

# Report in Response to

**PL 116-94: Further Consolidated Appropriations Act,  
2020:(133 STAT 3110), Division N, Title 1, Subtitle B,  
§202(A)(ii) PERM**

## **Develop Payment Error Rate Measurement (PERM) Plan**

**Government of Puerto Rico  
Office of the Governor**

**June 20, 2021**



**GOVERNMENT OF PUERTO RICO**  
**OFFICE OF THE GOVERNOR**

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# 1. EXECUTIVE SUMMARY

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## Congressional Requirement

On December 16, 2019, the U.S. Congress came to a bipartisan agreement on 12 appropriation packages. On December 17, 2019, the House passed H.R. 1865 with a vote of 297-120; this bill became Public Law 116-94 on December 20, 2019.

On behalf of the Puerto Rico Government and the agencies that oversee the delivery of Medicaid and Children's Health Insurance Program (CHIP) services, including the Puerto Rico Department of Health (PRDOH), Medicaid and the Puerto Rico Health Insurance Administration (PRHIA), thank you for this opportunity to report on Puerto Rico's progress towards compliance with the conditions and requirements set forth in **P.L. 116-94: Division N, Title 1, Subtitle B, (133 STAT 3110) - §202(A)(ii) – PERM**. The requirement within the law reads as follows:

PERM Requirement- Not later than 18 months after the date of the enactment of this paragraph, Puerto Rico shall publish a plan developed by Puerto Rico in coordination with the Administrator of the Centers for Medicare & Medicaid Services (CMS), and approved by the Administrator, for how Puerto Rico will develop measures to satisfy the payment error rate measurement (PERM) requirements under subpart of part 431 of Title 42 CFR or any successor regulation).

This report provides the Government of Puerto Rico's response to comply with the specific requirement listed above. For the purposes of this report submission and related reports, this requirement is hereinafter referred to in our documents as: **Congressional Requirement 2: Develop Payment Error Rate Measurement (PERM) Plan.**<sup>1</sup>

## Puerto Rico's Response to Congressional Requirement

In response to the requirement outlined above, Puerto Rico has made significant strides towards participating in the federal PERM program. Although Puerto Rico has not historically participated in the federal program, Puerto Rico has a well-established plan and attending procedures that will help ensure a smooth transition into the federal program. The remainder of this report summarizes the requirements and current state of the PERM program, including our current policies and procedures related to claims and eligibility review. Additionally, we will outline our plan for integrating into the federal PERM program along with implementation plans.

This report includes the following sections with regards to the PERM program:

- a. **Differences in Medicaid Program Funding between Puerto Rico and the Other States and Territories:** Under the Social Security Act (the Act) the territories are considered states for the purposes of Medicaid and CHIP, unless otherwise indicated (§ 1101(a)(1) of the Act). However, Medicaid Programs in the U.S. territories differ from Medicaid programs in the 50 states and the District of Columbia in several aspects. The most notable difference is the funding structure and the federal medical assistance percentage (FMAP). The territorial Medicaid programs receive capped funding from the federal government, as opposed to the open-ended funding structure of state Medicaid programs. Under this structure, the federal

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<sup>1</sup> PL 116-94: Further Consolidated Appropriations Act, 2020:(133 STAT 3110), Division N, Title 1, Subtitle B, §202(f)(3)

government provides matching funds to each territory for Medicaid expenditures up to a cap. Once a territory reaches its cap, no additional federal funds are available, and the territory must fund their programs using only territorial funds.

Section 1108 of the Social Security Act establishes funding levels for each of the territories that increase annually at the rate of the Consumer Price Index for all Urban Consumers (CPI-U). The amount of funding provided under Section 1108 has historically not been sufficient to meet the needs of the territories' Medicaid programs.

The territorial FMAP is statutorily set at 55 percent, unlike that of the states where the FMAP is set using a formula based on state per capita income (§ 1905(b) of the Act). As a result, states with a lower per capita income have a higher FMAP, and accordingly, receive more federal funds relative to their spending than states with a higher per capita income. If the territories' FMAP were calculated under the formula in statute for states, they would be near the statutory maximum of 83 percent. Territorial Medicaid programs also differ from states in terms of eligibility levels, covered benefits, and various requirements for ensuring program integrity.

This limited funding inhibits our ability to dedicate resources towards important programs including PERM. While Puerto Rico remains committed to meeting all the Congressional requirements that have been added as part of Public Law 116-94, we are concerned that without parity in the Medicaid program or, at a minimum, additional administrative funding, we may not be able to enact long-term plans and changes that are essential to maintaining Puerto Rico's Medicaid program. **Section 2** of this report highlights additional details related to these funding disparities, and we sincerely request Congress to consider providing the requisite federal Medicaid funding needed to fully implement the opportunities identified in these reports.

- b. **An Introduction to the Puerto Rico Medicaid Enterprise:** It is worth considering the unique nature of our Medicaid program given the number of departments and agencies involved. The PRDOH is the Single State Agency (SSA) designated to supervise the administration of the Medicaid program under title XIX of the Social Security Act. The Medicaid Program is administered by PRDOH and the PRHIA. Collectively, both the PRDOH and PRHIA are referred to as the Medicaid Enterprise. We have detailed all the agencies involved and that collaborate with our Medicaid Enterprise in **Section 3** of this report.
- c. **PERM Requirements:** Puerto Rico has committed not only to reviewing and understanding CMS guidance for participation in the PERM program but also to participating and addressing improvement opportunities via PERM efforts. This section outlines the primary components of participation in the program for which Puerto Rico will comply. The outlined PERM requirements as stipulated by CMS are featured in **Section 4** of this report, along with a description of Puerto Rico's positioning for full participation and an overview of planned PERM activities.
- d. **Puerto Rico's Response to Congressional Requirements:** **Section 5** entails the various components of PR's response to the congressional requirement and PR's role as it pertains to each component. Puerto Rico currently has practices in place that align with PERM

requirements. The steps to comply with PERM requirements are included in the detailed implementation plan (featured in section 6), which is currently underway. For the aspects that will be new to Puerto Rico, we have detailed the plan to comply with such requirements. Each measure will be undertaken by PR in coordination with the contractors and CMS, to comply with updated CMS guidelines. Subsections include a policy and regulation review, a plan to establish Medicaid and CHIP managed care universes, a plan for data submission, a discussion of PERM partners and allocation of responsibilities among PR and contractors, compliance with the corrective action plan (CAP) requirements, and the eligibility disallowance process.

