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October 27, 2004

Mark B. McClellan, M.D., Ph.D.
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Attention: CMS-6026-P
P.O. Box 8017
Baltimore, MD 21244-8017

RE: Proposed Rule Establishing Medicaid Program and State Children's Health Insurance Program (SCHIP) Payment Error Rate Measurement (PERM) (69 Federal Register 52620 August 27, 2004)

Dear Dr. McClellan:

The American Hospital Association (AHA), on behalf of our 4,700 member hospitals and health care systems and our 31,000 individual members, appreciates the opportunity to comment on the Centers for Medicare & Medicaid Services' (CMS') proposed rule to establish a new Payment Error Rate Measurement (PERM) system for the Medicaid and State Children's Health Insurance Program (SCHIP) programs.

The proposed PERM is intended to estimate improper Medicaid & SCHIP payments. The AHA supports improving the fiscal integrity of Medicaid and SCHIP so that federal and state dollars are used efficiently and appropriately in the care of our nation's most vulnerable people. However, the proposed rule does not achieve this end. In addition to our concern that the proposed measures will overstate errors, we also fear they will increase the paperwork burden for Medicaid and SCHIP claims, leading to longer delays in payment and higher rates of denied claims for health care providers. For state governments, the PERM system could duplicate existing state eligibility verification programs.

It is important that any measurement system be conducted electronically on a claim-level basis. While the proposed PERM system is claims-based, it is largely a paper system.



There is no incentive for providers to submit requested claims when the reimbursement for the claim is lower than the copying cost for the claim, and the PERM system as currently designed does not correct for this. If providers don't submit copies of claims requested by the PERM system, false error rates will likely occur. And because providers could be sanctioned if the state's PERM system detects "payment errors," it is imperative that these design flaws be addressed before such a system becomes permanent.

In addition, the PERM system as proposed:

- fails to define an appeals process through which providers can object to a state's allegation of payment errors
- does not examine the payment errors in a capitated managed care system, therefore subjecting fee-for-service claims to more rigorous review than capitated payments
- duplicates existing state eligibility verification systems and places a significant burden on tight state program budgets
- would require extensive staff training to ensure proper implementation; which will be difficult to fund given that many states face multi-year budget deficits and will not have the resources to invest in such training.

The AHA urges CMS to re-evaluate this entire approach.

The AHA appreciates the opportunity to comment on this proposed rule. If you have any questions, please contact me or Molly Collins, AHA's Senior Associate Director for policy, at 202-626-2326 or via e-mail at mcollins@aha.org.

Sincerely,

Rick Pollack
Executive Vice President