“We all make mistakes, but most of us don’t make mistakes with billions of dollars of other people’s money.”¹ As federal spending and the national debt continue to rise, the amount of federal improper payments grows with it. These payments represent systemic government waste and mismanagement of taxpayer resources.

BACKGROUND

Improper payments are defined as “any payment that should not have been made or that was made in an incorrect amount, including an overpayment or underpayment, under a statutory, contractual, administrative, or other legally applicable requirement.”² According to the Government Accountability Office (GAO), “the federal government is unable to determine the full extent to which improper payments occur and reasonably ensure that actions are taken to reduce them.”³ Since 2002, a series of laws have established and expanded requirements for agencies to identify, measure, prevent, and report improper payments within their programs. Despite these requirements, GAO estimates that government-wide improper payments have totaled over $1.5 trillion since 2003.⁴

Due in part to historic spending during the COVID-19 pandemic, federal improper payments rose to a conservatively reported $206 billion in FY2020.⁵ This represents an increase of about $31 billion from a total $175 billion in FY2019, according to figures released by the Office of Management and Budget (OMB).⁶

The five highest reported root causes for improper payments in FY2020 include: insufficient documentation (over $105 billion, an increase of more than $31 billion from FY2019); inability to verify eligibility (about $32.5 billion); administrative or process errors made by other parties (about $22 billion);⁷ administrative or process errors made by state or local agencies (about $13 billion); and program design or structural issues (about $14 billion).⁸

Select Transparency and Accountability Concerns:

- GAO has been unable to render an opinion on the Federal Government's consolidated financial statement since 1997, due in part to the government's inability to adequately account for and reconcile its financial activities.⁹

- OMB ceased publishing the total amount of federal improper payments on its website in 2017, focusing only on program-by-program amounts at individual agencies.¹⁰

- According to GAO, “OMB's new guidance [on improper payments to federal agencies] does not specifically direct agencies to include COVID-19 relief funding with associated key risks as part of their improper payment estimate methodologies.”¹¹

- Although the federal government reported $206 billion in improper payments in FY2020, this estimate generally does “not include estimates related to the reported $1.6 trillion in fiscal year 2020 budget

expenditures to fund response and recovery efforts for the COVID-19 pandemic.\textsuperscript{12}

- Nearly 38\%, or nine of 24 Chief Financial Officer Act agencies, were noncompliant with the six improper payment criteria\textsuperscript{13} required under federal law – with the six criteria requirements shown in the table below – in FY2019.\textsuperscript{14} This was an improvement from FY2018, where half of such agencies reported as noncompliant. However, compliance does not necessarily imply accurate reporting.\textsuperscript{15}

- A lack of sufficient reporting prevents a full account of government-wide improper payments.\textsuperscript{16} Since 2010, agencies with any program reported as noncompliant with any of the six required criteria must submit a plan to Congress to resolve its noncompliance. Agencies who are noncompliant for three or more consecutive years are required to notify Congress and submit a proposal for reauthorization or statutory change to bring that program into compliance.\textsuperscript{17}

**Big Errors Across Big Government**

Of the conservatively reported government-wide total of $206 billion in improper payments in FY2020, the Department of Health and Human Services (HHS) alone reported over $134 billion, or about two-thirds (65\%), of that reported total.\textsuperscript{18} HHS recently released FY2021 figures at the time of this guide, with a reported $153.86 billion in improper payments.\textsuperscript{19} HHS’s noncompliance with the six improper payment criteria required under federal law for FY2020 is shown below.

**HHS’s Noncompliance Reporting Table [with the Six Required Criteria] for Programs That Are Susceptible to Significant Improper Payments, FY2020\textsuperscript{22}**