- e. **Implementation Plan to Support PERM Compliance: Section 6** includes the plan developed in consultation with CMS PERM teams to support the completion of all PERM requirements in alignment with formal guidance. The implementation plan includes timelines, capabilities, and delegation of responsibilities among PR entities and was designed to verify all parties remain compliant and aligned on PERM activities.
- f. **Special Circumstances for Puerto Rico: Section 7** entails a discussion of PR's special circumstances, including the federal cap on Medicaid funding, federal reporting for CHIP beneficiaries, and federal funding availability
- g. **Appendix: Section 8** includes all data sources and reference documents.

## 2. DIFFERENCES IN MEDICAID PROGRAM FUNDING BETWEEN STATES AND PUERTO RICO/OTHER TERRITORIES

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The Medicaid program is arguably the most consequential federal program in Puerto Rico because it provides health care services to 1.6 million people, or 46 percent of the Island’s population. However, our program differs in fundamental ways when compared to state Medicaid programs. Federal Medicaid funds for United States Territories are limited in two ways:

1. Total federal Medicaid spending in the territories is subject to an annual Medicaid Cap pursuant to section 1108 of the Social Security Act. The Medicaid caps increase annually at a rate equal to the medical component of the Consumer Price Index, which is often lower than the increase of health expenses index. As a result, the territories are forced to pay 100% percent of all medical expenditures for their Medicaid beneficiaries that are above the cap and/or incur huge deficits of unpaid bills to their providers when the Medicaid caps are exhausted.
2. The federal Medicaid matching rate for territories is set in statute at 55 percent. In contrast the Federal Medical Assistance Percentage (FMAP) for the states varies between 50 and 83 percent of state Medicaid costs and there is no limit to the amount of federal funding that will match valid state Medicaid expenditures. Puerto Rico must consistently overmatch the federal fiscal ceiling in order to provide the basic services required by the Medicaid Program.

The following table shows the disparity between Puerto Rico and comparable state Medicaid programs on administrative spending per member per year (PMPY) and per member per month (PMPM). Comparing Medicaid programs of similar size (1-2 million enrollees) and with a high proportion of enrollment in managed care (over 80 percent in comprehensive managed care), it demonstrates that Puerto Rico is getting approximately one-third (1/3) of the administration expenditures of similar programs.

State <sup>2</sup>	2018 Medicaid Enrollment <sup>3</sup>	2018 Percent Comprehensive Managed Care <sup>4</sup>	2019 Administration Expenditures <sup>5</sup>	PMPY	PMPM
(A)	(B)	(C)	(D)	(E)=(D)/(B)	(F)=(D)/(B)/12
Virginia	1,063,122	82%	\$437,968,202	\$411.96	\$34.33
Kentucky	1,385,239	91%	\$266,167,884	\$192.15	\$16.01
Maryland	1,401,781	83%	\$505,358,312	\$360.51	\$30.04
Tennessee	1,510,045	92%	\$564,787,478	\$374.02	\$31.17
Louisiana	1,640,075	84%	\$337,092,213	\$205.53	\$17.13
New Jersey	1,668,451	94%	\$898,752,077	\$538.67	\$44.89
Arizona	1,849,465	84%	\$277,807,148	\$150.21	\$12.52
<b>Average<sup>6</sup></b>	<b>1,502,597</b>	<b>88%</b>	<b>\$469,704,759</b>	<b>\$312.60</b>	<b>\$26.05</b>
Puerto Rico	1,505,610	100%	\$156,284,437	\$103.80	\$8.65

Table 1. Medicaid Enrollment and Administration Expenditures for Comparable State Medicaid Programs

Puerto Rico is committed to meeting all the Congressional requirements that have been added as part of Public Law 116-94. However, we are concerned that without State-like treatment in the Medicaid program or, at a minimum, additional administrative funding, the full and permanent implementation of these changes will be challenging. For example, Puerto Rico can sometimes have only one employee evaluating a request for proposal (RFP) since the day-to-day operational needs and limited administration funding doesn't support additional resources aligned to the RFP evaluation process.

Puerto Rico is requesting that Congress consider application of the FMAP as used with states. In addition, Congress is requested to consider removing the Medicaid Cap on federal Medicaid funds through 1108(g). If only the FMAP formula is applied, then Puerto Rico will, as a result, reach the Medicaid Cap sooner. Funding parity would help Puerto Rico plan for long term structural changes and allow for real transformational changes to our Medicaid Enterprise.

<sup>2</sup> Includes states where 2018 Medicaid enrollment is between 1,000,000 to 2,000,000 and over 80% enrollment in comprehensive managed care. Excluded the State of Washington which had administrative costs in excess of \$1.3 billion.

<sup>3</sup> Medicaid.Gov. *The FY 2018 Medicaid Managed Care Enrollment Report*, Latest available report retrieved from: <https://data.medicare.gov/Enrollment/2018-Managed-Care-Enrollment-Summary/gn4b-7d7q/data>

Total Medicaid Enrollees represents an unduplicated count of all beneficiaries in FFS and any type of managed care, including Medicaid-only and Medicare-Medicaid ("dual") enrollees.

<sup>4</sup> Medicaid Enrollment in Comprehensive Managed Care represents an unduplicated count of Medicaid beneficiaries enrolled in a managed care plan that provides comprehensive benefits (acute, primary care, specialty, and any other), as well as PACE programs. It excludes beneficiaries who are enrolled in a Financial Alignment Initiative Medicare-Medicaid Plan as their only form of managed care.

<sup>5</sup> Medicaid.Gov. *FY 2019 Financial Management Report, Total Computable Net Administrative Expenditures*, Latest available report retrieved from: <https://www.medicare.gov/medicaid/financial-management/state-expenditure-reporting-for-medicare-chip/expenditure-reports-mbescbes/index.html> Excludes administrative costs for the following service categories: Family Planning, Skilled Professional Medical Personnel - Single State Agency, Skilled Professional Medical Personnel - Other Agency, Peer Review Organizations, TPL - Recovery, TPL - Assignment Of Rights, Nurse Aide Training Costs, Preadmission Screening, Resident Review, Drug Use Review, School Based Administration, Interagency Costs (State Level), Planning for Health Home for Enrollees with Chronic Conditions, and Non-Emergency Medical Transportation

<sup>6</sup> The average administration expenditure is weighted based on Medicaid enrollment.

