IMPROPER PAYMENTS: FINDING SOLUTIONS

HEARING

BEFORE THE

SUBCOMMITTEE ON GOVERNMENT ORGANIZATION, EFFICIENCY AND FINANCIAL MANAGEMENT

OF THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

APRIL 15, 2011

Serial No. 112–26

Printed for the use of the Committee on Oversight and Government Reform

Available via the World Wide Web: http://www.fdsys.gov
http://www.house.gov/reform

U.S. GOVERNMENT PRINTING OFFICE

68–043 PDF WASHINGTON : 2011

For sale by the Superintendent of Documents, U.S. Government Printing Office
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IMPROPER PAYMENTS: FINDING SOLUTIONS

FRIDAY, APRIL 15, 2011

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON GOVERNMENT ORGANIZATION,
EFFICIENCY AND FINANCIAL MANAGEMENT,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:07 a.m. in room 2157, Rayburn House Office Building, Hon. Todd R. Platts (chairman of the subcommittee) presiding.

Present: Representatives Platts, Lankford, Amash, Guinta, Towns, Norton, and Connolly.

Staff present: Ali Ahmad, deputy press secretary; Michael R. Bebeau, assistant clerk; Robert Borden, general counsel; Adam Bordes, senior policy analyst; Christopher Hixon, deputy chief counsel, oversight; Tabetha C. Mueller, professional staff member; Noelle Turbitt, intern; Beverly Britton Fraser, counsel; Cecelia Thomas, counsel/deputy clerk.

Mr. PLATTS. The subcommittee hearing will come to order.

Before I begin the opening statement, I just want to apologize for the slight delay in starting. I anticipate that we will get through any opening statements from me and the ranking member and our witnesses. We are likely going to have a single vote. About that time, we will break, vote, and come back and do a Q and A after that vote. We will try to be as efficient as we can so as not to keep you any longer than necessary, but rather, have our discussion.

As an oversight committee, we exist to secure two fundamental principles. First, Americans have a right to know that the money Washington takes from them is well spent. Second, Americans deserve an efficient, effective government that works on their behalf.

Our duty on the Oversight and Government Reform Committee is to protect these very important rights. Our solemn responsibility is to hold government accountable to taxpayers because taxpayers have a right to know what they get from their government. We will work tirelessly in partnership with citizen watchdogs to deliver the facts to the American people and to bring genuine reform to the Federal bureaucracy. This is the mission of the Oversight and Government Reform Committee.

Today's hearing on Improper Payments continues our subcommittee's examination of Federal financial management issues. It also affords us, first, the opportunity to review the newly enacted Improper Payments Elimination and Recovery Act of 2010.

I welcome our witnesses and thank them for their efforts, both the written testimony you have provided as well as your testimony you will provide here today.

The Honorable Daniel Werfel is the Controller and Director of the Office of Federal Financial Management at the Office of Management and Budget, and Kay Daly is the Director of Financial Management and Assurance at the Government Accountability Office. We are grateful both of you are a part of this hearing.

As millions of Americans file their income taxes today, because of a holiday here, they have a couple of extra days through Monday, the 18th, as opposed to the traditional April 15th, it is important for those of us in the Federal Government to take a step back and remind ourselves of the responsibility we have to spend those tax dollars wisely.

First and foremost, that responsibility means we need to make sure that funds are being spent the way they are intended to be spent. Unfortunately, the total dollar amount of improper payments, which could be anything from payments without documentation to outright fraud, is staggering.

As both our witnesses note in their testimony, Federal agencies reported an estimated $125.4 billion in improper payments during the fiscal year 2010. As a point of reference, the President requested $125.1 billion to fund the entire Department of Veterans Affairs in 2012.

I well remember conducting a hearing in May 2003 when the estimated improper payments was $35 billion. It is important to be clear that the increases year after year are a result of better detection and reporting. That is a very good thing because as it shows, we are identifying the problem. The fiscal year 2010 financial report actually found the estimated error rate went down about half a percentage point.

That being said, we still have a responsibility to the people paying their taxes today to do the best we can in handling their hard earned funds. The total amount of improper payments is very troubling. Even with the small drop in the error rate, the dollar amount increased by $16 billion, enough to fund the FBI, the DEA and the U.S. Marshals Service for 1 year.

In response to these concerns, this committee played a key role in the passage of the Improper Payments Elimination Recovery Act and I certainly recognize then chairman of the full committee, Mr. Towns, for his committee's leadership and work on this issue.

The purpose of IPERA was to strengthen agency governance practices by incorporating a more stringent risk and performance framework for agencies to measure program outcomes. It expands the use of recovery audits and business analytics to help agencies recoup improper payments. These are common sense changes that buildupon prior requirements.

Focusing on eliminating improper payments goes to the very heart of accountability. I believe the American people are looking to us for action and solutions. I was pleased to see that both of our witnesses point to examples of success stories in your testimony. I would like this hearing to be about those types of successes, about solutions.

Technology is certainly a part of the solution and we have access to tools that weren't even invented when the Improper Payments Information Act was passed in 2002. Tools such as continuous transaction monitoring and business intelligence can help the government move toward a "prevent and detect" model other than the old "pay and chase" scheme.

Technology can only go so far. As always, sound internal controls are the better opt for any successful, sustainable and cost effective solution. Agencies need to understand the root causes of errors and to develop better controls to prevent or detect them before the money goes out the door.

One way to improve internal controls is to have a third party evaluate them. I was pleased to see your testimony addressed the issue of shifting audit resources to provide more scrutiny for payment activities.

Mr. Werfel, I see that you make reference to the upcoming report on the CFO Act in your testimony and I am looking forward to those recommendations to get additional ideas on how to better leverage our audit resources to focus more on accountability and internal controls.

Again, I thank you for your appearance here today and look forward to your testimony.

With that, I yield to the distinguished ranking member, Mr. Towns, for his opening statement.

Mr. TOWNS. Thank you very much, Mr. Chairman.

Let me thank both of you for your service.

This is a very important and timely hearing. I thank you for holding it, Mr. Chairman.

Mr. Werfel, it is good to see you again. Ms. Daly, welcome. I am looking forward to your testimony as well.

Even as the economy begins to recover from the last recession, the Federal Government still faces fiscal challenges in cutting spending and raising revenue. This subcommittee has continued to explore ways the government can save money and close the deficit.

Mr. Werfel, the last time you visited with us, you gave us an excellent overview of the current financial conditions of the Federal Government as we looked at the consolidated financial statements. Today, we focus on the reduction of improper payments. We look to you and Ms. Daly to provide us with deeper insights on how we can quickly begin to conserve our financial resources by eliminating and recapturing improper payments.

President Obama's administration has put forth very robust initiatives to eliminate improper payments which is one of the key components of the efforts to eliminate waste. I am encouraged to see that we have some positive results in response to these efforts.

The President called for a do not pay list in June 2010, so that we don't keep giving money to the same ineligible recipients repeatedly. We now have the verified payment.gov Web site which allows agencies to check recipients' eligibility before they receive their Federal payments. This is a great beginning and I would like to hear more about this effort today.

The President also asked agencies to be transparent about the amount of improper payment and to account to the American public for their actions in addressing these problems. I am pleased to see that we now have the payment accuracy.gov Web site that shows exact information. This is also a very good response.

President Obama signed the Improper Payments Elimination and Recovery Act of 2010 into law last July. That law became effective in January 2011. I am looking forward to hearing about our progress under the new law as well. A healthy financial future for the United States requires sustained effort from more than one source. We must work together. We have to watch what we spend, get rid of waste, increase revenue and reduce improper payments, all at the same time to accomplish this goal.

I am looking forward to working in a bipartisan way to reduce, to capture and to eliminate improper payments.

On that note, Mr. Chairman, I yield.

Mr. PLATTS. I thank the gentleman and certainly look forward, as well, to working together in that bipartisan fashion within the committee as well as with our executive branch colleagues.

With that, I yield to the gentleman from Virginia, Mr. Connolly, for an opening statement.

Mr. CONNOLLY. Thank you, Chairman Platts.

I want to thank you for holding this hearing to assess progress in reducing improper payments. Although this is a common topic of inquiry, sustained oversight can produce dividends for taxpayers by highlighting progress and identifying other opportunities for improvement.

Congress and the administration have focused on reducing improper payments. President Obama issued Executive Order No. 13520 reducing improper payments. President Obama also ordered that a do not pay list be created to avoid repeated improper payments and issued two memoranda to agencies to provide guidance in reducing improper payments.

Despite these efforts, improper payments grew by $16 billion in fiscal year 2010, indicating the need for further action. Therefore, Congress continued to ramp up efforts to reduce improper payments. During the last session, Congress included language to reduce improper Medicare payments in the Affordable Care Act, saving up to $80 billion annually.

Congress also passed the Improper Payments Elimination and Recovery Act, as Mr. Towns just indicated, introduced by former Congressman Patrick Murphy and co-sponsored by many Members including yourself, Mr. Chairman.

IPERA expanded reporting requirements and improved agencies' ability to recover improper payments. Many of IPERA's provisions became effective in fiscal year 2011, so we will need to continue monitoring its implementation to see how well it works and whether it can be strengthened.

In his written testimony, Mr. Werfel, a familiar figure now here in this committee, I think we need to make him an honorary member at some point, Mr. Chairman, estimates the successful implementation of improper payment reduction programs could save $160 billion over 10 years, so there are substantial cost savings.

There is evidence we already are making progress. While the total amount of improper payments grew during the last fiscal year, the improper payment rate across the Federal Government actually fell from 5.65 percent to 5.49 percent. While that still is far too high, it is important to recognize the progress agencies have achieved as this reduction in improper rates saved the taxpayers $4 billion and it is progress upon which we can build.

I want to again thank you for holding the hearing and I look forward to hearing the testimony.

Mr. PLATTS. I thank the gentleman.

We will now move to opening statements of the witnesses. Again, we have the Honorable Daniel Werfel, Controller and Director of the Office of Federal Financial Management of the Office of Management and Budget. We certainly would be honored to have him as an honorary member. Whether he would be willing to associate himself with us, I am not sure.

We also have Ms. Kay Daly, Director, Financial Management and Assurance, Government Accountability Office. We are always delighted and grateful to partner with GAO as well on your important work.

It is the practice of the subcommittee that all witnesses be sworn before testimony. Please rise to take the oath.

[Witnesses sworn.]

Mr. PLATTS. The record will reflect that both witnesses answered in the affirmative. Again, we are grateful for your testimony.

Mr. Werfel, would you like to begin?

STATEMENT OF DANIEL I. WERFEL, CONTROLLER, OFFICE OF MANAGEMENT AND BUDGET; AND KAY L. DALY, DIRECTOR, FINANCIAL MANAGEMENT AND ASSURANCE, GOVERNMENT ACCOUNTABILITY OFFICE

STATEMENT OF DANIEL I. WERFEL

Mr. WERFEL. Thank you.

Chairman Platts, Ranking Member Towns, Congressman Connolly, and distinguished members of the subcommittee, I want to thank you for inviting me to testify today. I appreciate the opportunity to discuss the Federal Government's current efforts to prevent, reduce and recapture improper payments, as well as how the audit process can be improved to focus on key programmatic issues like payment errors.

As has been discussed in fiscal year 2010, Federal agencies estimated approximately $125 billion in improper payments were made to individuals, organizations and contractors. Although not all errors represent fraud, all payment errors degrade the integrity of government programs and compromise citizen trust in government.

As part of the administration's Accountable Government Initiative, we have set aggressive goals to prevent $50 billion in improper payments and recapture at least $2 billion in improper payments between fiscal years 2010 and 2012. In addition to the enactment of IPERA, the administration is taking numerous steps to prevent, reduce and recapture improper payments.

First, as mentioned earlier, in November 2009, the President issued an Executive order dedicated to the sole purpose of reducing improper payments. The order drives transparency, increased agency accountability and new incentives for State and local governments to reduce error.