<table>
<thead>
<tr>
<th>Program Name</th>
<th>Published an Agency Financial Report (AFR) or Performance Accountability Report (PAR)</th>
<th>Conducted a Risk Assessment</th>
<th>Published an Improper Payment Estimate for CY</th>
<th>Published a Corrective Action Plan</th>
<th>Published Reduction Targets in CY AFR and Met Reduction Targets set in PY AFR</th>
<th>Reported an Improper Payment Rate of &lt; 10%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medicare Advantage (Part C) (a)</td>
<td>Compliant</td>
<td>N/A</td>
<td>Compliant</td>
<td>Compliant</td>
<td>Partially Compliant</td>
<td>Compliant</td>
</tr>
<tr>
<td>Medicaid</td>
<td>Compliant</td>
<td>N/A</td>
<td>Compliant</td>
<td>Compliant</td>
<td>Partially Compliant\textsuperscript{20}</td>
<td>Noncompliant</td>
</tr>
<tr>
<td>CHIP</td>
<td>Compliant</td>
<td>N/A</td>
<td>Compliant</td>
<td>Compliant</td>
<td>Partially Compliant\textsuperscript{21}</td>
<td>Noncompliant</td>
</tr>
<tr>
<td>Advance Premium Tax Credit (APTC)</td>
<td>Compliant</td>
<td>N/A</td>
<td>Noncompliant</td>
<td>Noncompliant</td>
<td>Noncompliant</td>
<td>Noncompliant</td>
</tr>
<tr>
<td>Foster Care</td>
<td>Compliant</td>
<td>N/A</td>
<td>Compliant</td>
<td>Partially Compliant</td>
<td>Compliant</td>
<td>Compliant</td>
</tr>
<tr>
<td>Temporary Assistance for Needy Families (TANF)</td>
<td>Compliant</td>
<td>N/A</td>
<td>Noncompliant</td>
<td>Noncompliant</td>
<td>Noncompliant</td>
<td>Noncompliant</td>
</tr>
<tr>
<td>CDC Disaster Relief</td>
<td>Compliant</td>
<td>N/A</td>
<td>Noncompliant</td>
<td>Noncompliant</td>
<td>Noncompliant</td>
<td>Noncompliant</td>
</tr>
<tr>
<td>Office of Head Start (OHS) Disaster Relief</td>
<td>Compliant</td>
<td>N/A</td>
<td>Noncompliant</td>
<td>Noncompliant</td>
<td>Noncompliant</td>
<td>Noncompliant</td>
</tr>
</tbody>
</table>

Source: HHS Inspector General. In FY2021, HHS did not report improper payment rates for two high-risk programs, TANF and Foster Care. HHS “believes it does not have the authority under the Social Security Act to compel states to report [TANF] error rates,” and did not report Foster Care after pausing on-site eligibility reviews due to COVID-19.\textsuperscript{23}
Select federal programs reporting high improper payment rates include:

- **Medicare.** Medicare (Fee-for-Service, Part C, and Part D) reported an estimated $43 billion in improper payments in FY2020. Although this represented a slight decline from $46 billion in FY2019, HHS recently reported a substantial FY2021 increase to about $50 billion in improper payments. Moreover, GAO reports “improper payment rates do not yet take into account the potential for improper payments that may result from inappropriate use of flexibilities given to providers and patients during the COVID-19 public health emergency. These flexibilities included…the use of program waivers for telehealth services and waivers of a number of provider enrollment requirements, such as certain background checks.”

- **Medicaid.** Although some federal programs reduced their improper payment rates in FY2020, other programs – such as Medicaid, which covers an estimated 77 million low-income Americans – rose, driving the higher rate of the federal government’s total erroneous payments. Medicaid improper payments rose from $57 billion to $86.49 billion in FY2020, an increase of nearly $30 billion from FY2019. This stark increase accounts for 21%, or one out of every five Medicaid payments. Recently, the Centers for Medicare & Medicaid Service (CMS) reported a staggering $98.72 billion in Medicaid improper payments in FY2021, again representing 21.69%, or one of five Medicaid expenditures. Medicaid’s significant increase can be largely attributed to the CMS reintegrating its Payment Error Rate Management (PERM) rotational eligibility reviews on states, which it had ceased to perform following rule changes from the Affordable Care Act’s Medicaid expansion, and therefore did not report improper payment rates. According to CMS, the primary root causes of Medicaid’s improper payments are insufficient documentation and eligibility errors.

- **Unemployment Insurance (UI):** In 2021, the Department of Labor (DOL) Inspector General (OIG) reported to Congress an estimated $87 billion in improper payments, representing 10% or more of UI expenses, with a “significant portion attributable to fraud.” Further, DOL “permitted state workforce agencies to suspend their improper payment sampling efforts for the final quarter of the [UI] program year to reduce the burden on program resources responsible for processing” benefit claims and implementing new COVID-19 related programs.