# 3. INTRODUCTION TO THE PUERTO RICO MEDICAID ENTERPRISE

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PRDOH is the Single State Agency designated to administer our State Medicaid Program. For purposes of Medicaid program administration, PRDOH is the state Medicaid agency. The Medicaid program is administered by PRDOH and PRHIA, which collectively is referred to as the Medicaid Enterprise. This is a long-standing sister agency relationship, defined by an interagency memorandum of understanding (MOU). PRHIA (referred to in Spanish as the Administración de Seguros de Salud [ASES]), was created in 1993 to oversee, monitor and evaluate services offered by the managed care organizations (MCOs) under contract with PRHIA. PRHIA is a public corporation overseen and monitored by a Board of Directors (BOD). Puerto Rico’s Medicaid Program (PRMP), a department under the PRDOH, oversees the Medicaid State Plan and determines Medicaid eligibility for residents according to the requirements of titles XIX and XXI of the Social Security Act, the Code of Federal Regulations, and the Puerto Rico Medicaid and CHIP state plans. The PRMP also manages the Medicaid and CHIP grant funds as well as the funds to provide drugs to Medicare beneficiaries. Further, it conducts all Medicaid fair hearings and is responsible for the operation of the Medicaid Management Information System (MMIS) and Medicaid Integrated Technology Initiatives (MEDITI) for the program.

The PRHIA, PRMP and the Government of Puerto Rico at large follow guidance issued each year by the federally appointed Financial Oversight and Management Board for Puerto Rico (FOMB). In addition to meeting federal requirements, PRHIA and PRMP must also abide by regulations established by the Government of Puerto Rico.

## Puerto Rico Department of Health

The PRDOH’s administration of its Medicaid program under Title XIX of the Social Security Act is structured as a categorical program called the “Medicaid Program.” The PRDOH Medicaid program is chartered with ensuring appropriate delivery of health care services under Medicaid, CHIP, and the Medicaid Preferred Drug Program (PDP); the latter two structured as extended Medicaid programs.

Since the inception of the Medicaid program in Puerto Rico, and up until the early 1990s, PRMP’s role was mostly limited to providing the categorically needy access to Medicaid services by operating local offices throughout all the municipalities on the Island. In these offices, residents could apply for Medicaid coverage by providing demographic and socio-economic information for their family unit. Based upon federal Medicaid program eligibility rules, the family’s eligibility for Medicaid would be determined. If eligible, the individual and family were certified and enrolled into the Medicaid program. Health care services to Medicaid-eligible individuals and families were delivered through the Puerto Rico government’s public health service facilities.

## Puerto Rico Health Insurance Administration

In 1993, the Government of Puerto Rico enacted transformation of the entire public health system. The Puerto Rico Health Reform Program (referred to initially as Reforma and now known as Plan Vital) marked the creation of a government health insurance program under a managed care delivery system.

These reforms expanded Medicaid coverage for individuals and families with incomes up to 133% of Puerto Rico poverty level for the MAGI population and 266% for the CHIP population, significantly increasing the number of residents with government-subsidized health coverage.

In 1993, an interagency MOU (since then updated multiple times), was established to delegate the implementation of the Medicaid State Plan's managed care delivery model to PRHIA, a public corporation established by Law No. 72 on September 7, 1993, as amended. There is a Cooperative Agreement between the PRDOH, the Medicaid program, and the PRHIA to carry out the provisions of Law Number 72 of September 7, 1993. Under this agreement, the PRMP retained responsibility for eligibility determination, policy, Medicaid State Plan maintenance, and financial administration. This agreement requires the PRHIA to implement and deliver services through a managed care delivery system. The PRHIA assumed responsibility for conducting fair hearings related to managed care services and benefits and the pharmacy benefit. It also conducts provider appeals and Medicare Advantage Organization (MAO) appeals. The process of selecting the insurance carriers, negotiating, and managing those contracts was further assigned to PRHIA pursuant to Law No. 72. The Medicaid program retained the role of eligibility determination for Medicaid and Reforma/Plan Vital.

In 2006, PRHIA implemented the Medicare Platino program to provide additional coverage benefits to beneficiaries of Medicaid and Reforma who are also eligible for Medicare (i.e., "dually eligible") and enrolled in a Medicare Advantage Organization (MAO). Medicare Platino wraps around Medicare Advantage benefits, giving the dually eligible enrollees any additional benefits provided by the Medicaid program. PRHIA holds contracts with the MAOs.

### **The Puerto Rico Health Insurance Administration Board of Directors**

PRHIA is governed by a Board of Directors (BOD) made up of eleven (11) members, six (6) that are Ex-Officio Members and five (5) that are appointed by the Governor of Puerto Rico with the advice and consent of Puerto Rico's Senate. The Ex-Officio Members include the Secretary of Health, the Treasury Department Secretary, the Administrator of the Administration of Mental Health and Addiction Services (ASSMCA), the Director of the Office of Management and Budget (OMB), the Executive Director of The Puerto Rico Fiscal Agency and Financial Advisory Authority (AAFAF) and the Insurance Commissioner, or their delegates. The Governor of Puerto Rico appoints the President of the Board of Directors from among its members. The primary purpose and functions of the BOD include:

- Implementation of medical services based on health insurance.
- Negotiation and contracting for medical insurance coverage.
- Negotiation and contracting with health service plans for health services.
- Organization of alliances and groups of beneficiaries with the purpose of representing them in the negotiation and contracting of their health plans.
- Maintenance of an administrative and financial structure to manage funds and revenues, administer cash and make disbursements.
- Establishment of guidelines for the appointment, contracting and remuneration of its personnel.
- Negotiation and awarding of contracts, documents and other public instruments with juridical persons and entities.
- Direction to insurers to keep a record of services rendered in categorical programs subsidized by the Federal government, and documentation of the relationship of their beneficiaries, payment claims and the pertinent financial and statistical reports.
- Approval, amendment, and repeal of regulations that govern the business and activities of PRHIA.

- Appointment of an Executive Director for PRHIA.
- Facilitation of Contracting Committee to evaluate each contracting proposal and the recommendations. The Contracting Committee evaluates each proposal, the necessity of it, the amount for each service and the maximum amount for the contract year.
- Facilitation of an Internal Audit Committee to monitor PRHIA's audit work, corrective action plans, and executions of internal and external processes.

## **Financial Oversight and Management Board for Puerto Rico**

The Financial Oversight and Management Board for Puerto Rico (FOMB) was created under the Puerto Rico Oversight, Management and Economic Stability Act (PROMESA) of 2016. FOMB consists of seven members appointed by the President of the United States and one Ex-Officio Member designated by the Governor of Puerto Rico. FOMB is tasked with working with the people and Government of Puerto Rico to create the necessary foundation for economic growth and to restore opportunity to the people of Puerto Rico.

