§431.998 Difference resolution and appeal process.

(a) The State may file, in writing, a request with the Federal contractor to resolve differences in the Federal contractor’s findings based on medical or data processing reviews on FFS and managed care claims in Medicaid or CHIP within 20 business days after the disposition report of claims review findings is posted on the contractor’s Web site. The State must complete all of the following:

(1) Have a factual basis for filing the difference.
(2) Provide the Federal contractor with valid evidence directly related to the error finding to support the State’s position that the claim was properly paid.
(3) For a claim in which the State and the Federal contractor cannot resolve the difference in findings, the State may appeal to CMS for final resolution, filing the appeal within 10 business days from the date the contractor’s finding as a result of the difference resolution is posted on the contractor’s Web site. There is no minimum dollar threshold required to appeal a difference in findings.
(4) For eligibility error determinations made by the agency with personnel functionally and physically separate from the State Medicaid and CHIP agencies with personnel that are responsible for Medicaid and CHIP policy and operations, the State may appeal error determinations by filing an appeal request.

(1) Filing an appeal request. The State may—

(i) File its appeal request with the appropriate State agency or entity; or
(ii) If no appeals process is in place at the State level, differences in findings—

(b) In developing a corrective action plan, the State must take the following actions:

(1) **Data analysis.** States must conduct data analysis such as reviewing clusters of errors, general error causes, characteristics, and frequency of errors that are associated with improper payments.
(2) **Program analysis.** States must review the findings of the data analysis to determine the specific programmatic causes to which errors are attributed (for example, provider lack of understanding of the requirement to provide documentation) and to identify root error causes.
(3) **Corrective action planning.** States must determine the corrective actions to be implemented that address the root error causes.
(4) **Implementation and monitoring.**

(i) States must develop an implementation schedule for each corrective action initiative and implement those actions in accordance with the schedule.
(ii) The implementation schedule must identify all of the following:

(A) Major tasks.
(B) Key personnel responsible for each activity.
(C) A timeline for each action including target implementation dates, milestones, and monitoring.
(5) **Evaluation.** States must evaluate the effectiveness of the corrective action by assessing all of the following:

(i) Improvements in operations.
(ii) Efficiencies.
(iii) Number of errors.
(iv) Improper payments.
(c) The State agency must submit to CMS and implement the corrective action plan for the fiscal year it was reviewed no later than 90 calendar days after the date on which the State’s Medicaid or CHIP error rates are posted on the CMS contractor’s Web site.
(d) The State must submit to CMS a new corrective action plan for each subsequent error rate measurement that contains an update on the status of a previous corrective action plan. Items to address in the new corrective action plan include, but are not limited to the following:

(1) Effectiveness of implemented corrective actions, as assessed using objective data sources.
(2) Discontinued or ineffective actions, actions not implemented, and those actions, if any, that were substituted for such discontinued, ineffective, or abandoned actions.
(3) Findings on short-term corrective actions.
(4) The status of the long-term corrective actions.

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§ 432.2

(A) Must be documented in writing and submitted directly to the agency responsible for the PERM eligibility review for its consideration;

(B) May be resolved through document exchange facilitated by CMS, whereby CMS will act as intermediary by receiving the written documentation supporting the State’s appeal from the State agency and submitting that documentation to the agency responsible for the PERM eligibility review; or

(C) Any unresolved differences may be addressed by CMS between the final month of payment data submission and error rate calculation.

(2) After the filing of an appeals request. (i) Any changes in error findings must be reported to CMS by the deadline for submitting final eligibility review findings.

(ii) Any appeals of determinations based on interpretations of Federal policy may be referred to CMS.

(iii) CMS’s eligibility error resolution decision is final.

(iv) If CMS’s or the State-level appeal board’s decision causes an erroneous payment finding to be made, if the final adjudicated claim is actually a payment error in accordance with documented State policies and procedures, any resulting recoveries are governed by § 431.1002 of this subchapter.

(d) All differences, including those pending in CMS for final decision that are not resolved in time to be included in the error rate calculation, will be considered as errors for meeting the reporting requirements of the IPIA. Upon State request, CMS will calculate a subsequent State-specific error rate that reflects any reversed disposition of the unresolved claims.

[71 FR 51081, Aug. 28, 2006, as amended at 75 FR 48851, Aug. 11, 2010]

§ 432.10 Standards of personnel administration.

§ 432.2 Definitions.

As used in this part—