- **Earned Income Tax Credit (EITC).** The EITC, which regularly reports one of the highest rates of improper payments every year, reported $16 billion in improper payments in FY2020. This accounts for 23.5%, or nearly one-quarter, of every EITC payment. Inability to verify eligibility was the leading root cause, accounting for 94% of EITC improper payments. The Treasury Inspector General for Tax Administration’s (TIGTA) audit also reports that the Internal Revenue Service (IRS) does not verify “the majority of EITC claims by taxpayers whose previous EITC was denied.” Furthermore, the IRS has requested relief from
mandated reporting of erroneous refundable tax credits on the basis that they should not be considered “payments.”

and AOTC Programs for FY 2020

<table>
<thead>
<tr>
<th>Improper Payment Requirement</th>
<th>Source of Requirement</th>
<th>Provided by the IRS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Report an improper payment rate of less than 10 percent.</td>
<td>PII/A</td>
<td>×</td>
</tr>
</tbody>
</table>

Source: TIGTA review

- **Small Business Administration (SBA) COVID-19 Relief Funds (CRF).** On November 31, 2021, the SBA OIG reported “serious concerns” over $3.7 billion in improper payments through the COVID-19 Economic Injury Disaster Loan (EIDL) program. The OIG largely attributed the errors to SBA’s failure to conduct pre-award recipient eligibility through the Do Not Pay System, as required by federal law. The Do Not Pay System is the federal government’s centralized source to assist agencies with pre- and post-award eligibility by pulling certain records from various federal databases.
  - According to GAO, SBA has impeded efforts to evaluate the EIDL and the Paycheck Protection Program (PPP) by failing to provide timely data and documentation “of its plans for testing, including estimates of improper payments and error rates” since June 2020, despite telling GAO such testing was planned. The Consolidated Appropriations Act of 2021 "requires SBA to respond" to GAO requests “within 15 days (or such later date as the Comptroller General may provide) or report to Congress on the reasons for the delay.”

**POLICY SOLUTIONS**

Congress must utilize its legislative and oversight authorities to safeguard the integrity of taxpayer resources. At a minimum, Congress must review root causes to determine appropriate actions to reduce improper payments. Actions Congress may consider include, but are not limited to:

- Reduce payments to ineligible deceased recipients. Amending the Social Security Act would enable the Social Security Administration to share relevant death data to appropriate federal agencies and other administering entities;
- Facilitate government-wide data standardization by establishing a common taxonomy and information sharing by reforming the Computer Matching Act, the Do Not Pay System, and the National Directory of New Hires;
- Review statutory limitations to data sharing between federal, state, and local agencies; and
- Explore enforcement mechanism options to compel agency compliance with improper payment requirements under federal law.

In March 2020, President Trump signed the Payment Integrity Information Act into law. The law consolidated the various existing improper payment laws within the U.S. Code. It also created a working group consisting of federal agencies and non-federal partners, such as state governments, to develop strategies to address root causes of improper payments.

Promoting accountability and program integrity requires transparency across the Federal Government. The GPRA Modernization Act of 2010 required the development of a federal program inventory and quarterly reporting on performance management. According to GAO, such an inventory list would help agencies identify significant savings, but to date no such inventory exists. In January 2021, Congress passed the Taxpayers Rights-to-Know Act into law, which builds on efforts to promote transparent accounting of programs by requiring public agency disclosure of performance metrics and financial data across certain federal programs. It also requires the disclosure of essential budgetary information and links to relevant GAO and Inspectors General reviews.
Publications:


2 The Payment Integrity Information Act, Pub. L. No. 116-117.


4 GAO-16-554, *Improper Payments: CFO Act Agencies Need to Improve Efforts to Address Compliance Issues* (2016), https://www.gao.gov/assets/680/678154.pdf. While federal data on improper payments is generally unreliable, not all improper payments represent a loss to the government: Roughly 10% of improper payments are considered underpayments, while about 90% of improper payments are overpayments. These figures are based off of data from FY2018 from OMB’s website, which is no longer available.