FOMB works to fulfill the mandate of the PROMESA to ensure fiscal sustainability and restore access to capital markets. In the first instance, due to a series of unpredictable disasters, the effort has focused on utilizing certified fiscal plans and budgets to ensure Puerto Rico is able to respond to these crises while also moving toward medium and long-term fiscal and economic sustainability. FOMB established a contract review policy pursuant to Section 204(b)(2) of the PROMESA to require the Oversight Board's approval of certain contracts to assure that they "promote market competition" and "are not inconsistent with the approved fiscal plan."

In its oversight of the Medicaid Enterprise, the FOMB must approve all government contracts and amendments with an aggregate value of \$10,000,000 or more. FOMB may review any contract below such threshold at its sole discretion. All proposed contracts or amendments stemming from the rate negotiations between PRHIA and the "Plan Vital" MCOs must be submitted to the FOMB for review and approval prior to execution. Also, pursuant to PROMESA section 204(b)(4), certain proposed rules, regulations, administrative orders, and executive orders must be submitted for FOMB review prior to enactment.

## 4. PERM Requirements

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Puerto Rico has committed not only to reviewing and understanding CMS guidance for participation in the PERM program but also to participating and addressing improvement opportunities via PERM efforts. Puerto Rico understands the requirements and roles of the different PERM contractors and how it will contribute to the reviews carried out by these contractors. This section outlines the primary components of participation in the program, as stipulated by CMS guidelines, with which Puerto Rico will comply. The key PERM activities listed in the CMS PERM handbook are reproduced below, followed by a description of Puerto Rico's positioning within the PERM process. PR will participate in the key PERM activities as written by CMS, which are constituted by the following and detailed in Section Five.

- Policy and Regulation Review
- Plan to Establish Medicaid Competition Demonstration (MCD) and CHIP Universes
- PERM Partners and Allocation of Responsibilities Among PR and Contractors
- CAPs Requirements
- Recoveries
- Eligibility Disallowance

### **Puerto Rico's Positioning within PERM and Planned Activities**

Puerto Rico is a critical partner in the PERM process, alongside CMS and the PERM contractors (Review Contractor (RC), Statistical Contractor (SC), and Eligibility Review Contractor (ERC)). As a key partner in the process, Puerto Rico is committed to carrying out the following activities:

- Identifying and supporting a PR representative who serves as the central point of contact and coordinates state PERM activities and providing additional state resources to support cycle operations
- Participating in PERM cycle and PR-specific calls
- Providing the RC and ERC access to PR systems as required to complete Data Processing (DP) and eligibility reviews. This may include and is not limited to access to:
  - Financial systems
  - Eligibility systems
  - Provider enrollment or screening systems
  - Document management systems
- Maintaining a flow of communication between relevant PR staff, PR vendors, CMS, and PERM contractors to verify PERM data and operational requirements are met in a timely manner
- Providing all claims and payment data to the SC in the required format and conducting quality control reviews prior to submission to verify compliance with specifications
- Confirming that all relevant policies, waivers, amendments, and regulations are available to the ERC and RC
- Providing timely and thorough responses to any contractor questions or requests for additional documentation necessary for PERM reviews
- Evaluating error citations on a regular basis
- Filing DR and appeals in accordance with applicable federal regulations, with proper support.

## 5. Puerto Rico's Response to PERM Compliance

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### Overview of PERM Activities

Puerto Rico is in the process of establishing a PERM Pilot program in response to the Congressional requirement (stated above in the Executive Summary). PR is committed to a close collaborative relationship with CMS and PERM contractors - clearly delineating respective roles and responsibilities. The following section details the various components of PR's response to the congressional requirement and PR's role as it pertains to each component. Each measure will be undertaken by PR in coordination with the contractors and CMS, to comply with updated CMS guidelines.

Because Puerto Rico Medicaid is delivered through a managed care program benefit, PR will participate in a specific review process for a managed care system. For these reviews, PR will provide access to capitation rate verification, locality review, and contract review.

### Policy and Regulation Review

PR has conducted a review of regulations and processes related to Eligibility Reviews and Eligibility Determination to ensure compliance with CMS guidelines and Federal Regulations. PR regulations match CMS and Federal guidelines and contain the necessary eligibility validation measures stipulated in CMS and Federal requirements.

### Plan to establish CHIP and Medicaid Managed Care Universes

The PERM universe contains most Medicaid and CHIP service payments that are fully adjudicated by the state that are matched by federal funds each quarter. This includes individual claims, capitation payments, and payments processed outside of MMIS or made in aggregate for multiple services. The universe also includes expansion program data, but excludes claim adjustments, administrative payments, state-only expenditures, and certain payments as defined in regulations. OMB guidance directs CMS to measure Medicaid and CHIP as programs susceptible to significant improper payments. Therefore, the PERM program creates separate universes for Medicaid and CHIP payments so that PERM can estimate independent improper payment rates for each program.

PERM divides universes based on the Federal Financial Participation (FFP) match received for the payments. The Medicaid universe includes payments matched with Title XIX, and the CHIP universe includes payments matched with Title XXI funds. The CHIP universe contains payments made under both stand-alone and Medicaid expansion-type CHIP (where beneficiaries are enrolled in Medicaid, but their claims are matched with Title XXI FFP).

For denials and zero-dollar paid claims, PERM determines the appropriate universe by FFP that the claim would have had if they had not been denied or contained. Similar to claims and payments for which PR has financial liability, PR will identify the applicable universe for denials and zero-dollar claims. PR will submit a quarterly universe of all PERM-compliant Medicaid and CHIP payments from which the SC will select samples.

## Plan for PERM Data Submission

PR will use the Routine PERM data submission method. For the data submission, PR will submit complete Medicaid and CHIP Managed Care universes.

In order to facilitate the SC's review, PR will submit PERM data alongside a number of documents intended to document the data, reduce errors, and answer questions for the SC. The documents PR will send include:

- Transmission cover sheet – This document provides information about the files sent to the SC
- Control totals – These totals help the SC ensure that no data have been lost or corrupted during transmission
- Data dictionary – This document provides decode information for PR-specific values in the PERM data submission
- File layout – This document lists the fields included in the data submission along with their type, format, and length
- Variable Crosswalk – This document lists all the fields in the data submission along with the variable identified in the state system that will populate the field

## PERM Partners and Allocation of Responsibilities Among PR and Contractors

CMS contracts with three separate vendors to conduct the measurement of the MC components of PERM and the improper payment rate calculation: an SC, an RC, and an ERC. Puerto Rico's roles and responsibilities with relation to these contractors is elaborated below.

### 1. Statistical Contractor (SC)

#### Intake Meeting

The SC has the following primary responsibilities: conducting Intake Meetings with the states prior to each cycle; collecting quarterly claims and capitation payment universe data; conducting quality review of the submitted data; selecting quarterly samples from the universes; calculating improper payment rates; and creating error analysis reports to assist in states' corrective action.

