

COMBAT IMPROPER MEDICAID PAYMENTS

Medicaid provides health services and support to lower-income Americans. Medicaid is also a significant source of improper federal payments and program fraud. Congress must ensure that Medicaid program dollars are spent on vulnerable populations instead of being wasted or stolen.

BACKGROUND

Medicaid is funded jointly by the state and federal governments. The program has traditionally served children, pregnant women, parents of dependent children, the elderly, and individuals with disabilities.¹ Enacted in 1965, Medicaid is the single largest source of health coverage in the United States, representing one-sixth of the national health care economy.²

Due to the Affordable Care Act (ACA) expansion, Medicaid represents one of the largest and fastest-growing programs and sources of federal erroneous payments, growing from \$177.5 billion to \$385 billion since Fiscal Year (FY) 2008.³ State participation in the program is voluntary, but all states, including the District of Columbia, participate in the program.⁴ In FY2018, Medicaid served 75 million individuals and spending totaled approximately \$616 billion, with the Federal Government's portion accounting for about \$386 billion.⁵

States must follow federal rules in order to receive matching federal funding.⁶ The federal share is referred to as the federal medical assistance percentage (FMAP), which varies from state-to-state based on per capita incomes relative to the national average. In FY2019, FMAP rates ranged from 50 percent to 76.4 percent.^{7,8}

The Government Accountability Office (GAO) has placed Medicaid on its biannual *High-Risk List* since 2003, with about 35 priority recommendations remaining open as of March 2018.⁹ From FY2015 to FY2019, improper payments government-wide increased from \$137 billion to about \$175 billion.¹⁰ Improper payments at the Department of Health and Human Services (HHS) accounted for nearly two-thirds of all federal improper payments in 2017, with Medicaid contributing about \$36 billion, or 26 percent, of the total.^{11,12,13}

HHS Office of Inspector General (OIG) has also identified Medicaid program integrity and improper payments as top management and performance challenges.¹⁴

The Centers for Medicare and Medicaid Services' (CMS) Payment Error Rate Measurement (PERM) program measures Medicaid improper payments across all 50 States and the D.C. using a 17-state approach over a three-year rotation.¹⁵ In FY2019, the improper payment rate for the Medicaid program soared to 14.9 percent, representing over \$57 billion in improper payments¹⁶ at an increase from 9.8 percent in FY2018.¹⁷

Quick Take

GAO has placed Medicaid on the biannual *High-Risk List* since 2003 and suggested about 35 program reforms. In FY2019, Medicaid reported \$57 billion in improper payments, representing one-third of the total.

Congress must consider GAO's recommendations to ensure that Medicaid dollars are spent on vulnerable populations instead of being wasted.

According to CMS, the rise in improper payments is not comparable between FY2018 and FY2019, due to the agency's "reintegration of the PERM eligibility component for the first cycle of 17 states," which HHS did not conduct between FY2015 and FY2018.¹⁸ CMS states it will "complete the review of the remaining 33 states and [D.C.] over the next two years" to measure all states under the renewed requirements.¹⁹

According to data released by the Office of Management and Budget, the Federal Government reported a total of about \$175 billion in improper payments in FY2019. Medicaid reported over \$57 billion, representing about one-third of total improper payments.²⁰

CONSTITUTIONAL AUTHORITY AND REPUBLICAN PRINCIPLES

Congress has the authority to "make all laws which shall be necessary and proper" to carry out its mandate "to ... provide for the ... general welfare."²¹ As a matter of principle, taxpayer resources should be efficiently used for their intended purposes.

POLICY SOLUTIONS

Congress may consider introducing legislation granting state auditors access to appropriate data necessary for audits and evaluations of Medicaid on the state level.^{22,23} Additionally, Congress must continue oversight of Medicaid program integrity. GAO's recommendations for addressing Medicaid's internal weaknesses include, but are not limited to:

- CMS should identify opportunities to address barriers that limit states' participation in collaborative audits;
- CMS should conduct reviews of federal Medicaid eligibility determinations to ascertain the accuracy of these determinations and institute corrective action plans where necessary;
- CMS should establish a firm deadline requiring all states to submit complete and accurate Medicaid data to the Transformational Medicaid Statistical Information System (T-MSIS), a claims processing database run by CMS. CMS extended the deadline about six times since the original July 2014 deadline, delaying the efficient use of a national Medicaid database;²⁴
- CMS should conduct fraud risk assessments for Medicare and Medicaid that include respective fraud risk profiles and plans for regularly updating the assessments and profiles; and
- Congress should consider amending the Social Security Act to explicitly allow the Social Security Administration to share its full death file with Treasury for use through the Do Not Pay working system.

Please contact Cameron Smith or Kelsey Wall with the Republican Policy Committee at (202) 225-4921 with any questions.

¹ Alison Mitchell, Cong. Research Serv., IF10322, *Medicaid Primer*, (2018).

² U.S. Gov't Accountability Office (GAO), GAO-18-70, *Medicaid: Further Action Needed to Expedite Use of National Data for Program Oversight* (2017), <https://www.gao.gov/assets/690/688857.pdf>.