6 In FY 2019, GAO found that about $74.6 billion, or 42.7 percent, of the government-wide improper payments estimate was reported as a monetary loss. According to OMB Circular No. A-136, “monetary loss” represents an amount that should not have been paid and in theory should or could be recovered. OMB acknowledges on its website that “the American citizens deserve to know that their hard-earned tax dollars are being spent as efficiently and effectively as possible by the Federal government. Although not all improper payments are fraud, and not all improper payments represent a loss to the government, all improper payments degrade the integrity of government programs and compromise citizens’ trust in government.” GAO-20-344, *Payment Integrity: Federal Agencies’ Estimates of FY 2019 Improper Payments* (March 2020), https://www.gao.gov/assets/710/705016.pdf and OMB, *Payment Accuracy, FAQ: What is an Improper Payment?* (2020) https://paymentaccuracy.gov/faq/

7 For example, health care provider, lender, or any organization administering federal dollars.

8 OMB, *Supra*, at 5. Note: data may be incomplete due to failure to report. For comparison, FY2018 root causes were reported thusly: The five highest reported root causes for improper payments inFY18 include (note: data may be incomplete due to failure to report): Inability to verify eligibility (about $40.8 billion); insufficient documentation ($40 billion); administrative or process errors made by state or local agencies ($21.5 billion); administrative or process errors made by other parties ($19 billion); and administrative or process errors made by federal programs (over $12.77 billion). OMB, *Payment Accuracy, Payment Accuracy 2018 Data Set*, http://paymentaccuracy.gov/wp-content/uploads/2019/07/2018-Dataset-7-18-2019.xlsx.


13 The Payment Integrity Information Act consolidated all federal improper payment laws. The six requirements agencies must follow to be compliant with PIIA are: 1) published an Agency Financial Report (AFR) for the most recent fiscal year and post the AFR and accompanying materials on the agency website; 2) Conduct a program-specific risk assessment (if applicable) for each program or activity susceptible to significant improper payments; 3) Publish improper payment estimates for all such programs and activities; 4) Publish programmatic corrective action plans in the AFR; 5) Publish and meet reduction targets for each program susceptible to significant improper payments; and 6) Report an improper payment rate of less than 10% for each program and activity for which an estimate was published.


15 For example, at least one agency Inspector General “reported inaccurate amounts for identified and recaptured improper payments in its” annual financial report (AFR) in FY2019. However, “the IG reported that the agency was compliant with the IPERA criterion for publishing financial information in a performance and accountability report (PAR) or AFR.” GAO, *Supra* at 6.

16 GAO notes that “the federal government’s ability to understand the full scope of its improper payments is hindered by incomplete, unreliable, or understated agency estimates; risk assessments that may not accurately assess the risk of improper payment; and agencies not complying with reporting and other requirements” of federal law. Other concerns include, but are not limited to, unreliable or underreported estimates, inaccurate risk assessments, thresholds for improper payments in high-priority programs, noncompliance with federal law, and other considerations. GAO, *Supra* at 6.

17 *Supra*, at 2.

18 *Supra*, at 5.


20 Id. HHS OIG did not qualify Medicaid or CHIP as either partially compliant or noncompliant with this criterion in its report, stating, “As permitted by OMB OMB Circular A-123, Appendix C…HHS did not report improper payment target rates for Medicaid and CHIP in FY 2020. HHS resumed the Medicaid and CHIP eligibility component measurements in 2019 and reported the second updated national eligibility improper payment
estimates in FY 2020. Since HHS uses a 17-state, 3-year rotation for measuring Medicaid and CHIP improper payments, the publication of reduction targets will occur in FY 2021 once HHS establishes and reports a full baseline, including eligibility.”

21 Id.


23 Supra, at 24.

24 Id.


26 Supra, at 24

27 Id.

28 Id.


30 Supra at 24 and 29. See also CMS, supra at 34, and GAO, supra at 7.


32 Id.

33 Id.


36 Id.


38 GAO, Supra, at 26.


40 Pub. L. No. 111-352. The law also required OMB to create a single, comprehensive website to house this information, which was published in limited capacity in 2013 and is now largely defunct. https://obamaadministration.archives.performance.gov/s3fs-public/files/Federal_Program_Inventory_Fact_Sheet_.pdf.


42 The DATA Act (Pub. L. No. 113-101) and the Foundations for Evidence-Based Policymaking Act (Pub. L. No. 115-435) represent such examples of recently enacted law that need to be fully implemented. See also Demian Brady, Nat’l Taxpayers Union Foundation, Taxpayers Right-to-Know Act Would Ease Completion of an Inventory of Federal Programs, 2020, https://www.ntu.org/foundation/detail/taxpayers-right-to-know-act-would-ease-completion-of-an-inventory-of-federal-programs.