The SC will conduct an intake meeting with Puerto Rico policy, system, technical, and financial staff prior to the start of each PERM cycle. The intake meeting serves as a forum for Puerto Rico to ask the SC questions. Moreover, Puerto Rico and the state will discuss:

- The specifications and principles guiding the PERM universe
- Guidance for PR to build the MC universes data for submission
- Types of payments included in and excluded from the PERM universes
- Data sources and documentation
- The overall PERM process with an emphasis on data quality review

#### Collecting Quarterly Claims and Capitation Payment Data

The SC will collect Medicaid and CHIP MC universe data from Puerto Rico each quarter throughout the PERM cycle. Depending on the data submission method the state, the SC, and

CMS choose, the data could result in relatively clean PERM universes or raw claims and payments. The quarterly submissions are due to the SC 15 days after the end of each quarter.

### **Conducting Quality Review of State-submitted PERM Universes**

The SC will perform quality review of the Puerto Rico universe, beginning with the SC comparing the received quarterly data against the state-submitted summary of total records and dollars transmitted to ensure that no data were lost during transmission. The SC then performs detailed checks to ensure the data are not corrupted. If the SC identifies issues during the initial quality review, the SC contacts the state for clarification. In most cases, issues must be resolved before the SC can conduct further processing.

Once the data have cleared the first stage of review, the SC will perform more in-depth quality checks. In this phase, the SC's task includes, but is not limited to, ensuring that there are no:

- Adjustments or voids
- Payments not matched with federal dollars or not fully adjudicated
- Unexpected or missing payment amounts
- Payments outside of the quarter
- Missing lines for relevant claims
- Missing unique identifiers
- Duplicate payments
- CHIP beneficiaries over age 19
- Claim dates of service exceeding date of death (if applicable)

As state cooperation is extremely important during this phase, Puerto Rico will continue to communicate with the SC as issues and questions arise.

### **Selecting Quarterly Samples from the MC Universe**

From each quality-reviewed MC universe that the SC deems complete, compliant, and accurate for sampling, the SC will select a random sample of payments based on the sample sizes and sampling methodology. The SC will then review the selected samples to verify the information the Review Contractor (RC) and Eligibility Review Contractor (ERC) require are present so they can begin DP and eligibility reviews. If necessary, the SC will contact Puerto Rico for additional information. Once the sample selections have passed through the initial quality control, the SC will send the samples to the RC, ERC, and Puerto Rico for preparation. Once deemed complete and correct, the sample details will be standardized and formatted. The SC will then send the sample details to the RC.

### **Calculating State and National Improper Payment Rates**

The SC will calculate MC, eligibility, and overall improper payment rates for Medicaid and CHIP on the national rolling, cycle, and state level. Along with these improper payment rates, the SC includes the total number of errors and total projected improper payments for the MC and eligibility components and overall programs on each level. The SC will also calculate Puerto Rico's MC and eligibility sample sizes for the next PERM cycle.

### **Creating Error Analysis Reports to Assist States' Corrective Actions**

Based on the errors identified by the RC and ERC, the SC will compile PR-specific and program-specific error analysis reports. These detailed reports include information on the errors found within the Puerto Rico sample, along with the types of errors and reasons for those errors. Puerto Rico will review each sampled claim in error. PR will use information gained from this process to formulate CAPs.

## **2. Review Contractor (RC)**

The RC has two primary responsibilities: collection of federal regulations and state policies and conducting DP review.

### **Collecting Federal Regulations and State Policies**

The RC will collect applicable federal regulations as well as PR's Medicaid and CHIP policies. The federal regulations collected relate to:

- Timely filing requirements
- Requirements for provider enrollment and risk-based screening
- Health Insurance Portability and Accountability Act of 1996 (HIPAA) 5010 electronic claims standards
- Appropriate level of care and documentation standards

The RC will research and obtain PR's Medicaid and CHIP policies it uses for the MR and DP review directly from PR or review publicly available information.

### **Conducting DP Review**

When the RC receives the sampled claims list from the SC, the RC will schedule a DP review with Puerto Rico. The RC will perform DP reviews on MC payments to determine if the PR accurately processed the capitation payment.

## **3. Eligibility Review Contractor**

The ERC has two primary responsibilities: collection of federal regulations and state policies and conducting eligibility reviews.

### **Collecting Federal Regulations and State Policies**

The PERM eligibility case review focuses on whether a determination, redetermination, or change was processed accurately and appropriately based on applicable federal regulations and PR-specific policies. The ERC will obtain copies of all the relevant federal regulations and PR policies that were in effect at the time of each action under review in order to conduct the reviews. In addition to the federal policies, which apply to all states in the PERM cycle, the ERC will also obtain information from PR's regulations, waivers, and policies. The ERC will share with PR a comprehensive summary of their findings and the PR-specific review and confirms that all the policies documented are accurate and up-to-date.

### **Conducting Eligibility Reviews**

The ERC conducts eligibility reviews, or case reviews, for all sampled claims in the eligibility sample. The case review focuses on whether a determination – a new application or renewal – was processed accurately and appropriately based on applicable federal and/or PR policies. The most recent action on a case that made the individual eligible on the sampled claim’s Date of Service (DOS) is the action under review.

## **Compliance with Corrective Action Plan (CAP) Requirements**

Puerto Rico understands the importance of designing and implementing a PERM CAP in accordance with the PERM CAP requirements in 42 CFR 431.992. Puerto Rico intends to develop a detailed CAP and work closely with the CMS PERM CAP Team to ensure this critical output complies with CMS requirements. Puerto Rico will submit a Medicaid and CHIP CAP to address each error and deficiency identified during the PERM cycle, using a state-specific CAP template provided by CMS. Puerto Rico will submit CAPs to the CMS CAP team within 90 calendar days after the date on which Puerto Rico’s Medicaid or CHIP improper payment rates are posted on the CMS contractor’s website, consistent with 42 CFR 431.992(c). PR’s CAPs will be reviewed by multiple components within CMS, with PR tracking the actions of the CAP alongside CMS to ensure timely and successful implementation.

Puerto Rico will work with a point of contact in the CMS PERM CAP Team to assist with CAP development and implementation. The conclusion of this process will result in a CAP acceptance letter from CMS for PR. Puerto Rico will continue to participate in quarterly progress meetings, held by the CMS PERM CAP Team once the acceptance letter has been issued, to provide updates on corrective action implementation, as well as updates on whether the specific CAPs are successfully reducing/eliminating repeat errors.