Second, last June, the President issued a memorandum to agencies on enhancing payment accuracy through a Do Not Pay list, as Congressman Towns referenced. The Do Not Pay list will serve as a single source through which all agencies can check the status of a potential contractor, grantee or individual beneficiary by linking the agency to relevant eligibility data bases such as the Social Security Administration's Death Master File and the General Service Administration's Excluded Party list.

The initial portal has been built. However, full implementation of this Initiative will be done over several phases, including where we are now which is currently pilot testing the solution with Federal agencies.

As envisioned, the Do Not Pay list, when fully operational, will not just be a data match tool, but will leverage cutting edge, fraud technology for a detection technology to further reduce the number of improper payments.

Third, in March 2010, the President issued a memorandum to agencies directing them to intensify and expand their efforts to recapture error. We have set a goal of recovering at least $2 billion in improper payments between fiscal years 2010 and 2012. I am pleased that in this area we are making significant progress in meeting this goal as agencies reported in fiscal year 2010 that they had recaptured $687 million improper payments which is nearly a 300 percent increase from prior recoveries.

As you can see, we are working toward preventing and recapturing improper payments across the government. However, we are continuously looking for better and more creative ways to address these challenges. For example, a financial statement audit result addressed whether the agency had the appropriate accounting in place to record that a payment has occurred. However, the audit opinion too often stopped short of scrutinizing the integrity of that payment. This leads to a result where there is no correlation between an agency's ability to obtain a clean audit opinion on their financial statements and an agency's ability to mitigate instances of improper payments.

I believe an important improvement that should be considered as we reexamine our Federal reporting model is holding the agency accountable as part of their financial statement audit for reporting the various root causes and components of their payment errors, identifying those areas of error that are within their direct and immediate control for the agency to mitigate, and then having the auditor evaluate whether the agency has taken sufficient action to mitigate the risk associated with such errors.

I believe this proposed change would reinforce the Federal financial community's current focus and ongoing commitment to improving results in this area.

I want to thank you again for inviting me to testify and I look forward to answering any questions you have.

[The prepared statement of Mr. Werfel follows:]

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Testimony of Daniel I. Werfel
Controller, Office of Management and Budget
before the
House Committee on Oversight and Government Reform
Subcommittee on Government Organization, Efficiency, and Financial Management

April 15, 2011

Introduction

Thank you Chairman Platts, Ranking Member Towns, and distinguished members of the Subcommittee, for inviting me to discuss the Federal government's current efforts for preventing, reducing, and recapturing improper payments as well as how the audit process can be improved to focus on key programmatic issues, like payment errors. A little over a month ago I spoke before the Subcommittee about the Consolidated Financial Report and Federal financial management, and appreciate the opportunity to spend more time discussing pressing issues of financial management that impact the government's bottom line.

One of the biggest sources of waste and inefficiencies within the Federal government is the amount we pay out each year in improper payments. In Fiscal Year (FY) 2010, Federal agencies estimated approximately $125 billion in improper payments were made to individuals, organizations, and contractors. Improper payments occur when funds go to the wrong recipient, an ineligible recipient receives a payment (e.g., a deceased or incarcerated individual), the proper recipient receives the incorrect amount of funds (including overpayments and underpayments), documentation is not available to support a payment, or the recipient uses funds in an improper manner. Although not all errors are fraud (i.e., most payment errors are inadvertent) and not all errors are waste (i.e., a significant amount of error is based on missing documentation that later prove to be correct), all payment errors degrade the integrity of government programs and compromise citizens' trust in government. As a result, the President has launched an aggressive and comprehensive campaign to address improper payments, rather than accept the status quo.

As part of the Administration's Accountable Government Initiative, we have moved to cut programs that don't work, streamlined how government operates to save money and improve performance, and made government more open and responsive to the needs of the American people. Accordingly, I am pleased that we have set aggressive goals to prevent $50 billion in improper payments, and recapture at least $2 billion in improper payments between FY 2010 and FY 2012—a significant acceleration and increase of recoveries from the previous several years.

While the Administration has several initiatives underway to accomplish these goals, our partnership with Congress is vital to these efforts to prevent and recover improper payments. The enactment of the bipartisan Improper Payments Elimination and Recovery Act (IPERA) of 2010 was an important milestone in this partnership, providing Federal agencies with new tools to address payment errors. This week OMB released guidance to agencies for implementing IPERA. This guidance ensures that agencies are properly assessing risk in their programs, measuring and reporting improper payments for required programs, and establishing corrective action plans and reduction targets to drive agency performance. In addition, when improper payments are made, IPERA and the implementing guidance expand the agencies' authorities and requirements for getting back overpayments, one of the most significant types of improper payments.

Another critical step in addressing improper payments is the President's FY 2012 Budget, which contains a suite of mandatory and discretionary proposals that enable critical program integrity improvements in areas such as Medicare, Medicaid, Unemployment Insurance (UI), and Social Security. Common to all these proposals are taxpayer savings from the elimination of waste and error. In total, the President's proposals, if enacted, would save more than $160 billion over 10 years.

In addition, the Affordable Care Act (ACA) of 2010 (Pub. L. 111-148 and Pub. L. 111-152) was an important milestone for improving program integrity efforts, as the new law contains numerous authorities and tools for the Department of Health and Human Services (HHS) to root out fraud and error in Medicare, Medicaid, and the Children's Health Insurance Program (CHIP) and to recapture improper payments in these programs. With the ACA's passage, we are now focused on the important work of effectively executing these new authorities in a manner that results in swift and sharp decreases in payment errors in our Federal health care programs.

The remainder of my testimony today further elaborates on our efforts to prevent and recover improper payments, as well as how government auditing processes can be improved to enhance program integrity within agency programs.

Improper Payments Overview

The Federal government makes trillions of dollars in payments every year. These payments provide support to millions of retirees and disabled individuals; student loan benefits for many college-aged students; payments to contractors for services performed in the United States and abroad; and funds to States for State-administered programs like UI and the Supplemental Nutrition Assistance Program (SNAP).

The vast majority of payments made by the government are proper. This means that the payments are made in the right amount, are sent to the right recipient, and are used for the right purpose. Unfortunately, though, there are instances where the government makes payments that are improper.

Recognizing that improper payments were likely a problem that extended throughout the Federal government, Congress passed the Improper Payments Information Act of 2002 (IPIA, Pub. L. 107-300), which was recently amended by the Improper Payments Elimination and Recovery Act of 2010 (Pub. L. 111-204). Among other things, the law requires agencies to conduct risk assessments to determine which programs are susceptible to significant improper payments, to measure and report improper payment rates and amounts for programs that are found to be susceptible to improper payments, to implement corrective actions to address the root causes of improper payments, and to establish reduction targets to drive agency efforts to reduce and prevent future improper payments.

Prior to IPIA, there was limited knowledge of the extent of government-wide improper payments. However, agencies are now identifying programs that are susceptible to making significant improper payments as well as identifying and addressing the root causes of these improper payments. In FY 2004, the first year of government-wide improper payment reporting under the IPIA, agencies measured 30 programs and reported an estimated $45 billion in improper payments. Since then, the number of programs being measured for improper payments has more than doubled, agencies have refined their measurement methodologies and improved the identification of improper payments, and government outlays have increased. These three factors have led to increases in improper payments reported by agencies, and in FY 2010, the most recent year of reporting, agencies reported $125 billion in improper payments. While the amount of improper payments increased, the reported government-wide improper payment rate declined from 5.65 percent in FY 2009 to 5.49 percent in FY 2010. This percentage decrease represents real progress, as the government would have made approximately $4 billion more in improper payments had the error rate remained the same in FY 2010 as it was in FY 2009.

As noted throughout my testimony, the Administration has taken an aggressive stance to remediate the $125 billion in estimated improper payments in FY 2010. To that end, we have several initiatives planned and under way that I would like to highlight today that aim to prevent, reduce, and recapture improper payments. While our ultimate goal is to reduce the number of improper payments the Federal government pays out, the Administration is cognizant that efforts to reduce improper payments cannot unduly burden the intended beneficiaries of program benefits and legitimate entities doing business with the Federal government. That is why we are committed to focusing on both reducing improper payments and at the same time ensuring program access for program participants.

Current Administration Efforts

In addition to putting forward administrative, legislative, and funding requests in the FY 2012 President's Budget, the Administration is already taking several steps to prevent, reduce, and recapture improper payments. I would like to highlight and provide a brief description of six of these initiatives: (1) implementation of Executive Order 13520 on Reducing Improper Payments; (2) status of the "Do Not Pay List;" (3) agency efforts to recapture improper payments; (4) implementation of the Affordable Care Act (P. L. 111-148); (5) leveraging cutting edge forensic technology; and (6) status of pilots of the Partnership Fund for Program Integrity Innovation.

Executive Order 13520 on Reducing Improper Payments

In response to the large increase in improper payments between FY 2008 and FY 2009, on November 20, 2009, the President issued Executive Order 13520 on Reducing Improper

Payments.[1] The Executive Order aims to reduce and prevent improper payments by enhancing transparency, increasing agency accountability, and exploring incentives for State and local government efforts to reduce improper payments in State-administered programs (like UI, SNAP, and Medicaid). The Executive Order represents a fresh approach to addressing improper payments. It emphasizes the importance of detecting fraudulent claims, averting improper payments, and improving payment accuracy without making government programs harder to navigate, or restricting access to benefits for legitimate beneficiaries—such as poor families who need SNAP benefits to help put food on the table, or children who need health care and qualify for Medicaid or CHIP.

Agencies have made great strides in implementing the Executive Order. We have identified agencies with high-priority programs that account for the majority of improper payments, established supplemental measures to provide more frequent and current measurements for the majority of these high-priority programs, and selected Accountable Officials that are responsible for coordinating efforts to reduce improper payments at agencies with high-priority programs. All of this information is now readily available to the public on an improper payments dashboard.[2] Specifically, the dashboard, which was required by the Executive Order, includes:

- Government-wide and program-by-program data on improper payment rates, amounts and reduction targets;
- Data on the amount of contract payment errors recovered;
- The top 10 high-dollar improper payments for the most recent reporting quarter;
- The identity of the agency Senior Accountable official; and
- Agency success stories.

The "Do Not Pay List"

In addition to Executive Order 13520, the Administration has taken other steps to reduce and prevent improper payments. In June 2010 the President issued a memorandum to agencies on enhancing payment accuracy through a "Do Not Pay List" (DNP).[3] The President's memorandum directs that a DNP list be established, which will serve as a single source through which all agencies can check the status of a potential contractor, grantee, or individual beneficiary by linking the agency to relevant eligibility databases, such as the Social Security Administration's Death Master File or the General Service Administration's Excluded Parties List System.

While the initial portal has been built, the implementation of this initiative will have several components to be executed in phases such as conducting pilot tests of the portal by Federal agencies, addressing implementation issues, linking additional databases, and developing capabilities for automating checks by agency systems. The automation phase would incorporate cutting-edge fraud detection technology to further reduce the number of improper payments.

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[1] Executive Order 13520 can be viewed on the White House's website at: http://www.whitehouse.gov/the-press-office/executive-order-reducing-improper-payments
[2] The dashboard can be found at: http://PaymentAccuracy.gov/
[3] The President's memorandum on Enhancing Payment Accuracy Through a "Do Not Pay List" can be viewed on the White House's website at: http://www.whitehouse.gov/the-press-office/presidential-memorandum-enhancing-payment-accuracy-through-a-do-not-pay-list

It is important to note that the FY 2012 President's Budget includes a $10 million request for the Department of the Treasury's Bureau of the Public Debt to create an operations center focused on using cutting-edge technology to fight waste, fraud, and abuse, and to expand the DNP portal. The new operations center and the DNP portal expansion will leverage the type of forensic technology successfully deployed by the Recovery Accountability and Transparency Board (Recovery Board) to monitor and root out fraud in Recovery Act funding. The operations center will be available to agency management and the Inspector's General community to fight waste, fraud, and abuse.

OMB is currently working with the Department of the Treasury to implement the early phases of the DNP list. Specifically, we are coordinating pilots with select Federal agencies to demonstrate the effectiveness of the DNP list solution. Based on the results of these pilots, we will incorporate pilot results to improve the portal prior to the expansion of the DNP list government-wide. We anticipate completing the pilot projects by the end of FY 2011, with full implementation of the DNP list occurring by the end of FY 2012.

