Additionally, it was necessary to have subject matter experts perform the reviews to ensure accuracy. As proposed the regulation is requiring states to not only perform reviews on approximately 701 records per program but also submit a sampling plan, report monthly sample lists, complete summary of findings and submit a corrective action report. This is a significant larger amount of work than the pilot projects. At this point we would like to refer to the joint response submitted by the American Public Human Services Association (APHSA) for our response as it relates to the burden estimate on states. We strongly agree with APHSA's burden estimate.

Collection of Information and Miscellaneous

Please refer to the joint response submitted by the American Public Human Services Association (APHSA) as we agree with what was submitted on behalf of all of the states.

If you have any questions regarding our response please contact me at (302) 255-9607.

Sincerely,

A handwritten signature in black ink, reading "Susan M. Mateja". The signature is written in a cursive style with a large, sweeping initial "S".

Susan M. Mateja, MBA
Social Service Administrator
Policy and Planning