## **Recoveries for Managed Care Data Processing Errors**

Puerto Rico is subject to recoveries in the event that the Managed Care data processing review identifies overpayment. Puerto will make recoveries on the federal share of overpayments found in error from DP review on a claim-by-claim basis, in accordance with the instructions stated in the 2020 CMS PERM Manual, as well as with the statutory and regulatory requirements that govern recoveries of overpayments, as seen in section 1903(d)(2) of the Act and 42 CFR Part 433 subpart F, and for CHIP under section 2105(c)(6)(B) and 2105(e) of the Act and 42 CFR Part 457 subpart B and F.

Once Puerto Rico has been officially notified of identified improper payments by: 1) the posting of Medicaid and CHIP Final Errors for Recovery (FEFR) reports on SMERF; and 2) by receiving an official letter with “notification of an overpayment” via email, it will return the federal share on a claim with an overpayment error within one year from the date the RC submits FEFR reports.

## **Eligibility Disallowance Process**

Sampled overpayments identified through the PERM eligibility review are not subject to recoveries but are subject to extrapolated disallowance requirements in section 1903(u) of the Social Security Act (the Act). For eligibility-related improper payments, the Act sets a three percent threshold for states’ rates in any given PERM year and generally requires the Secretary to disallow payments to states with respect to the extrapolated amount of improper payments that exceed the threshold. However, CMS does not issue an extrapolated disallowance if a state demonstrates a “good faith effort” to meet the 3 percent threshold. Under current regulations, a “good faith effort” is defined as meeting PERM CAP

and Medicaid Eligibility Quality Control (MEQC) program requirements (potential disallowances under section 1903(u) of the Act may occur beginning in FY 2022).

## 6. Implementation Plan to Support PERM Compliance

PR has developed a plan in collaboration with CMS PERM teams to support the completion of all PERM requirements in alignment with formal guidance.

PERM will conduct its pilot program and will be reviewing a sample of claims paid from July 1, 2022, to June 30<sup>th</sup>, 2023. Full PERM measurement will occur on a sample of claims paid from July 1<sup>st</sup>, 2025, to June 30<sup>th</sup>, 2026. According to CMS regulations, the most recent action on a case that made the individual eligible on the sampled claim's Date of Service (DOS) is the action under review. In accordance with timelines for states, the PERM review process will correspond with the Cycle 3 PERM cycle for Puerto Rico. As such, Puerto Rico will ensure that the implementation plan for full PERM measurement is prepared and in advance of the April 1<sup>st</sup>, 2025 target for cycle kick off. While Puerto Rico is awaiting guidance and communication from CMS and the Contractors, PR will prepare the necessary databases as well as conduct relevant trainings for PERM staff. PR will submit quarterly data to the SC starting October 2025 and participate in the claim's reviews conducted by the ERC and RC. The payment sampling period (conducted by the SC) spans claims paid from July 1<sup>st</sup>, 2025, to June 30<sup>th</sup>, 2026. Additionally, PR will support the Eligibility and Data Processing reviews (conducted by the ERC and RC) anticipated to begin in January of 2026. Once all reviews have been conducted, Puerto Rico will receive and review the report in November of 2027 and develop the appropriate CAPs. Puerto Rico will submit these findings and CAPs no later than 90 calendar days after the date on which Puerto Rico's Medicaid and CHIP improper payment rates are posted on the CMS contractor's website.

### Perm Cycle Schedule

The PERM Cycle schedule for Puerto Rico will be included as seen below. Puerto Rico will participate in Cycle 3, with its PERM pilot kicking-off sometime around April 2022 and ending in November 2024. The pilot may run for a shorter time depending on the sample selected.

Full Measurement will start in April 2025 and will end in November 2027.

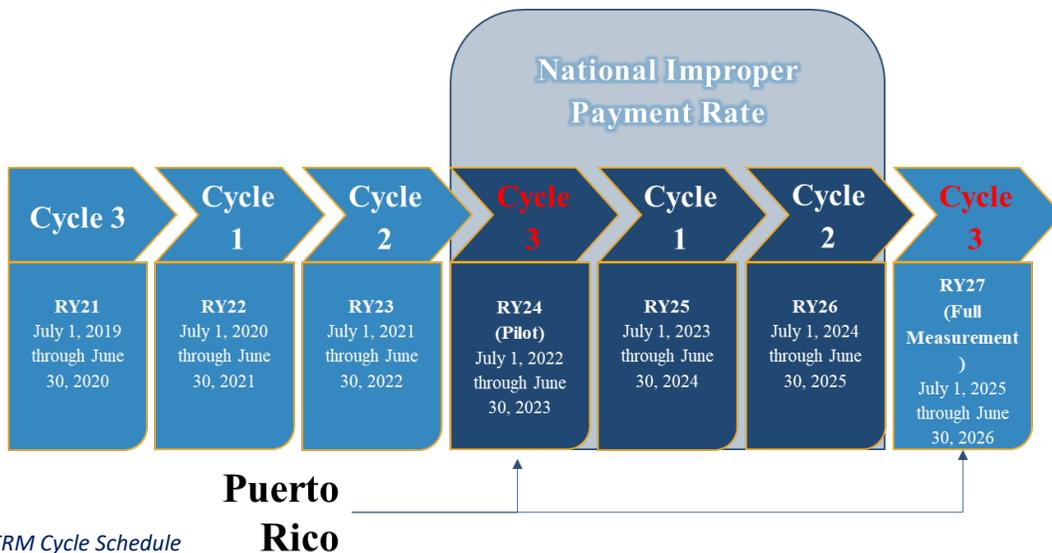


Figure 1. PERM Cycle Schedule

## Implementation Timeline

The implementation plan below includes timelines, capabilities, and delegation of responsibilities among PR entities and was designed to ensure all parties remain compliant and aligned on PERM activities. The workplan to allow Puerto Rico to prepare and implement is included as shown below (Figure 2).