We believe that the DNP portal will allow Federal agencies to utilize technology to access eligibility information in a timely and cost-effective manner and ultimately help reduce improper payments. As we work to develop and implement the DNP list, we look forward to working with Congress to ensure that agencies have access to relevant information and databases, and technological resources and systems, which can help prevent improper payments before they occur.

Payment Recapture Audits

While the Administration believes agencies must do everything possible to prevent and reduce improper payments, we also believe that when they do occur, agencies should do everything possible to recapture those that are overpayments. Therefore, on March 10, 2010, the President issued a memorandum to agencies directing them to intensify and expand their efforts to recapture improper payments.[4] Under the Recovery Auditing Act, agencies were required to review contract outlays if their annual awards are over $500 million. Many agencies retain the services of contractors that use sophisticated software and tools to identify contract overpayments that could be recovered. In addition, other agencies review grant, benefit, and contract payments as part of their normal post-payment review process. Certain other programs also were authorized under other statutes to review payments under a Recovery Auditing program and to recover any improper payments identified during these reviews. Through these and other methods, agencies are reviewing their payments and recapturing any improper payments identified.

The President's memorandum of March 10, 2010, directs agencies to intensify and expand these efforts. In accordance with the memorandum, we have set a goal of recovering at least $2 billion in improper payments between FY 2010 and FY 2012, a significant acceleration from the previous several years. I am pleased that we are making significant progress in meeting this

[4] The Presidential memorandum of March 10, 2010 can be viewed on the White House's website at: http://www.whitehouse.gov/the-press-office/presidential-memorandum-regarding-finding-and-recapturing-improper-payments

goal, as agencies reported in FY 2010 that they had recaptured $687 million in improper overpayments, a nearly 300 percent increase from prior recoveries.

OMB continues to work with agencies to review payment recapture audit programs, identify best practices, and implement improvements to agency efforts to identify and recapture improper payments, and to meet the recovery goal. In addition, IPERA will also significantly expand agency efforts to recapture improper payments by lowering the threshold for conducting recovery audits and expanding their scope to payments beyond contracts.

The Affordable Care Act of 2010

As you know, Federal health care programs are a major driver of government-wide improper payments, due in part to the complexity and size of their programs, and HHS' programs accounted for nearly 60 percent of government-wide improper payments in FY 2010. To address this problem, last summer the President announced an ambitious and aggressive goal to reduce improper payments in the Medicare fee-for-service program by 50 percent—from 12.4 percent to 6.2 percent—by FY 2012. In FY 2010, HHS reported that the Medicare fee-for-service program is making progress in meeting this goal, with a decrease in the program's improper payment rate to 10.5 percent. We intend to build on this success and achieve the President's goal through many of the initiatives I have already described, as well as through the provisions contained in the new health reform law.

The ACA was signed into law just over a year ago, and the White House and the Office of Management and Budget are working with Federal agencies to implement this historic legislation. While the new law contains many important provisions to extend and improve health care for millions of Americans, it also has several provisions designed to prevent and detect fraud and abuse, to identify and recover improper payments, and to penalize those who commit fraud or abuse, in Medicare, Medicaid, and CHIP.

These provisions include:

- Providing the Secretary of HHS with new authorities to increase screening of providers and suppliers before they enroll in Medicare, Medicaid, or CHIP and to conduct oversight directly after they enroll; and to implement temporary moratoria on new providers in high-risk areas to combat waste, fraud, and abuse;
- Increasing data sharing between Federal agencies – like HHS' Centers for Medicare & Medicaid Services (CMS), SSA, the Department of Defense, and the Department of Veterans Affairs – to detect and investigate potential fraud and abuse throughout Federal health programs;
- Expanding the Recovery Audit Contractor program from Medicare Parts A and B to also include Medicare Parts C and D and Medicaid; and
- Enhancing civil and criminal penalties for Federal health care fraud and false claims.

The Administration is currently working across agencies to implement these and other program integrity provisions included in the new law.

Leveraging Cutting Edge Forensic Technology

I would like to highlight the government's use of technology to identify and prevent improper payments and fraud. Specifically, an increasing number of agencies are using data mining and other business intelligence tools to look across programs to identify errors that can either be prevented before they are made, or recovered if they are made.

For instance, CMS—the HHS agency that administers Medicare, Medicaid, and CHIP— is beginning to use prepayment edits to identify payments with characteristics that are outside the norm, such as duplicate payments, overpayments in general, and a large number of payments to one provider. In addition, CMS is also developing predictive analytic technologies to stop improper payments on the front end before they occur, rather than identifying and trying to recover improper payments after they are made. These predictive modeling technologies help the agency establish a profile of the type of payments that should trigger an intensified review as well as payment that should not be made. This type of predictive modeling has been used successfully by the credit card industry to identify suspicious payments, and could also potentially stop improper payments at Federal agencies. In addition, the Department of Defense (DoD) has prevented more than $2 billion in improper payments to vendors since August 2008 through the deployment of their Business Activity Monitoring (BAM) tool. BAM is an analytical tool that assists DoD in flagging potential improper payment transactions before they are completed and the money is spent.

Lastly, the Recovery Board has deployed a cutting-edge fraud mapping tool that leverages the latest technologies in data capture and analytics to identify potential fraud and error. The Recovery Board has pioneered and refined the tool, which has been cited as one of the reasons why fraud and abuse in Recovery Act funds has been much lower than most people expected. Last summer, we announced that we are starting to roll out this innovative tool for use across government. We first piloted the tool at CMS, a natural place to start since Medicare and Medicaid combined had an estimated $70 billion in improper payments in FY 2010— including an estimated $48 billion in Medicare alone. In this successful pilot, CMS partnered with the Recovery Board to investigate a group of high-risk providers. By linking public data found on the Internet with other information, like fraud alerts from other payers and court records, the pilot uncovered a potentially fraudulent scheme. The data confirmed several suspect providers who were already under investigation and, through linkage analysis, identified affiliated providers who are now also under investigation.

Partnership Fund for Program Integrity Innovation

A final area that I would like to highlight is the Partnership Fund for Program Integrity Innovation. The FY 2010 Consolidated Appropriations Act (Pub.L. 111-117) allocated $37.5 million for the Partnership Fund for Program Integrity Innovation (the Partnership Fund). The purpose of the Partnership Fund is to identify ways to improve service delivery, payment accuracy, and administrative efficiency, while also reducing access barriers to Federal assistance programs and protecting beneficiaries.

We have made significant progress since the Partnership Fund's inception. The first pilot was approved in January, providing up to $2 million in funding for the Department of the Treasury to test how the Internal Revenue Service (IRS) might conduct data matching with states to help reduce the unacceptable improper payment rate of roughly 25 percent in the Earned Income Tax Credit (EITC) program. The pilot will assess the potential for program data from state-administered benefits programs to help validate EITC eligibility by providing timely data on key EITC eligibility criteria, such as family composition and dependent residency, before EITC payments are actually issued. The pilot will be conducted as a simulation using IRS and state data from prior tax years. If successful, this pilot ultimately could help prevent thousands of annual improper EITC payments if enacted nationwide.

The Collaborative Forum, a self-directed group of state and other stakeholders established last fall, convenes work groups that develop promising pilot ideas into proposals that may then be considered for funding. The Collaborative Forum continues to develop a pipeline of high-return-on-investment pilot ideas that address programs with significant amounts of improper payments. Examples of the high-return-on-investment pilots under development include:

- Enabling states to better leverage the existing Treasury Offset Program to collect outstanding debt owed to government programs such as Medicaid and Temporary Assistance for Needy Families (TANF) from other government payments to the debtor individuals;
- Using banking transaction data to identify likely improper payments in the unemployment insurance programs by identifying payroll deposits; and
- Creating a regional clearinghouse of program eligibility data to facilitate uninterrupted benefits delivery during a disaster while also preventing duplicate participation in Medicaid, SNAP, and other programs across State lines.

I am very excited about this promising program and the potential improvements and savings that we expect to demonstrate in the near future.

Improving and Leveraging the Audit Process to Enhance Program Integrity Efforts

As indicated above, we are taking an aggressive posture to prevent and recapture improper payments, which will ultimately improve financial management across the Federal government. As demonstrated by our current efforts for improving Federal financial management, we are continuously looking for better and more creative ways to address our financial management challenges.

I previously testified before this committee that, while audit results signal financial management success in many areas, there are critical financial management objectives not currently evaluated or addressed through standard financial statement audit activities. The recent 20-year anniversary of the Chief Financial Officers Act (CFO Act) of 1990, and the passage of IPERA, have sparked a new and important dialogue among Federal financial management stakeholders concerning the gaps in our current reporting process and how best to close them. Informed by these discussions and my experience as the day-to-day leader of Federal financial management efforts across government, I believe there are three improvements to financial reporting that represent the greatest opportunity to drive bottom-line results for taxpayers. They are:

- Improving reporting on where Federal taxpayer dollars are spent;
- Instituting stronger internal controls to mitigate government waste and error; and

- Increasing access to reliable information on the cost of agency operations.

Together, these three improvements can provide better information for Federal managers to make more informed decisions, enhance program integrity efforts, and increase agency transparency.

Most relevant to improper payments is the need to focus audit scrutiny on internal controls to mitigate error. Today, our financial statement audit results address whether the agency has the appropriate accounting in place to successfully record that a payment has occurred. However, the audit opinion often stops short of scrutinizing the integrity of that payment. This leads to a result where there is no correlation between an agency's ability to obtain a clean opinion and an agency's ability to mitigate instances of improper payments. I believe an important improvement that should be considered as we re-examine our reporting model is holding the agency accountable for reporting the various root causes and components of their payment errors, identifying those areas of error that are within the direct and immediate control of the agency to mitigate, and evaluating whether the agency has taken sufficient action to mitigate the risk associated with such errors.

I believe this proposed change to our reporting model would reinforce the Federal financial community's current focus on improving the results in this area.

Conclusion

The problem of improper payments is not new, and it has likely affected Federal agencies since the founding of our country. Nonetheless, the amount of improper payments made by the Federal government has reached unprecedented high levels and must be aggressively addressed. Under this Administration, Federal agencies are renewing and improving their efforts in this area, and we have begun to see progress.

The President has made combating improper payments within the Federal government a priority. As I stated before, the Administration's Accountable Government Initiative is aiming to cut programs that don't work, streamline how government operates to save money and improve performance, and make government more open and responsive to the American people.

In addition to the six areas I highlighted throughout my testimony—including three Presidential directives on preventing improper payments and recapturing overpayments over the last year and a half—the enactment of IPERA and OMB's guidance to agencies will help us meet the President's goal of preventing $50 billion in improper payments and recapturing $2 billion by the end of FY 2012. The Administration has taken important steps towards achieving the President's goals, which have yielded early results, such as a decline in the Government-wide improper payment rate between FY 2009 and FY 2010.

We are proud of these early results, but we are constantly looking for additional ways to address improper payments. In order to identify and leverage additional tools that will help drive down errors, the FY 2012 President's Budget includes a number of legislative and administrative reforms on improper payments and debt collection, which collectively comprise our program integrity efforts and would result in over $160 billion in savings to the Federal government over ten years, if enacted. Another way to address improper payments, as highlighted in my testimony, is to improve and change the way we conduct our financial statement audits, which may help us find better and creative opportunities for enhancing program integrity and reducing improper payments.

In the months ahead, the Administration will continue to work through the Accountable Government Initiative to restore a sense of responsibility and accountability for taxpayer dollars.

Thank you again for inviting me to testify. I look forward to answering your questions.

Mr. PLATTS. Chairman Issa. Thank you, Mr. Werfel.
Ms. Daly.

STATEMENT OF KAY L. DALY

Ms. DALY. Thank you, Chairman Platts, Member Towns and Congressman Connolly.

