

SUBJECT: Request for Emergency Clearance of the Paperwork Reduction Act Packages for the Payment Error Rate Measurement Program and Medicaid Eligibility Quality Control based on provisions from the Children's Health Insurance Program Reauthorization Act. (OMB Control Number: 0938-1012)

The Centers for Medicare and Medicaid Services (CMS) is requesting that an information collection request (ICR) for the Payment Error Rate Measurement (PERM) and Medicaid Eligibility Quality Control (MEQC), be processed under the emergency clearance process, as stated in 5 CFR 1320.13(a)(2)(iii). Approval of this package is essential in order to comply with the Children's Health Insurance Program Reauthorization Act (CHIPRA). CHIPRA requires CMS to give States in a year that they are participating in PERM the option to substitute MEQC data to complete the requirements of the PERM eligibility review and also the option to substitute PERM eligibility data to complete the requirements of the MEQC review. CHIPRA makes the substitution of MEQC data effective April 1, 2009 and CMS must implement this option quickly for States to use. In addition, a State in the ongoing Fiscal Year (FY) 2009 cycle has already implemented this option but has no means to report the data to CMS.

CMS also has an upcoming cycle for FY 2010 in which more States will consider substituting MEQC data for the coming PERM measurement. CMS hopes that with an emergency approval of this PRA package, the FY 2009 cycle can continue and the FY 2010 cycle can begin as close to the scheduled start date as possible.

Project Background

To implement the requirements of the Improper Payments Information Act of 2002 (IPIA), CMS developed the PERM program. Under PERM, reviews are conducted in three areas for both the Medicaid and CHIP programs: 1) Fee-for-Service, 2) Managed Care and 3) Program Eligibility. Under the eligibility component, States draw monthly samples of cases and verify eligibility for each case based on State and Federal policies. These reviews result in an eligibility error rate that is included in the national payment error rates for Medicaid and CHIP. States are measured in a 17-State, three year rotation and therefore are measured once every three years.

The MEQC program is set forth in Section 1903(u) of the Social Security Act. This is an annual eligibility measurement that is similar to the PERM eligibility review, but has its own requirements under a separate regulation. PERM and MEQC have been a longstanding issue between CMS and the States, essentially because every three years the States must administer two parallel eligibility reviews while participating in PERM. The States have requested for many years that CMS implement ways to reduce the duplication of effort between the two programs. Attempts to coordinate PERM and MEQC in previous years through a "substitution" strategy were unsuccessful. The programs are authorized under two different statutes and two separate regulations and could not be supplanted. With the enactment of CHIPRA, CMS is able to again attempt to implement a substitution strategy for PERM and MEQC.

CHIPRA at Section 603(e) requires that CMS review PERM and MEQC policies and coordinate the requirements of both programs in an effort to harmonize the programs. Based on this harmonization idea, CHIPRA allows the States the option to use data

resulting from the MEQC reviews to complete the requirements for the PERM eligibility reviews. States also have the option to use data resulting from the PERM eligibility reviews to complete the requirements for the MEQC reviews.

CMS is implementing the substitution of MEQC data as soon as possible to comply with the law and also to give the States the opportunity to substitute MEQC data if they are ready to implement the necessary changes. One State in the ongoing FY 2009 cycle has already implemented the MEQC data substitution, but due to PRA constraints, cannot report MEQC data for PERM purposes. Although the MEQC reviews for this State are progressing as scheduled, this State is approximately 6 months behind on PERM reporting. An emergency approval of the PRA package will allow the State to continue the monthly PERM reporting and catch up to the other States in the cycle.

CMS also has an upcoming FY 2010 cycle that may not start on the usual August 1st start date due to a pending Notice of Proposed Rule Making, but in the interim CMS would like to work with FY 2010 States that are considering substituting MEQC data for PERM. Currently, there are up to six States that are eligible for MEQC data substitution, and more States may show interest as the measurement cycle approaches. An emergency approval of the PRA package will allow these States to get a head start on the measurement and allow CMS to concentrate on providing guidance to the remaining States awaiting a new PERM final rule.

Included in our PRA package for the PERM eligibility component, we are submitting new instruments to facilitate PERM reporting for States that are substituting MEQC data. These forms are based on the original forms approved under OMB control number 0938-1012 but modified to provide additional information that is essential to calculating the eligibility error rates. We also include in our supporting statement a request to use MEQC forms under OMB control numbers 0938-0146 and 0938-0246 to meet some of the PERM requirements. We are submitting revisions to the information collection requests approved under the aforementioned under the regular OMB approval process.

CMS has developed a secure website that serves as a central repository for eligibility findings. The website is a place where the States can submit their samples, submit their eligibility and payment findings once reviews are complete; and at the end of the cycle the website will have compiled all of the States' findings so that the States can view summary information and their eligibility error rates. The new instruments that we are introducing will be used on this website.

We are introducing the following instruments for States substituting MEQC data:

1. **Monthly Sample Selection List**--A modified sample selection list that doesn't require PERM stratification.
2. **Detailed Active Case Review Findings**--A modified form for States to enter MEQC eligibility findings. We are asking for additional information such as the number of individuals in each sampled case, as PERM samples the individual and MEQC samples a family unit.

3. Detailed Payment Review Findings--A modified form for States to submit payment review findings in which States must report all correct and incorrect payments for each sampled case.

4. Summary Findings--The secure website will have a modified summary form in which the MEQC information is broken down to provide relevant statistics for the MEQC data that matches PERM data.

We are also requesting to use the approved OMB control numbers 0938-0146 and 0938-0246 for States to submit their MEQC sampling plans and error rate forms to the PERM contractor in preparation for drafting an eligibility sampling plan specifically for substituting MEQC data.

Requested and Proposed Timelines

<u>Date</u>	<u>Activity</u>
07/08/2009	Emergency Justification submitted to OMB for review and approval
07/10/2009	Requested date of OMB approval for Emergency Justification
07/17/2009	Target publication date for 20-day Federal Register (FR) notice; Start of 20-day emergency FR notice comment period
08/06/2009	End of 20-day FR notice comment period
08/21/2009	Requested date of OMB approval for the emergency information collection request

We request your support in approving our PERM eligibility PRA package. If you have any questions, please contact:

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