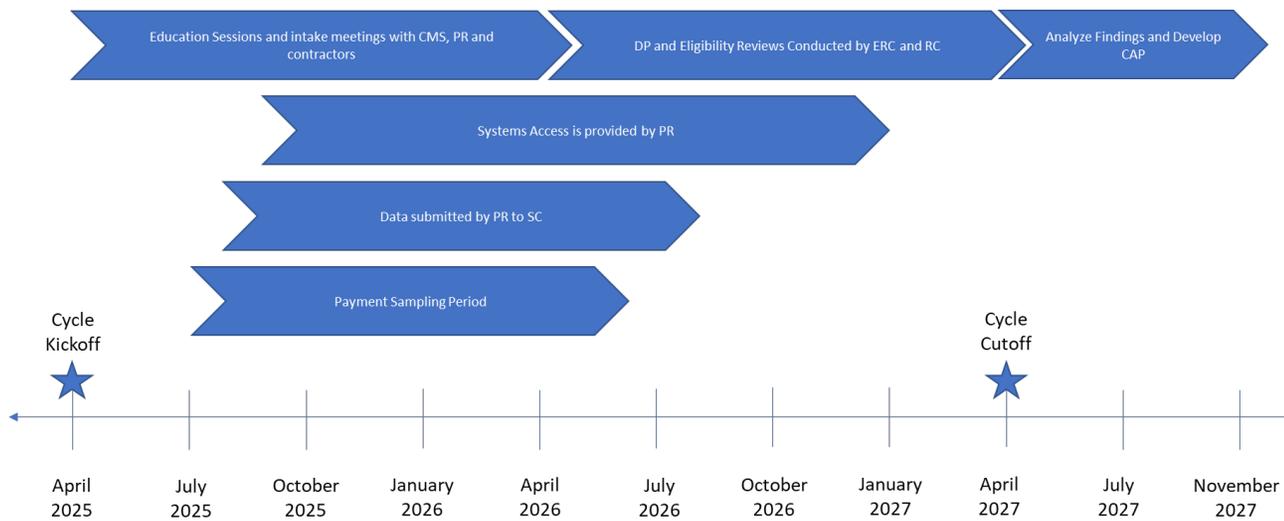


Figure 2. Timeline for implementing the PERM plan.

## PERM RACI Chart

To best prepare for implementation, Puerto Rico began to develop a RACI chart to delineate activities and Responsible, Accountable, Consulted and Informed entities to support the process. The RACI chart for clarifying the roles, responsibilities, and involvement levels of various PR Medicaid entities for each PERM activity will be included as seen below (Table 2). The plan as detailed in this chart will ensure all PERM-related activities are accounted for by the appropriate entities, and that all entities are aligned on expectations and respective roles and responsibilities.

*\*Please note this is a notional RACI chart final role and responsibility assignments will be further solidified prior to the pilot*

	ASES	MMIS	Member Eligibility	PERM Contract ors	Medicaid PIU
Overall PERM Support	I	A	C	R	R
Assigning PR Representative to Spearhead PERM	I	I	I	C	R
Assigning PR POC for SC, RC, ERC	I	I	I	A	R
Educating PR staff for MMIS on the PERM Process and Data Requirements	I	I	I	C	R
Participating in the cycle kick-off meetings, and in monthly cycle calls with CMS	A	A	A	R	R
<b>Universe Quality Control and Data Submission to SC:</b>					
Conducting a QC review of claims and payment data prior to submission	I	R	I	C	A
Defining data format and providing accurate data documentation	I	R	A	C	I
Participating in Meetings with SC	I	R	I	R	R
Responding to questions from SC about universe and details QC	I	R	I	I	R
<b>Supporting Claims Review Process by RC:</b>					
Educating providers on PERM process	A	A	A	R	R
Assisting RC with accessing state policies for review	I	I	I	C	R
Reviewing improper payment findings	I	I	I	I	R
Claims error tracking	I	I	I	I	R
Returning Federal Financial Participation (FFP) of overpayments	R	I	I	I	A
<b>Supporting Eligibility Review by ERC:</b>					
Participating in meetings with the ERC and CMS	I	I	I	R	R
Providing access to eligibility and documentation management systems	I	I	I	C	R
Providing guidance related to systems and policy	I	A	I	C	R
Reviewing the ERC's case review findings	I	I	I	I	R
Eligibility Error Tracking	I	I	I	I	R
Publication of State Improper Payment Rate	I	I	I	R	I
Analysis of Medicaid and CHIP Error Findings	I	I	I	C	R
Return Federal Share of Overpayments	I	C	C	I	R
Corrective Action Plan	A	C	R	R	R

Table 2. RACI chart delineating roles and responsibilities for various PR Medicaid entities.

R = Responsible

A = Accountable

C = Consulted

I = Informed

## Implementation Timeline and Planned Activities

In addition to the high-level timeline and responsibilities above, we have also thought through the detailed tasks to identify next steps and activities for PR to undertake in advance of cycle participation. The figure below shows the timeline for PR compliance with the implementation actions to execute in advance of the upcoming cycle years.