I appreciate the opportunity to be here today to discuss the governmentwide problem of improper payments in Federal programs and agencies' efforts to address key requirements of the Improper Payments Information Act of 2002, commonly referred to as IPIA.

For fiscal year 2010, 20 agencies reported improper payment estimates for over 70 programs that totaled over $125 billion. This is an increase from the fiscal year 2009 estimate of about $109 billion, primarily due to increases in estimated improper payments for four major programs—Unemployment Insurance, Earned Income Tax Credits, Medicaid and Medicare Advantage.

The agencies administering these programs reported that the increases in the estimates were primarily attributable to an increase in program outlay. That was the case for Medicaid and Medicare Advantage programs even though those two programs reported lower error rates. Both the Unemployment Insurance and Earned Income Tax Credit programs reported higher program outlays and higher error rates for fiscal year 2010 when compared to fiscal year 2009.

Although overall improper payments rose by about $16 billion, we view this as a positive step because it indicates that agencies have increased their efforts to identify and report improper payments which will ultimately improve transparency over the full magnitude of the improper payment problem. This is a critical first step in establishing effective accountability measures to reduce them.

Some agencies reported they had made progress to reduce improper payments in their programs and activities. Since initiative IPIA implementation in 2004, we found that more programs are reporting every year and that 17 agency programs that had reported improper payment error rates from between 2004 and 2010, reported reduced error rates in those programs. While these error rate reductions are promising, some major challenges do remain.

For example, we found that the $125 billion improper payment estimate does not reflect the full scope of improper payments across all agencies. Seven programs that had been identified as susceptible to the risk of improper payments with 2010 outlays totaling about $85 billion, did not report an estimate. Most notable of these is the Medicare Prescription Drug Benefit Program which had outlays of about $59 billion in 2010 but has not yet reported a comprehensive estimate of improper payments. The program does expect to do so in fiscal year 2011.

During fiscal year 2010, there were a number of actions taken intended to strengthen the framework for reducing and reporting improper payments. As we noted, the President signed the Executive order in November 2009 to increase transparency and accountability for improper payments and the President also issued two memoranda in June and March that were intended to expand efforts to recapture improper payments and also use recovery audits, in addition to establishing a Do Not Pay List.

The President also set the goal to reduce improper payments overall by $50 billion and to recapture at least $2 billion by the end of fiscal year 2012. In addition, in July 2010, the Improper Payments Elimination and Recovery Act, commonly referred to as IPERA, was passed and is intended to enhance reporting and reduction of improper payments.

IPERA established additional requirements related to Federal manager accountability, recovery auditing aimed at identifying and reclaiming payments made in error, and compliance and noncompliance determinations based on Inspector General assessment of whether an agency is meeting IPERA requirements. For example, IPERA required agency managers and the programs to be held accountable for achieving the agency's goal.

In closing, we recognize that measuring improper payments and taking action to reduce them are not simple tasks. The ultimate success of the governmentwide effort to reduce improper payments hinges on each Federal agency's diligence and commitment to identify, estimate, determine the causes of and take corrective actions to reduce improper payments.

Mr. Chairman, Ranking Member Towns and Representative Connolly, I would like to thank you for providing the opportunity for me to speak before you today. I also appreciate your commitment to addressing this serious problem. I would be pleased to respond to any questions you may have at the appropriate time.

[The prepared statement of Ms. Daly follows:]

United States Government Accountability Office

GAO

Testimony
Before the Subcommittee on Government Organization, Efficiency, and Financial Management, Committee on Oversight and Government Reform, House of Representatives

For Release on Delivery
Expected at 10:00 a.m. EDT
Friday, April 15, 2011

IMPROPER PAYMENTS

Recent Efforts to Address Improper Payments and Remaining Challenges

Statement of Kay L. Daly
Director
Financial Management and Assurance

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GAO-11-575T

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Highlights

Highlights of GAO-11-575T, a testimony before the Subcommittee on Government Organization, Efficiency, and Financial Management, Committee on Oversight and Government Reform, House of Representatives

April 15, 2011

IMPROPER PAYMENTS

Recent Efforts to Address Improper Payments and Remaining Challenges

Why GAO Did This Study

GAO's work over the past several years has highlighted long-standing, widespread, and significant problems with improper payments in the federal government. Fiscal year 2010 marked the 7th year of implementation of the Improper Payments Information Act of 2002 (IPIA). IPIA requires executive-branch agencies to identify programs and activities susceptible to significant improper payments, estimate annual amounts improperly paid, and report these estimates and actions taken to reduce them. On July 22, 2010, the Improper Payments Elimination and Recovery Act of 2010 (IPERA) was enacted. IPERA amended IPIA and expanded requirements for recovering overpayments across a broad range of federal programs.

This testimony addresses (1) progress federal agencies have reported in estimating and reducing improper payments in fiscal year 2010, (2) challenges that continue to hinder full reporting of improper payment information, and (3) recent efforts by Congress and the executive branch intended to improve transparency and accountability for reporting, reducing, and recovering improper payments. This testimony is primarily based on prior GAO reports. GAO summarized available fiscal year 2010 improper payment information reported by federal executive-branch agencies and actions taken by the executive branch and Congress intended to improve transparency over, accountability for, and reduction of improper payments.

View GAO-11-575T or key components. For more information, contact Kay Daly at (202) 512-9312 or dalykl@gao.gov.

What GAO Found

Federal agencies reported an estimated $125.4 billion in improper payments for fiscal year 2010. The $125.4 billion estimate of improper payments federal agencies reported in fiscal year 2010 was attributable to over 70 programs spread among 20 agencies. Federal agencies' fiscal year 2010 estimated improper payment amount is an increase of $16.2 billion from federal agencies' prior year reported estimate of $109.2 billion.

- **Progress Reported in Estimating and Reducing Improper Payments.** Since the initial implementation of IPIA in fiscal year 2004, federal agencies have consistently identified new programs or activities as risk-susceptible and reported estimated improper payment amounts. In addition, federal agencies have reported progress in reducing improper payments and payment error rates in some programs and activities. From fiscal years 2004 through 2010, 28 programs have consistently reported estimated improper payment error rates for each year. Of these 28, 17 agency programs reported reduced error rates in comparison with their initial or baseline error rates reported in fiscal year 2004.
- **Challenges Remain in Meeting Legislative Requirements to Fully Report Improper Payments Information.** Agency reporting highlighted challenges that remain in meeting the requirements of IPIA, including determining the full extent of improper payments across the federal government and in reasonably assuring that effective actions are taken to reduce improper payments. Specifically, two agencies did not report on risk assessments of their programs and activities and three agencies did not develop and report on improper payments estimates for seven risk-susceptible programs with significant amounts of outlays.
- **Recent Efforts to Address Improper Payments.** During fiscal year 2010, a number of changes and initiatives were put in place that are intended to strengthen the framework for reducing and reporting improper payments. For example, the President issued Executive Order 13520, *Reducing Improper Payments*. The President also issued two memoranda intended to expand agency efforts to recapture overpayments and directed that a Do Not Pay List be established to help prevent improper payments. Further, IPERA was enacted. In addition to amending the IPIA existing requirements, IPERA establishes additional requirements, among others, related to (1) federal agency management accountability; and (2) recovery auditing aimed at identifying and reclaiming payments made in error. We view these actions as positive steps; however, it is too soon to determine whether these activities will achieve their goal of reducing improper payments while continuing to ensure that federal programs serve and provide access to intended beneficiaries.

Chairman Platts, Ranking Member Towns, and Members of the Subcommittee:

Thank you for the opportunity to be here today to discuss the issue of improper payments in federal programs and activities, including efforts by federal agencies to identify and remediate improper payments.[1] Since fiscal year 2000, we have issued a number of reports and testimonies aimed at raising the level of attention and corrective actions surrounding improper payments. Our work over the past several years has highlighted long-standing, widespread, and significant problems with improper payments across the federal government.[2] Fiscal year 2010 marked the 7th year of implementation of the Improper Payments Information Act of 2002 (IPIA).[3] IPIA requires executive-branch agencies to annually review all programs and activities to identify those that are susceptible to significant improper payments, estimate the annual amount of improper payments for such programs and activities, and report these estimates along with actions taken to reduce improper payments for programs with estimates that exceed $10 million. The Improper Payments Elimination and Recovery Act of 2010 (IPERA),[4] enacted July 22, 2010, amended IPIA by expanding on the previous requirements for identifying, estimating, and reporting on programs and activities susceptible to significant improper payments and expanding requirements for recovering overpayments across a broad range of federal programs.[5] IPERA provisions generally become effective in fiscal year 2011. As the steward of taxpayer dollars, the federal government is accountable for how its agencies and grantees

[1]An improper payment is defined as any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. It includes any payment to an ineligible recipient, any payment for an ineligible service, any duplicate payment, payment for services not received, and any payment that does not account for credit for applicable discounts. Office of Management and Budget (OMB) guidance also instructs agencies to report payments for which insufficient or no documentation was found as improper payments.

[2]See GAO, *Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue*, GAO-11-318SP (Washington, D.C.: Mar. 1, 2011), pp. 209-210.

[3]Pub. L. No. 107-300, 116 Stat. 2350 (Nov. 26, 2002).

[4]Pub. L. No. 111-204, 124 Stat. 2224 (July 22, 2010).

[5]For fiscal year 2010, OMB defined the term significant improper payments under IPIA as exceeding both 2.5 percent of program payments and $10 million. IPERA sets forth specific criteria to define the term significant for future fiscal years.

spend hundreds of billions of taxpayer dollars annually, including safeguarding those expenditures against improper payments, as well as for establishing mechanisms to recoup those funds when improper payments occur.

The Office of Management and Budget (OMB) continues to play a key role in the oversight of the governmentwide improper payments problem. OMB has established guidance for federal agencies on reporting, reducing, and recovering improper payments[6] and has established various work groups intended to develop recommendations aimed at improving federal financial management activities related to reducing improper payments.

Today, my testimony will focus on three key areas:

- federal agencies' reported progress in estimating and reducing improper payments under IPIA for fiscal year 2010;
- challenges hindering full reporting of improper payment information; and
- recent efforts by Congress and the executive branch intended to improve transparency and accountability for reporting, reducing, and recovering improper payments.

In preparing this statement, we drew upon our previously issued work related to fiscal year 2010 improper payments.[7] Our previous reports are listed at the end of this statement. That work was conducted in accordance with generally accepted government auditing standards. For fiscal year 2010 data in those reports, we summarized information reported by federal executive-branch agencies and the actions they reported taking to help reduce improper payments. In those reports, we also summarized actions taken by the executive branch and Congress during fiscal year 2010 intended to improve transparency over, accountability for, and reduction of improper payments. Our scope

[6]OMB, Circular No. A-123, app. C, *Requirements for Effective Measurement and Remediation of Improper Payments* (Aug. 10, 2006); OMB Memorandum M-10-13, Issuance of Part III to OMB Circular A-123, app. C (Mar. 22, 2010); OMB, Circular No. A-136 Revised, *Financial Reporting Requirements* (Sept. 29, 2010); and OMB Memorandum M-11-04, *Increasing Efforts to Recapture Improper Payments by Intensifying and Expanding Payment Recapture Audits* (Nov. 16, 2010).

[7]GAO-11-318SP, and U.S. Department of the Treasury, *2010 Financial Report of the United States Government* (Washington, D.C.: Dec. 21, 2010), pp. 221-249.

included the 24 Chief Financial Officer Act[8] agencies and 11 other entities that are significant to the *2010 Financial Report of the United States Government*. In conducting that work, we obtained 31[9] federal entities' fiscal year 2010 performance and accountability reports (PAR), agency financial reports (AFR), or annual reports to identify and aggregate the reported improper payment information. We did not independently validate the improper payment data reported in these PARs, AFRs, and annual reports.