³ *Payment Accuracy 2019 Dataset*, PAYMENTACCURACY.GOV (last visited Feb. 19, 2020), paymentaccuracy.gov/resources/.

⁴ Alison Mitchell, Cong. Research Serv., R43357, *Medicaid: An Overview* (2019) <http://www.crs.gov/Reports/R43357>.

⁵ *Id.*

⁶ *Id.*

⁷ *Federal Medical Assistance Percentage (FMAP) for Medicaid and Multiplier*, The Kaiser Foundation, <https://www.kff.org/medicaid/state-indicator/federal-matching-rate-and-multiplier/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D> (last viewed Mar. 6, 2018).

⁸ Mitchell, *supra* note 1.

⁹ U.S. Gov't Accountability Office (GAO), GAO-18-444t, *Medicaid: Opportunities for Improving Program Oversight Appendix 1* (2018), <https://www.gao.gov/products/GAO-18-444T>.

¹⁰ Angie Petty, *Federal Improper Payments Show Slight Decline in FY 2017*, Deltek (Feb. 6, 2018), <https://www.deltek.com/en/learn/blogs/b2g-essentials/2018/02/federal-improper-payments-show-slight-decline-in-fy-2017> and *Payment Accuracy 2019 Dataset*, PAYMENTACCURACY.GOV (last visited Feb. 19, 2020), paymentaccuracy.gov/resources

¹¹ U.S. Gov't Accountability Office (GAO), GAO-18-444t, *Medicaid: Opportunities for Improving Program Oversight* (2018), at 1, House Comm. On Gov't Reform, Joint Hearing of the Subcomm. on Gov't Operations & the Subcomm. on Intergovernmental Affairs, *Improper Payments in State-Administered Programs: Medicaid*, April 12, 2018, <https://republicans-oversight.house.gov/wp-content/uploads/2018/04/d18444T-Errata.pdf>

¹² U.S. Gov't Accountability Office (GAO), GAO-18-598T, *Medicaid: Actions Needed to Mitigate Billions in Improper Payments and Program Integrity Risks* (2018), <https://www.gao.gov/assets/700/692821.pdf>.

¹³ U.S. Gov't Accountability Office (GAO), GAO-17-386T, *Medicaid: CMS Has Taken Steps, But Further Efforts Are Needed to Control Improper Payments* (2017), <https://www.gao.gov/assets/690/682375.pdf>.

¹⁴ U.S. Dep't of Health and Human Services, Office of the Inspector General, <https://oig.hhs.gov/reports-and-publications/top-challenges/2019/2019-tmc.pdf#page=6>.

¹⁵ U.S. Centers for Medicare & Medicaid Services (heretofore CMS), *2018 PERM Medicaid Improper Payment Rates* (last visited Feb. 26, 2020). Available at <https://www.cms.gov/Research-StatisticsData-and-Systems/Monitoring-Programs/Medicaid-and-CHIPCompliance/PERM/PERMErrorRateFindingsandReport.html>.

¹⁶ CMS, *Fact Sheet: 2019 Estimated Improper Payment Rates for Centers for Medicare & Medicaid Services (CMS) Programs*, (2019), <https://www.cms.gov/newsroom/fact-sheets/2019-estimated-improper-payment-rates-centers-medicare-medicicaid-services-cms-programs>.

¹⁷ CMS, *2018 PERM Medicaid Improper Payment Rates*, (last visited Feb. 26, 2020), available at <https://www.cms.gov/Research-StatisticsData-and-Systems/Monitoring-Programs/Medicaid-and-CHIPCompliance/PERM/PERMErrorRateFindingsandReport.html>.

¹⁸ U.S. Gov't Accountability Office (GAO), GAO-20-147t, *Medicaid Eligibility: Accurate Beneficiary Enrollment Requires Improvements in Oversight, Data, and Collaboration*, (2019), <https://www.gao.gov/assets/gao-20-147t.pdf>.

¹⁹ CMS, *Fact Sheet: 2019 Estimated Improper Payment Rates for Centers for Medicare & Medicaid Services (CMS) Programs*, (2019), https://www.cms.gov/newsroom/fact-sheets/2019-estimated-improper-payment-rates-centers-medicare-medicicaid-services-cms-programs#_ftn1.

²⁰ U.S. Off. of Mgm't and Budget, PaymentAccuracy, *Payment Accuracy 2019 Data Set*, <https://paymentaccuracy.gov/the-numbers/>.

²¹ U.S. Const. art. 1, § 8.

²² Testimony by Louisiana Legislative Auditor Daryl Purpera, CPA, CFE, House Comm. On Gov't Reform, Joint Hearing of the Subcomm. on Gov't Operations & the Subcomm. on Intergovernmental Affairs, *Improper Payments in State-Administered Programs: Medicaid*, April 12, 2018, <https://republicans-oversight.house.gov/wp-content/uploads/2018/04/Purpera-LA-Auditor-Statement-Medicaid-IP-4-12.pdf>.

²³ GAO, *supra*, note 11.

²⁴ Federal law requires states to operate a claims processing system and report Medicaid data to CMS.