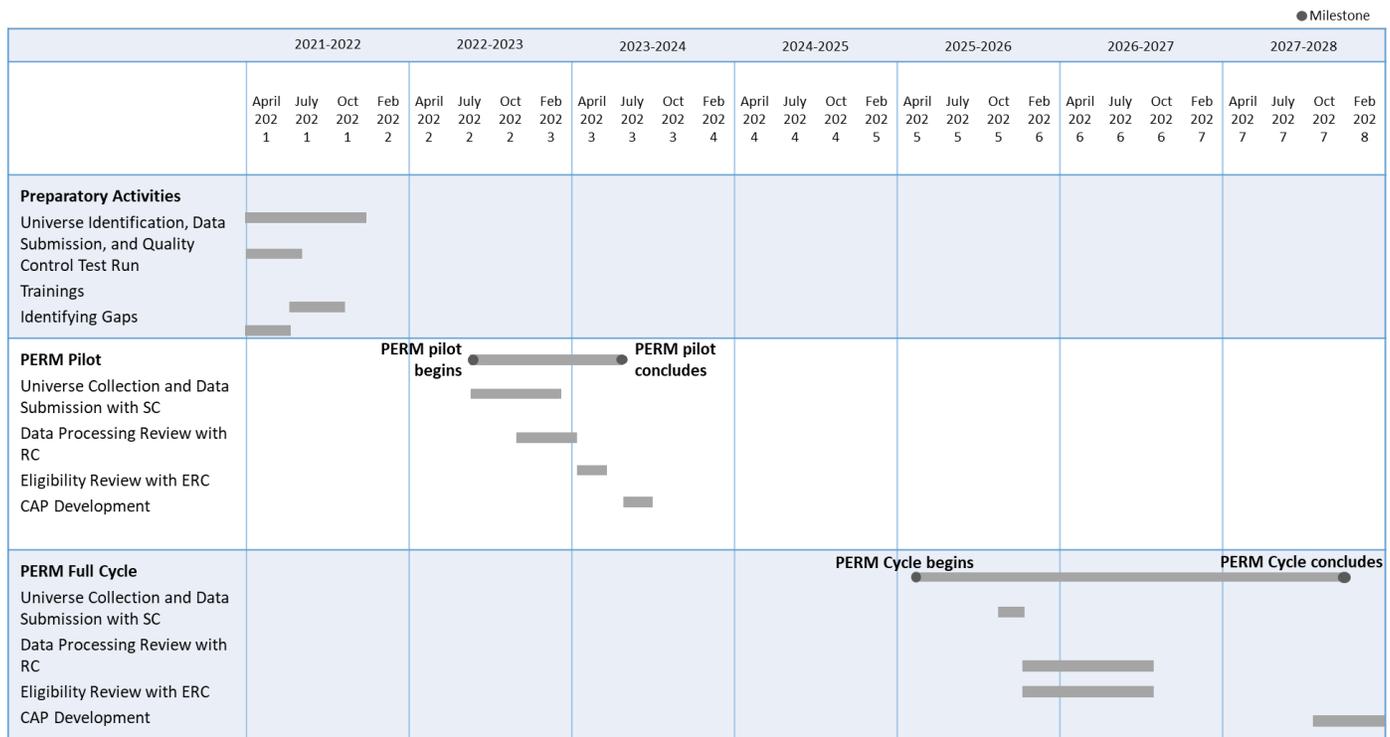


Figure 3. Timeline of Planned Actions

## Preparatory Activity Detailed

To set our teams up for success, Puerto Rico plans to act on the following preparatory activities as detailed in the timeline Figure 3 above, in advance of the cycle year to prepare for the full PERM cycle. The preparation tasks and estimated timelines are detailed below:

### Preparatory Activities for Universe Identification and Data Submission

#### Review Procedures

Puerto Rico will review claims and payment data submission instructions in advance of the July 1<sup>st</sup>, 2022 start of the PERM pilot cycle. Puerto Rico will also review the procedures for accurate data documentation (e.g., file layouts, variable field decodes).

#### Universe Identification Test Run

Puerto Rico will identify and develop a preliminary tester universe in advance of the July 1<sup>st</sup>, 2022 start of the PERM pilot cycle in order to conduct a test run of data submission and quality

control. This will ensure Puerto Rico is prepared to develop its universe for the PERM pilot and experienced in CMS-compliant submission and quality control methods.

**Data Submission Test Run**

In advance of PR’s data submission to the SC, Puerto Rico will complete the data submission documents for its test universe and submit to CMS for review and feedback. The documents PR will send include:

- Transmission cover sheet
- Control totals
- Data dictionary
- File layout
- Variable Crosswalk

**Quality Control Test Run**

As a test run, Puerto Rico will conduct a preliminary quality control review of claims and payment data prior to the start of the Pilot cycle in order to ensure that, upon submission of the quarterly universes during the PERM cycle, the data will be complete and comply with PERM specification.

Preparing for Universe Identification and Data Submission	Estimated Activity Dates
Review Procedures <ul style="list-style-type: none"> <li>• Review claims and payment data submission instructions</li> <li>• Review file layouts, variable field decodes</li> <li>• Review data transmission guidelines</li> </ul>	09/2021
Universe Identification Test Run <ul style="list-style-type: none"> <li>• Identify and develop preliminary tester universe</li> <li>• Communicate with CMS to ensure compliance and ask questions</li> </ul>	10/2021
Data Submission Test Run <ul style="list-style-type: none"> <li>• Complete data submission documents for test universe</li> <li>• Develop Transmission Cover Sheet, Control Totals, Data Dictionary, File Layout, and Variable Crosswalk</li> <li>• Submit to CMS for review and feedback</li> </ul>	10/2021-11/2021
Quality Control Test Run <ul style="list-style-type: none"> <li>• Run quality control review of claims</li> <li>• Run quality control of payments</li> </ul>	10/2021- 12/2021

**Training**

Puerto Rico will work with CMS to schedule further training sessions for the PERM point person(s) and other stakeholders on the process for complying with PERM. Training sessions should include preparatory meetings with the PERM contractor teams to conduct preliminary intake calls to review requirements and expectations.

Training Activities	Estimated Date
Preparatory Meetings with PERM Contractor Teams <ul style="list-style-type: none"> <li>• Meeting with Statistical Contractor</li> <li>• Meeting with Review Contractor</li> <li>• Meeting with Eligibility Review Contractor</li> </ul>	04/2022-10/2022
Continued PERM 101 sessions with CMS	Ongoing
Attending PERM All Cycle Calls	Ongoing
Attending State Cycle Calls	Ongoing
Attending CAP training calls	Ongoing

### Identifying and Addressing Areas for Enhancement

Throughout the actions described above, Puerto Rico will identify any gaps or areas that require enhancement prior to full participation in the PERM cycle.

Identifying Gaps	Estimated Date
Assigning PERM POCs for Puerto Rico Medicaid	07/2021
Continuing PERM 101 sessions with CMS	Ongoing
Evaluation of Test Universe and Test Submission with CMS	10/2021 -12/2021

## 7. Special Circumstances for Puerto Rico

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### Federal Cap

Unlike states, territories are subject to an annual cap on Medicaid funding. Once the territory has exhausted its funding for the year, Medicaid expenditures are completely funded through local funds. As a result, there is a substantial portion of cases that are not paid for with federal dollars. As such, even if an active case is determined to have an inaccurate determination, there might not be any federal funds to return.

Historically, although the FMAP rate was set at the lowest rate of 50/50%. With the implementation of the Affordable Care Act the FMAP rate was increased to 55/45%, because of the underfunding of federal dollars, the true matching rate was between 18% and 25%. Absent any action by Congress to remove the Medicaid CAP and to change the FMAP to apply the same formula as used by state, Puerto Rico will experience a significant decrease in available federal Medicaid funding that will occur beginning FFY 2022. Because of the excessive unmatched claim activity, any collections identified through the PERM review would be returned to the annual allotment and create newly available federal matching funds that would be used to pay for unmatched claims.

### Federal Reporting for CHIP Beneficiaries

Puerto Rico, like all territories, reports expenditure on behalf of CHIP enrollees on the CMS-64 because territories do not complete the CMS-21. Similarly, forecasted needs for federal funds is reported on the CMS-37 for all territories.

### Federal Funding Availability

Unlike states, the full funding for Medicaid and CHIP is made available at the beginning of the fiscal year for territories, not quarterly.

## 8. Appendix

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### **Appendix A: Data Sources and Reference Documents**

**P.L. 116-94: Division N, Title 1, Subtitle B, (133 STAT 3110) - §202(f)(3) – PERM**

**PERM Manual:** <https://www.cms.gov/files/document/perm-manual.pdf>

**PERM 101 Presentation:** <https://www.cms.gov/files/document/ry-19-perm-101-presentation.pdf>