Progress Reported in Estimating and Reducing Improper Payments

Federal agencies reported improper payments of an estimated $125.4 billion in fiscal year 2010. This estimate represents about 5.5 percent of the $2.3 trillion of reported outlays for the related programs in fiscal year 2010. The $125.4 billion estimate is an increase of $16.2 billion from federal agencies' prior year reported estimate of $109.2 billion.[10] Estimated improper payment amounts for both of these years may include estimates based on prior years' data, if current reporting year data were not available, as allowed by OMB guidance. The $125.4 billion in estimated federal improper payments reported for fiscal year 2010 was attributable to over 70 programs spread among 20 agencies. As shown in table 1, the highest reported improper payment estimated amounts were associated with 10 programs. Specifically, the 10 programs accounted for about $118 billion or 94 percent of the total estimated improper payments reported for fiscal year 2010.

[8]See 31 U.S.C. § 901.

[9]Of the 35 federal entities that are significant to the *2010 Financial Report of the United States Government*, we did not obtain PARs, AFRs, or annual reports for the following 4 entities, because these entities had not issued their reports as of February 1, 2011: the Farm Credit System Insurance Corporation, Federal Deposit Insurance Corporation, National Credit Union Administration, and Smithsonian Institution

[10]In their fiscal year 2010 performance and accountability reports and agency financial reports, select federal entities updated their fiscal year 2009 improper payment estimates to reflect changes since issuance of their fiscal year 2009 reports. These updates increased the governmentwide improper payment estimate for fiscal year 2009 from $98 7 billion to $109 2 billion.

Table 1: Ten Programs with the Highest Reported Fiscal Year 2010 Improper Payment Estimated Amounts

Program	Agency	Estimated amount reported (dollars in billions)	Primary cause(s) reported
Medicare Fee-for-Service	Health and Human Services	$34 3	Medically unnecessary services and insufficient documentation
Medicaid	Health and Human Services	22.5	Insufficient or no documentation provided for conducting medical reviews and cases that were either ineligible or their eligibility status could not be determined
Unemployment Insurance	Labor	17.5	Eligibility errors, errors in handling separation issues, and claimants who have returned to work and continue to claim benefits
Earned Income Tax Credit	Treasury	16.9	High turnover of eligible claimants, confusion among eligible claimants, complexity of the law, structure of the program, unscrupulous return preparers, and fraud
Medicare Advantage	Health and Human Services	13.6	Insufficient supporting documentation, and errors in the transfer of data and payment calculations
Supplemental Security Income	Social Security Administration	4.8	Incorrect computations, misapplication of an income or resource exclusion, and inadequate verification of accounts and wages
Old Age Survivors' and Disability Insurance	Social Security Administration	3.2	Computation errors; nonverification of earnings, income, or work status; and incorrect processing of applications or payments
Supplemental Nutrition Assistance	Agriculture	2.2	Incomplete or inaccurate reporting of income by participants and incorrect eligibility determination by caseworkers
National School Lunch	Agriculture	1.5	Verification and authentication errors, including inadequate documentation and fraud or misrepresentation by participants
Pell Grants	Education	1.0	Verification errors[a]

Source GAO summary of agencies' data

[a]Primary causes were provided by Department of Education officials and were not reported in the AFR.

It is important to recognize that the $125.4 billion in improper payments federal agencies reported in fiscal year 2010 is not intended to be an estimate of fraud in federal agencies' programs and activities.[11] Rather, reported improper payment estimates include many types of overpayments, underpayments, and payments that were not adequately documented. Agencies cited a number of causes for the estimated $125.4 billion in reported improper payments, including insufficient documentation, incorrect computations, changes in program requirements, and in some cases fraud.

Increases in the estimated amounts of improper payments reported for fiscal year 2010 were primarily attributable to increases in estimated improper payments related to four major programs: (1) Department of Labor's Unemployment Insurance program, (2) Department of the Treasury's Earned Income Tax Credit program, (3) Department of Health and Human Services' (HHS) Medicaid program, and (4) HHS' Medicare Advantage program. Agencies reported that the increases in the estimates for these programs were primarily attributable to an increase in program outlays. That was the case for the Medicaid and Medicare Advantage programs even though these two programs reported lower error rates.[12] Both Unemployment Insurance and Earned Income Tax Credit programs reported higher program outlays and higher error rates for fiscal year 2010 when compared to fiscal year 2009.

Since the implementation of IPIA in 2004, federal agencies have consistently identified new programs or activities as risk-susceptible and reported estimated improper payment amounts.

- fiscal year 2005—17 new programs or activities,
- fiscal year 2006—15 new programs or activities,
- fiscal year 2007—19 new programs or activities,
- fiscal year 2008—10 new programs or activities,

[11]Fraud consists of intentional acts of deception with knowledge that the action or representation could result in an inappropriate gain.

[12]Reported error rates reflect the estimated improper payments as a percentage of total program outlays.

- fiscal year 2009—5 new programs or activities, and
- fiscal year 2010—2 new programs or activities.[13]

In addition, federal agencies have reported progress since 2004 in reducing improper payment amounts and payment error rates in some programs and activities. From the initial implementation of IPIA in 2004 through 2010, 28 programs have consistently reported estimated improper payment error rates for each year. Of these 28, 17 agency programs reported reduced error rates in comparison with their initial or baseline error rates reported in fiscal year 2004. Following are examples of agencies reporting reductions in program error rates and estimated improper payment amounts (along with corrective actions to reduce improper payments) in their fiscal year 2010 PARs, AFRs, or annual reports.

- HHS reported that the fiscal year 2010 Head Start program's estimated improper payment amount decreased from the fiscal year 2009 amount of $213 million to $123 million, which represented a decrease in the error rate of 1.3 percentage points to a 1.7 percent error rate. HHS reported that it reduced payment errors by issuing additional guidance for employees on verifying income eligibility and a standard template form to help guide grantees in the enrollment process.
- The U.S. Department of Agriculture (USDA) reported that the fiscal year 2010 estimated improper payment amount for the Marketing Assistance Loan program decreased from the fiscal year 2009 reported amount of $85 million to $35 million, which represented a decrease in the error rate of 1.75 percentage points to a 0.81 percent error rate. USDA reported that corrective actions taken to reduce improper payments included providing additional training and instruction on improper payment control procedures, and integrating employees' individual performance results related to reducing improper payments into annual performance ratings.

[13]In fiscal year 2010, the Department of Homeland Security identified the Customs and Border Protection-Border Security Fencing and Federal Emergency Management Agency-Grants-Transit Security Grants programs as risk-susceptible for the first time and reported on estimated improper payment amounts for those programs

Challenges Remain in Meeting Legislative Requirements to Fully Report Improper Payment Information

Despite reported progress in reducing estimated improper payment amounts and error rates for some programs and activities during fiscal year 2010, federal agencies' reporting indicates the federal government still faces challenges in this area. Agency reporting highlighted challenges that remain in meeting the requirements of IPIA, including determining the full extent of improper payments across the federal government and in reasonably assuring that effective actions are taken to reduce improper payments. Specifically, some federal agencies' fiscal year 2010 reporting did not include information demonstrating that (1) risk assessments were conducted on all of their programs and activities, and (2) improper payment estimates were developed and reported for all risk-susceptible programs.

IPIA required agencies to annually review all of their programs and activities to identify their risk of susceptibility to significant improper payments. However, two agencies—the United States Postal Service and the Department of Transportation—did not report on risk assessments of their programs and activities. The agencies either did not report any information on risk assessments in their PARs, AFRs, or annual reports, or included some risk assessment-related information (such as listing risk factors), but not on the results of any assessments of risk for all of their programs and activities.

Further, IPIA required agencies to estimate improper payments for each program identified as susceptible to significant improper payments during the risk assessment process. However, three agencies did not report estimated improper payment amounts for fiscal year 2010 for seven risk-susceptible programs with significant amounts of outlays. Most notably, HHS has yet to report a comprehensive improper payment estimate amount for the Medicare Prescription Drug Benefit program, which had about $59 billion in outlays in fiscal year 2010. However, HHS expects to report a comprehensive estimate for this program in fiscal year 2011. While none of the seven risk-susceptible programs reported an improper payment estimated amount in fiscal year 2010 or 2009, all but one—Medicare Prescription Drug Benefit program—reported an improper payment estimated amount for fiscal year 2008.

Recent Efforts to Address Improper Payments

During fiscal year 2010, a number of actions were taken intended to strengthen the framework for reducing and reporting improper payments. First, in November 2009, the President issued Executive Order 13520, *Reducing Improper Payments*. This order was intended to focus on increasing transparency and accountability for reducing improper payments and creating incentives for reducing improper payments. Under the Executive Order, OMB established a Web site (www.PaymentAccuracy.gov) and designated 14 high-error programs to focus attention on the programs that significantly contribute to the federal government's improper payments.[14] The Web site provides information on (1) the programs' senior accountable officials responsible for efforts to reduce improper payments; (2) current, targeted, and historical estimated rates of improper payments; (3) why improper payments occur in the programs; and (4) what federal agencies are doing to reduce improper payments and recover overpayments. The President also issued two memoranda in March and June 2010, intended to expand agency efforts to recapture improper overpayments using recapture audits,[15] and directing the establishment of a Do Not Pay List to help prevent improper payments to ineligible recipients, respectively. In addition, in 2010, the President set goals, as part of the Accountable Government Initiative, for federal agencies to reduce overall improper payments by $50 billion, and recapture at least $2 billion in improper contract payments and overpayments to health providers, by the end of fiscal year 2012.

In July 2010, Congress passed and the President signed IPERA. This legislation was intended to enhance reporting and the reduction of improper payments. In addition to amending the IPIA improper payment estimation requirements, IPERA established additional requirements related to (1) federal agency management accountability; (2) recovery auditing aimed at identifying and reclaiming payments made in error; (3) compliance and noncompliance determinations based on an inspector general's assessment of an agency's adherence to IPERA requirements and reporting that determination; and (4) an opinion on internal controls over

[14]The 14 high-error programs designated by OMB for fiscal year 2010 include. Medicare Fee-for-Service, Medicaid; Unemployment Insurance; Medicare Advantage; Supplemental Security Income; Retirement, Survivors, and Disability Insurance, Supplemental Nutrition Assistance Program; National School Lunch Program; Rental Housing Assistance Programs, Federal-Aid Highway Program, Highway Planning and Construction; Children's Health Insurance Program; Earned Income Tax Credit; High Cost Program of the Universal Service Fund; and Medicare Prescription Drug Benefit. The Children's Health Insurance Program, High Cost Program of the Universal Service Fund, and Medicare Prescription Drug Benefit programs did not report improper payment error rates and amounts for fiscal year 2010.

[15]Payment recapture audits, also called recovery audits, are conducted to identify and reclaim payments made in error.

improper payments.[16] For example, regarding management accountability, IPERA requires agency managers, programs, and, where appropriate, states and localities, to be held accountable for achieving the law's goals. This includes management's use of the annual performance appraisal process to assess whether improper payment reduction targets were met and whether sufficient internal controls were established and maintained. In addition, IPERA included a new, broader requirement for agencies to conduct recovery audits, where cost-effective, for each program and activity with at least $1 million in annual program outlays. This IPERA provision significantly reduces the threshold requirement for conducting recovery audits from $500 million to $1 million and expands the scope for required recovery audits to all programs and activities. Previously, recovery audits were only required for agencies whose annual contract obligations exceeded the threshold. Another new IPERA provision calls for federal agencies' inspectors general to annually determine whether their respective agencies are in compliance with key IPERA requirements and to report on their determinations.

Concluding Observations

In closing, given the pressures resulting from today's fiscal environment, the need to ensure that federal dollars are spent as intended is critical. While the increase in governmentwide improper payment estimates is alarming, federal agencies' efforts to more comprehensively report on estimated improper payments represent a positive step to improve transparency over the full magnitude of federal improper payments for which corrective actions are necessary. With more federal dollars flowing into risk-susceptible programs, establishing effective accountability measures to prevent and reduce improper payments, and to recover overpayments, becomes an even higher priority. However, measuring

[16] IPERA also modified the definition of the terms payments and improper payments, and added an explicit definition of a payment for an ineligible good or service. IPERA defined a payment as any transfer, or commitment for future transfers, of federal funds such as cash, securities, loans, loan guarantees, and insurance subsidies to any nonfederal person or entity that is made by federal agencies, federal contractors, federal grantees, or governmental or other organizations administering federal programs or activities. The new definition excludes transfers to other federal entities from the definition of "payment." Under IPIA, improper payments included any payments to ineligible recipients, payments for ineligible services, duplicative payments, payments for services not received, and payments that do not account for credit for applicable discounts. IPERA expanded on this list by adding payments for ineligible goods and payments for goods not received as also constituting improper payments In addition, IPERA defined a payment for an ineligible good or service as a payment for any good or service that is rejected under any provision of any contract, grant, lease, cooperative agreement, or any other funding mechanism.

improper payments and designing and implementing actions to reduce and prevent them are not simple tasks. Nonetheless, the ultimate success of the governmentwide effort to prevent and reduce improper payments hinges on the level of sustained commitment the agencies and the administration places on implementing the requirements established by IPERA, the Executive Order, and other guidance. We view the recent actions taken by Congress and the administration as positive steps toward improving transparency over and reducing improper payments. However, it is too soon to determine whether the activities called for in the Executive Order, Presidential memoranda, and IPERA will achieve their goal of reducing improper payments while continuing to ensure that federal programs serve and provide access to intended beneficiaries. Moreover, congressional efforts to oversee agencies will be essential to ensure that agencies are taking the appropriate action to fully implement these administrative and legislative requirements to improve accountability, achieve targeted goals, and reduce overall improper payments.

Chairman Platts, Ranking Member Towns, this completes my prepared statement. I would be happy to respond to any questions you or other members of the subcommittee may have at this time.

Contact and Acknowledgments

For more information regarding this testimony, please contact, Kay L. Daly, Director, Financial Management and Assurance, at (202) 512-9312 or by e-mail at dalykl@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this testimony. Individuals making key contributions to this testimony included Shirley Abel, Assistant Director; Sabrina Springfield, Assistant Director; Liliam Coronado; Nicole Dow; Vanessa Estevez; Crystal Lazcano; Chelsea Lounsbury; Kerry Porter; Debra Rucker; and Danietta Williams.

Related GAO Products

Medicare and Medicaid Fraud, Waste, and Abuse: Effective Implementation of Recent Laws and Agency Actions Could Help Reduce Improper Payments. GAO-11-409T. Washington, D.C.: March 9, 2011.

Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue. GAO-11-318SP. Washington, D.C.: March 1, 2011.

For our report on the U.S. government's consolidated financial statements for fiscal year 2010, see U.S. Department of the Treasury. *2010 Financial Report of the United States Government.* Washington, D.C.: December 21, 2010, pp. 221-249.

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Mr. PLATTS. Thank you for your testimony. I appreciate both of you sharing your knowledge and insights.

I will yield myself 5 minutes a first round of questions.

I certainly appreciate the headway we have made since the former Chairman Steve Horn authored the original Improper Payments Information Act and got us on a good track to where we are today, almost 10 years later. It seems we certainly are doing a much better job as I referenced in my statement and you both have as well that we are now identifying the amounts and therefore, know what to go after, but it is still pretty significant.

Mr. Werfel, in your written testimony you reference that not all errors are fraud, in fact, "most payment errors are inadvertent," and you further say not all errors are waste, and in fact, "significant amount of error is based on missing documentation." How would you roughly calculate percentage if it is not fraud, it is not waste, it is inadvertent and maybe missing documentation? Is that 50 percent of the $125 billion number; is it 75 percent?

Mr. WERFEL. There are a couple of answers. First, in terms of the overall error report portfolio, we think about one-third associates to the lack of appropriate documentation. That means we go down and we audit or sample the payment and test its accuracy and the people involved cannot provide us the relevant information for us to do an appropriate validation of whether the payment was accurate or not. Under longstanding audit principles, we don't assume the best, we assume the worse and we characterize that as an error. That is about one-third.

What happens is later on as that documentation improves, we find not all of those payments turned out to be error. It reverts back to the general error rate that we see in government programs which is about 5 percent.

Your other question about fraud is something that we are looking at but we don't yet have an exact percentage. What we see in the other two-thirds of the problem—I am being very general now—is most often the problem is an inability to validate eligibility or authenticity, whether data matches that should be occurring are not occurring or whether there really is at this time no third party data source to validate the current situation.

In some cases, it turns out that our inability to validate eligibility is driven by the fact that we are actually being defrauded, that someone has set up a fake identity or a fake account of some kind. We believe based on all the information that we have that is a serious problem but it is not a large percentage of the problem. We just don't have the exact percentages at this time. In order to do so would take a different approach to our measurement that would involve a lot of resources and the community as a whole is considering and continues to consider whether to establish a particular fraud metric. It would be interesting to hear the interest of this subcommittee on that topic as well.

Mr. PLATTS. I assume in the area of improper documentation, it is safe to believe that a lot of that relates to programs that are State-administered such as Medicaid where the verification is not done by a Federal entity but a partner at the State or local level?

Mr. WERFEL. It is a significant problem in State-administered programs. You have 50 different administrations of the program, 50 different approaches, so we see sometimes the controls and the documentation, and the rigor with which programs are carried out at the State level vary greatly. That is one of the areas. You are right, we do not have as direct, immediate control over how those States are running their operations and what kind of internal controls they are putting into place to maintain good documentation. That is why it becomes very significant.

Mr. PLATTS. On a specific program, the idea of whether it is more fraud or inadvertent, lack of documentation, Medicare fee for service, you reference in your testimony, the President's efforts to really go after improper payments in this category, certainly it is a good sign to go from an estimated 12.4 percent to now 10½ percent.

In that specific program, what was the most significant change or effort that got us from over 12 down to 10, so we are coming down, and how would you characterize the issue of fraud versus inadvertent or lack of documentation?

Mr. WERFEL. That is a very good question. Medicare is the largest source of error in the Federal Government. It is obviously the top priority of the administration to address that because as we address and do a better job on that, the whole governmentwide error rate and improper payment problem shrinks.

In terms of how they have been able to improve, the Medicare Program, the folks at CMS have had an ongoing and longstanding corrective action plan that continues to move forward and continues to get refined, and they continue to make more and more progress. It has multiple elements to it.

They are holding providers more accountable for documentation, they are working with the provider community to understand what they are required to maintain in terms of documentation, so that problem is there. There are other elements to Medicaid error, whether they are doing a better job in identifying coding errors. For example, they reimburse for an MRI but only a chest x-ray occurred or we reimbursed for a $4,000 procedure when only a $1,000 procedure occurred. These sometimes are coding errors and they are building better automated solutions and contractor review modules that can pick up on these things.

I think the real driver here and the most promising benefit to Medicare is their predictive modeling and their business intelligence and analytics, to identify procedures that look anomalous and activities that look anomalous. As the information age emerges, we become better at detecting these different trends with the data.

Sometimes there is a legitimate provider who didn't realize the activities they conducted are technically not Medicare-eligible and we need to train those medical providers better. In some cases, it is fraud.

Mr. PLATTS. Just to conclude on that specific point, the business, the analytics and doing better, this is something the credit card industry is way ahead in. How are OMB specifically or departments individually trying to reach out to the private sector? I am a big guy with Discover Card. No annual fee, I pay it in full every month, cash back. But each year my wife has chaired the Teacher Appreciation Program at our local elementary school and one of the things was through the PTA to do a gift card for each teacher. My wife purchased them for the whole school, all the faculty and then is reimbursed by the PTA when they are provided, so there is a big charge out of the norm. I actually get a phone call from Discover, as the member of record, saying a big charge has been made 5 minutes ago. If there is a problem with this and you didn't authorize it, let us know right away.

Mr. CONNOLLY. Mr. Chairman, I would like that system that I get a call every time my wife put a big charge on the credit card. [Laughter.]

Mr. PLATTS. I do sometimes, not in any distrust of my wife's spending habits, but Discover, but it is the example, saying something is out of the ordinary because of the amount of the charge. Those things happen when I make the charge too, Mr. Connolly.

How are we doing as a government in trying to replicate and not reinvent the wheel but use the expertise from the private sector who had a real financial incentive to do this and they are doing it very well. Are we reaching out to the private sector or are we trying to reinvent the wheel instead of learning from what they have done?

Mr. WERFEL. An excellent question and to me it is one of the more exciting opportunities that we have. I used the phrase earlier leveraging the information age and that is a mantra that I have tried to promote within the community around this area.

To answer your question more directly, I think we are going to look back and see one of the most critical moments in the history of our journey in improper payments as being the creation of the Recovery, Accountability and Transparency Board and some of the innovative things that have been going on at that board. They have really been serving as the major bridge between these cutting edge solutions, whether in the credit card industry, counter intelligence or otherwise and saying these solutions can be used in programs like Medicare and Medicaid.

They demonstrated that during the Recovery Act where we started to get wind of some of the things they were doing by using data out there in the public sphere, gathering enormous quantities of data in real time and then using very sophisticated and well thought out algorithms, questions and queries of the data to say looking at this payment, it looks fine when I look at it like this but with the data I am going to twist it on its axis a bit and suddenly there are a bunch of red flags there.

We were basically wowed by what they were able to do, so we started bringing in more and more agencies. They tell us they don't know what they are more busy doing, finding fraud or demoing the solutions to other agencies which I think is a great problem to have.

Mr. PLATTS. That resource, they are serving as a kind of clearinghouse to educate and train departments and agencies to replicate what they are doing?

Mr. WERFEL. Right. One of the major moments was when we brought in CMS and they saw the solution. They have a forensic unit at CMS that does a good job, a very good job. They challenged the Recovery Board, said here is a bunch of data, we know where the fraud is within this data, let us see if you can find it. Not only did the Recovery Board find it, they found fraud that CMS had missed. They did it using a better, more comprehensive, different type of algorithm.

CMS is very good, for example, at finding providers with unusual treatments like here is a provider in Texas who had seven of these types of treatment in the last few weeks and that is unusual. You don't see that kind of treatment out of a small provider. They forensically look at that stuff well. The Board's tool found identity fraud. It found a doctor in Texas using a license of a legitimate doctor in North Carolina, saying this doctor really doesn't exist. They had missed that in the CMS algorithms and forensics.

The goal now is they shouldn't miss it anymore, so now CMS is creating a fraud lab where they have different types of people with different perspectives and expertise including some of the Recovery Board expertise driving to improve their overall algorithm.

It is fantastic and it is going to take time before we see the full impact of the result, but they already have an investigation underway with an Inspector General around a fraud ring that was discovered through this.

Mr. PLATTS. Good news that we are headed in the right direction.

I appreciate my colleague's understanding in going well over my time, but I yield to the ranking member.

Mr. TOWNS. Let me begin, Ms. Daly. Can you explain to me what a payment recovery audit is?

Ms. DALY. Yes, sir. Payment recovery audits are actually audit tools, although not audits in the true sense of the word, typically performed by contractors who specialize in this area. They comb through invoices and other documentation that an agency maintains and identify improper payments that are in there and actually go out and recoup those improper payments.

They typically work on a contingency fee basis, therefore there is little cost to whoever is employing them. These payment recapture audits or recovery audits are actually performed not just in the Federal Government, but in State and local governments and also in the private sector.

Mr. TOWNS. In your testimony, both of you discussed the annual increases in improper payments. You said the government started out with $45 billion and reported improper payments in 2004. You indicated 7 years later it was $125 billion in improper payments. That represents about a $70 billion increase in 6 years. Can either of you explain the cause for the major increase?

Mr. WERFEL. I think the biggest cause is just more programs reporting. When we first started on this journey after the Improper Payments Information Act was enacted in 2002, one of the first lessons learned was measuring error in programs isn't easy. It requires resources, expertise, creating partnerships with your funding recipients who now have to be subjected to these payment audits, so it took us a while on the learning curve to figure out the right and the appropriate way to measure a number of programs.

That $45 billion that you referenced takes into account a smaller footprint of programs, so what happened each year is we have the good news of we measured three more programs, add their error, the next year we measure in five more programs, add their error and the error amount grows.

The other cause is outlays. We outlaid significantly more money in 2010 than we did in 2004. Even if the error rate stays constant at 5 percent, if you are going from $100 to $1,000 to $100,000, even at a 5 percent error rate, the improper payment amounts go up. Those are the two causes.

Without making any excuse, we still have a $125 billion problem that we need to solve. I have explained to you why it is increasing, but we need to be very, very focused on how to start turning that tide back the other way.

Mr. TOWNS. Mr. Werfel, IPERA included many important provisions aimed at reducing improper payments. One provision relates to sanctions for programs that are not complying with the law. Specifically, if any agency is determined not to be in compliance for two consecutive years and the Director of OMB determines that additional funding would help the agency come into compliance, the head of the agency shall obligate additional funding in an amount determined by the Director to intensify compliance efforts.

Would you please explain how you would determine what needs to be done at the agency level?

Mr. WERFEL. It is going to be challenging. I think one of the most important things that IPERA does that I am most excited about is it really integrates the Inspector General into this problem more than in the past. Because 2 years of non-compliance is based on a conclusion reached by the Inspector General and I am hopeful that in reaching that conclusion, the Inspector General is going to provide us some degree of a road map in terms of where some of the deficiencies are occurring and where the investments are needed.

I also think the agencies on the management and payment side are also very dedicated. My vision is if we get to a place where we have an Inspector General who finds an agency has been non-compliant for two consecutive years, we are going to come to the table with OMB, the agency and the Inspector General and have a strong diagnosis of where the money can best be spent, where is the most positive return on investment.

It is not going to be easy but I think with the right partnerships, we should be able to find the answers more often than not.

Mr. TOWNS. My time has expired. Thank you, Mr. Chairman.

Mr. PLATTS. Thank you, Mr. Towns.

I now yield to the gentleman from Virginia, Mr. Connolly.

Mr. CONNOLLY. Thank you so much, Mr. Chairman.

I really want to thank you for having this hearing because this is the kind of public policy thing I love to sink my teeth into and I look forward to working with you on followup legislation because I think this is a promising area. Not all of the Federal budget or Federal deficit lends itself to promise, this one does.

I want to ask as many questions as I can fit in, so please try to be concise and bear with me.

Mr. Werfel, if I understood your testimony, you talked about $125 billion in improper payments made last year. You said there was a goal to recapture $2 billion. That seems awfully modest.

Mr. WERFEL. I will try to be as concise as I can. The sweet spot for where you can recover error is recovering improper payments to vendors. The reason is the measurement that we have is real, every time we find an improper payment to a vendor, we can actually find the vendor, the date the payment was made and go back and get it.

In the broader scheme, the way we estimate errors is we pull a small sample size and extrapolate that to a universe. For Social Security, which could have $1 billion in errors, we don't know in every case that it was John Smith or Jane Smith that got the error. We pull a sample size, say 400 or 4,000 samples versus the actual 100,000 or 200,000 payments that were made. We only know about the errors in the small sample size. That is why.

Mr. CONNOLLY. Let me say to you as someone who ran a fairly large local government, I don't think you make a lot of progress unless you make heroic goals, stretch goals; $2 billion doesn't cut it. It is not sufficiently robust, in my view. I understand the limitations but it is something I think we have to come back to, not when the universe is $125 billion.

Ms. Daly, you indicated that Medicare prescription benefits, Part D, does not yet even track, but it is going to next year, improper payments, correct?

Ms. DALY. Exactly. The Medicare Prescription Drug Benefit Program has actually done estimates on subsets of its population but does not have a total comprehensive estimate for that program.

Mr. CONNOLLY. That program has been in place now for how many years?

Ms. DALY. I believe it was put in place in 2004, but I am not certain.

Mr. CONNOLLY. So we have 6 or 7 years of track record. That seems awfully sluggish to me. They have had plenty of time to get with the program, haven't they?

Ms. DALY. I think they have been trying. As Mr. Werfel indicated, it is challenging to come up with a valid, comprehensive estimate for many of these programs. It is not always easy to measure where the errors are occurring.

Mr. CONNOLLY. Particularly with the doughnut hole, however, it just lends itself to gaming, some of which would be illegal one thinks. Prescription drug prices are all over the lot. There are discount drugs, generic drugs, brand drugs, expensive drugs, orphan drugs and all kinds of other things. It just seems to me that is ripe for the picking. I would hope we are going to put a lot of heat on them to make sure they get this program up and running.

Mr. Werfel, in terms of analytical tools, I was intrigued by the chairman's recitation of how credit cards clearly have a monitoring system for ourselves and our spouses and we could learn a lot from the private sector. I thought I heard you say we are doing that on a pilot basis.

I want to give you an opportunity with three things quickly. One, how do we expand that beyond a pilot so we are actually using the expertise of the private sector in the public sector given the amounts we are talking about?

Second, in terms of diagnostic tools, what are we doing on the diagnostic end to better get a handle on what is the cause, a more accurate cause of improper payments?

Finally, what incentives are we providing for agencies to have a better track record than $2 billion out of $125 billion?

Mr. WERFEL. The first question, we have definitely moved beyond the pilot phase, but I don't think we are where we need to be. I think the private sector is way ahead of us in terms of leveraging the type of information networks to find anomalies and errors, but we have isolated examples of success stories. Almost every agency has a forensic unit and we have some expertise in this area and we have brought them together in a working group recently to try to make sure we pushing ourselves to better and better things.

The examples I provided are real. The Defense Department is one; they have a very sophisticated pre payment algorithm tool that they use that has prevented something like $1 billion in error over the last few years. The Recovery Board is real and it is happening today. CMS's Fraud Lab is real and is happening today.

The reality, I would argue and my belief, is the credit card companies with the networks that they are developing are more sophisticated and ahead of us and we need to catch up.

Your second question I believe was on diagnostics and root causes. I think that is an area of real progress that has been made since 2004. When we talk to agencies, it is not about a lack of understanding of what is causing the error. It is more what are the appropriate solutions. There are two things that drive our challenge on solutions.

One is do we have the information that we need. Sometimes whether it is the Privacy Act or just the lack of an automated tool to pull it, we don't always get the information we need to validate. The second is the tougher we make the world for recipients to prevent improper payments, it can create other programmatic challenges. I often find myself in a meeting with an agency and say, here is how you do it, just create a policy that makes it much, much more difficult to get a payment error. That tends to have reverberations around the rest of the program and could either create access barriers or create other complications, so it is finding that equilibrium.

I don't think I remember your third question.

Mr. CONNOLLY. The third question was are the right incentives in place for agencies to put together a robust program and making this a priority?

Mr. WERFEL. I think they need to be stronger. IPERA is a great start with the compliance penalties, the push to get this into performance appraisals. Earlier Chairman Platts referenced the audit situation. You are probably aware that on November 15th of each year, agency financial statements are due and their audits are due. I always talk about in the push to November 15th, is remarkable how the agencies are so dedicated, working through the night, 17 hours a day and this tremendous, intense push to get our financial statements out on time and to get them with clean audits. I think if we can harness that energy, the accountability is there. The CFOs take it personally if they don't get a clean audit, it is a big deal. If we can somehow harness that energy around this problem, I think you would see a tremendous change. That is something I want to promote with this subcommittee.

Mr. PLATTS. I thank the gentleman.

Before I yield to Mr. Guinta, just to follow on that, the premise that the audit of the internal controls that we required of DHS was, I believe, one of the keys to their getting on a good track. As you referenced, someone could get a clean opinion on their annual audit, yet have $100 billion of improper payments going out the door because the audits we are doing now don't go after identifying those improper payments, just that they can account for the money, not necessarily that it was properly spent.

With that, I yield to the gentleman from New Hampshire, Mr. Guinta.

Mr. GUINTA. Thank you, Mr. Chairman.

Thank you both for your testimony.

First of all, the number $125 billion, how accurate is that number?

Mr. WERFEL. I will give that to the auditor.

Mr. GUINTA. I know that is a reported number, but what would be your guesstimate of additional moneys that we are not identifying in overpayments or improper payments?

Ms. DALY. That is the unknown answer because we have to wait until an empirically sound method is developed for providing an estimate. Right now, the best we know is that it is $125 billion for 2010. We do know there are at least seven major risk susceptible programs that have not reported. I can't give you a sense of how much those particular programs may have in improper payments or others where they maybe tightening up their methodologies and moving forward that might provide a more precise estimate for programs that have already reported.

That happened a year or so ago with the Medicare fee for service program. They initially reported an estimate for 2009 of about $24 billion and then applying a more stringent methodology, raised that estimate to about $35 billion. That is a case where when they do a more precise estimate, they are able to identify what the various reasons and causes are.

I wanted to add to something discussed just a minute ago that I do think the estimates coming out are getting better, but it is also very important to have consistency in measuring because that way you are comparing apples to apples and you don't have the differences that may come about just because you are using a different approach in your measurement.

Mr. GUINTA. In the seven major programs not reporting yet, which are the top two?

Ms. DALY. Medicare Prescription Drug and then I believe TANF would be the next larger dollar value program that has not reported.

Mr. GUINTA. Over the last 5 years, has this number been roughly the same, this $125 billion or has it progressively increased?

Ms. DALY. The number has been progressively increasing. Last year's estimate was $109 billion. Prior to that, I have to check a cheat sheet, if you don't mind, I believe the number was $72 billion in 2008, $55 billion in 2007, so we have seen a consistent progression upward. As Mr. Werfel indicated, a lot of that is because there are more programs reporting every year.

Mr. GUINTA. Do you have a breakdown of how much would be Medicare and how much would be Medicaid?

Mr. WERFEL. I can answer that question. It is a very large portion in Medicare fee for service, $34.3 billion in error and Medicare

Part C, $13.6 billion, and in Medicaid, $22½ billion. That is more than half our balance sheet on error just in Medicare and Medicaid alone.

Mr. GUINTA. Is there ever a likelihood of us achieving real savings in these three areas? When I say real, I mean 70, 80 or 90 percent?

Mr. WERFEL. Yes, but it is going to take time and it is going to take congressional help. For example, there is in the President's 2012 budget a series of program integrity proposals for a variety of different programs, but in Medicare alone, our proposals, we believe if enacted, would have the impact of saving $42 billion over 10 years if you combine the legislative proposals we are seeking and some additional funds to do program integrity work. That doesn't get you to the 70 or 80 percent, but again, we think this is an extremely important step to be taken.

Mr. GUINTA. Would you send some of those recommendations to my office? I don't know if other Members would like them, but if you would, I would like to take a look at that.

Mr. WERFEL. Absolutely.

Mr. GUINTA. Thank you. I yield back.

Mr. PLATTS. I thank the gentleman.

I yield to Mr. Lankford from Oklahoma.

Mr. LANKFORD. Thank you.

I would say keep going. There are a lot of people counting on you based on the budget and the American people looking forward to getting some of this cleared up over time. This has been a long ongoing process. It is not a simple task by any means, we understand that, but keep going with what you are doing.

Mr. Werfel, you know my propensity on some of the Web sites that we have on the dot govs. Can I ask a quick question on the paymentaccuracy.gov? How is that connected and are there other places that people can go to be able to find that and track it? Is the information connected to data.gov and other places as well as the agency's Web site as well so it is easy to identify and find?

Mr. WERFEL. That is a good question.

First of all, just to promote the Web site, paymentaccuracy.gov, we have been pleasantly surprised with the number of hits and foot traffic we get on the site. It is a well visited site and we are very excited about that.

I can't say that we have the perfect architecture of all the different links but there are a lot of different opportunities to get there. In particular, it is in our USA spending family and I would say that is probably our most visited Web site in this terrain, so I think that is most critical.

Mr. LANKFORD. I would continue to encourage you to find a central portal that we can promote as a Federal Government site and say if you are looking for something, you can go here, get a chance to connect and jump off and it is also searchable so you can connect and it connects with different things rather than having to search in one, search another and another and be able to track it.

The consequences for an employee, vendor or contractor that were discovered in improper payment, how is that working? We talked about incentives. Obviously we want incentives for the agency to be able to find and reuse that money in other areas if it is done appropriately. What are the consequences, give me some examples of that?

Mr. WERFEL. I think the major consequence is that once a payment is identified as error, and we identify the vendor that received the error, if they don't pay back the money in a timely way, we have a suite of different activities we can undertake to enforce that debt collection. One of the things I am working to do with the procurement community is to figure out all the additional steps we can take.

When we make a payment error to a vendor, that is the United States making an error. I believe the vendor has an obligation to report that error as soon as possible. So we are looking at ways—we haven't identified the perfect solution—to increase the vendor's responsibility to help in this hunt for improper payments.

Mr. LANKFORD. There is both a balance in that because I have talked to a physical therapy center in Oklahoma City not long ago and they had a longstanding battle with Medicare reimbursements where they would get a random contact saying this was inappropriate. They would pull their file and say no, it was very appropriate, here is the code. I am sure it is being identified as inappropriate, they are telling me no, I have the full verification, this is the right code, this is the right thing.

How are we hitting that balance between the two where we don't have an individual vendor that is being crushed in the process and having to fight for a year to get the payment they deserve versus finding real fraud and saying we have to sniff this out? There has to be a balance.

Mr. WERFEL. You are hitting on the central issue. I made this point in response to Congressman Connolly's question. There is a tension when I sit in a room with an agency, often I say, why can't we do this more aggressively? Why can't it be more comprehensive? Why are you waiting until you are 95 percent confident to go after an error? Why don't you go after an error when you are 80 percent confident and cast a wider net?

The issue that it creates more false positives and it creates the potential for more litigation and inequity, so the question is finding that right equilibrium and finding that right balance plane.

Mr. LANKFORD. If there is some way to be able to notify the vendor that this is something that is suspicious, if you would provide some simple documentation to make sure we can clear that up, that would certainly help rather than the cutoff point of saying, we think it is, reimburse our money to us, pay us whatever it may be. It provides some sort of interim step that would be very helpful in that process on both sides. We want to be able to tell people we are tracking it aggressively. If more people are getting that contact and saying we are watching, that helps. If more people are finding, I had better pull this and have my documentation in place, that is a helpful thing.

It is somewhat disturbing to hear about Medicaid, dealing with $22 billion in this abuse, fraud, whatever it may be, whatever we are going to call it. That is running 8 to 10 percent of Medicaid costs, a significant amount that we are processing. I would encourage we continue in any way we can to track that.

Is there a single area you can look at and say this is the big issue with Medicaid and why we are having so much come out of it? Is there anything that comes to the top of that $22 billion?

Ms. DALY. Actually, the agency reported that typically for both Medicare and Medicaid, they have medical necessity issues, trying to determine whether the medical procedure should have been performed. Oftentimes it is, as you mentioned, things like insufficient documentation commonly reported as one of the key causes of improper payments for those programs.

Eligibility status is another for Medicaid that you don't see for Medicare. Typically, these are the causes that the agencies report are contributing to those estimates of improper payments.

Mr. WERFEL. I would add one thing to that. The other challenge HHS has on the Medicaid front is 50 different States running 50 different Medicaid type programs. It is sometimes difficult to say here is a unifying solution to our eligibility or documentation problem. It doesn't always translate for every State. It just means we have to work harder and get more granular in our solutions on a State by State basis. I think CMS is doing that but clearly at $22 billion, a lot more needs to be done.

Mr. LANKFORD. On our side legislatively, we are working on correcting that with the budget we are putting out today on the House floor, block grants, Medicaid back to the States, it puts the accountability side on them. We are dealing with 50 different States and we are trying to resolve that in a different way.

I appreciate that and I yield back.

Mr. PLATTS. I thank the gentleman.

We are honored to be joined by the distinguished Chair of the full Committee on Oversight and Government Reform from California, Mr. Issa.

Mr. ISSA. I thank the chairman. I apologize for not being here for the whole hearing but we are doing two at once, so I was over in National Security.

Mr. Werfel, I sent you a letter about a month ago that today happens to be miraculously the deadline, that asked what your policy was and the basis for not sitting on panels if they weren't to your liking. Am I going to see that letter today?

Mr. WERFEL. I believe we are on track to get you a response today, yes.

Mr. ISSA. Today will end soon, you know.

Mr. WERFEL. At OMB, our COB is later than normal, but we will get yours.

Mr. ISSA. As you are finalizing it, since it is not here, I understand a longstanding policy for this committee is not the 2-years in which the Obama administration had your own party looking over your shoulder, it has to be a basis that would transcend any one administration. Otherwise, it is an administrative choice which is not acceptable to the other body that has the obligation for oversight, so hopefully your answer will be creative and maybe a yes, we will come more often.

Mr. Lankford was asking about the false positives and so on. Two days ago, I was in front of one of the many groups we keep bringing in from AmericanJobCreaters.com, people who are talking about abuse within the Federal system, talking about the checks and balances, the absence of the ability to track in real time, waste, fraud and abuse. I asked them because we were on the subject how many of you have received a call from Visa or Master Card telling you that there is a suspicious problem? Virtually every hand went up. It was probably 80 percent at least.

Then I asked how many of you had identity theft or your card actually stolen? About four hands went up, one of whom was on my staff. The amazing thing was I asked if anyone was upset and they said, of course not. Why? Because it reduces the cost of that card. If it wasn't for the millions of false positives that are asked and explained, the cost of those cards would go up by multiple percentage points because, as you know, Master Card eats the losses.

My question to you is, why in the world wouldn't you develop a system that would allow you to basically be false positive ten times, twenty times more often, ask the question and in an analytical and inexpensive way accept the answers and then sift through those answers? Why isn't that the approach since it works for VISA and Master Card in real time and for us, it doesn't work so well the way we're doing it?

Mr. WERFEL. That is a very good question, a challenging question and I can assure you, Congressman, I am typically the person at the table pushing for a broader net and a more aggressive posture so that we can drive down errors.

Coming back at me across the table are very legitimate programmatic and policy concerns, in particular the concern that setting up these types of internal controls and stop points or moratoriums on payments or keeping a payment from going out the door can create situations not only in which an eligible beneficiary is denied a payment, but also can create the risk of litigation and due process that can slow down the process.

Mr. ISSA. May I stop you for a second? I would narrow my concern and request. Unless they don't get answers after a period of time, your credit card doesn't actually get frozen, so let us go back again. Why wouldn't you send them out and expect responses and not necessarily shut off the payment, but simply increase because so much of this to the physicians and others can be done electronically, why wouldn't you send out and only when there is a complete absence of response, multiple times or if you take what you are presently sending and do stop if you don't get the answer you want, and add nine times more?

But you don't stop except for the ones you are already stopping, all you are really doing is creating the alert, improving the system and eventually eliminating some of the false positives if you have a quality circle where you are learning from it. Why isn't that at least on a pilot basis on your radar screen to basically make Medicaid and Medicare oversight similar to credit card companies that can do this so automated and so efficiently that you are talking about a fraction of the fraud and the cost?

Mr. WERFEL. It is totally on our radar screen and it fits right into our strategic plan.

Mr. ISSA. Then I am going to ask one more because my time has expired and I want to be conscious we also have a vote.

The President's fiscal year 2012 budget appears as though the Board success is being rolled into the Department of Treasury's Bureau of Public Debt for the creation of yet another new system. Why is it we would spend $10 million to take a program that has proven its successfulness because it didn't fall into Treasury's existing trap. It especially makes health care reform look less complicated when you look at all the report "froms" and the report "tos."

Why in the world would we do that? Isn't the Board proof that you have to do it differently and not simply roll it into one more report? Ms. Daly, I think I will start with you on that because from an efficiency standpoint, I think you see what we are getting to.

Ms. DALY. Yes, Congressman. I am really not familiar with the particular proposal you are talking about but I can say the Board did identify a number of very promising techniques that could and should be used throughout the government to try to help prevent improper payments.

Mr. ISSA. Mr. Werfel.

Mr. WERFEL. I have a couple of responses to that.

Mr. ISSA. You do ask for more money to move it than it costs to produce it, just in case you are looking at the scale.

Mr. WERFEL. On the one hand, I will say that I have talked to Chairman Deviney about the possibility of defraying some of the costs by leveraging the hardware/software and expertise that he has, but he is an independent entity and I would never presume to ask for the keys to his car. I want to make sure that he understands that we want to emulate what he is doing because it is a best practice and figure out the best way to emulate it. If we can leverage his infrastructure to make our endeavor less expensive, and he would agree, that is definitely a path forward.

In terms of Treasury, I think we can be extremely successful in deploying this technology at Treasury. Treasury makes almost all the payments for the Federal Government ultimately. They take the information from the agency and they cut the checks, as I am sure you know. That means all this information is flowing centrally into Treasury. They have what I believe to be the bench strength, the expertise and the right network and relationship with the agencies to develop a very powerful fraud detection technology that can centrally utilize some of these credit card neuro-networks that you referenced earlier.

We have to find a place for it and it seems to me that finding the place where all the information converges before the payment goes out seems logical. If there are concerns with Treasury in terms of their operations, let's talk about them, sort through them and see if we can find corrective actions, but from a design standpoint, I think we have a strong argument around Treasury as being the right location.

Mr. ISSA. Very good.

Mr. Chairman, Chairman Deviney has told us he is more than willing to meet with all the parties. I would suggest that a less formal environment with the chairman, members of our committee and staff and people from your organization might be the best way to strategize whether or not the keys to the car could be handed over in a more efficient fashion.

Thank you. I yield back.

Mr. PLATTS. I thank the chairman. Certainly that focus of learning what has been done and applying it in the best way is what we want to be about. I appreciate the chairman's participation here today.

I yield to the gentlelady from the District of Columbia, Ms. Norton.

Ms. NORTON. Thank you, Mr. Chairman.

I note a great deal of executive action. After all, these are agencies under the control of the President. An Executive order in November 2009, another memorandum on finding the payments in March 2010, followed in June by what I really like, a Do Not Pay List, is this the first time there has ever been an Executive order on this subject?

Mr. WERFEL. Yes, Congresswoman. This is the first Executive order that I am aware of that is dedicated to this problem. As you just noted, I have served under multiple Presidents and I have never seen this level of attention to the improper payments problem coming from a President.

Ms. NORTON. This looks like a real focus that has been continuous and systematic. It is frankly very impressive, particularly considering how difficult it is to recoup money if some agency writes you and says they have overpaid you like the IRS and they want their money back. That is enough to send you up the wall.

I am satisfied that we have the first systematic effort to do something about a problem that is, to say the least, elusive and difficult because you have to deal after the fact. When you see how large the government, it is inevitable absolutely that there would be overpayments.

I am always interested in the cause because prevention seems the best strategy. I am sure you may have spoken of the causes. Based on some of the figures I have from OMB, I want to ask you about improper payments when one looks comparatively, and we are looking at very different agencies, so I don't know how to evaluate the different agencies.

For example, you have Medicare fee for service and improper payment amounts, $34.3 billion. That is a rate of 10½ percent. When I first saw that, I thought the money goes through so many hands, maybe it has to do with that. Then I looked at the national school lunch program where I don't think anybody has to put up any money and that rate of overpayment was 16.3 percent. I am trying to get a grip on some anchor factor that may lead to overpayments because if you retrace that, maybe you could know how to prevent it.

Do you have any insights into why, for example, school lunch would have such great overpayment percentage than Medicare fee for service?

Mr. WERFEL. Congresswoman, certainly this is something we have studied very closely to try to understand the root causes. I think we are in a good place right now to understand those root causes. Our challenge has been finding the right solutions.

To answer your question directly, eligibility is a key issue across the board for programs generally, confirming eligibility and eligibility is often driven by factors like what the household size is, what their adjusted gross income is, what their assets are in order to determine whether they are the right population to receive this particular income maintenance or social benefit.

It is no different in school lunch. We have a lot of school districts with a variety of different procedures in place to make sure the right kids are receiving subsidized or free and reduced price lunches. When we audit it, we find that overpayments are made in the form of a greater population of children receiving the school lunch subsidy than otherwise would if the requirements were technically followed.

Ms. NORTON. That is very helpful. You see the low rates for disability insurance, the Social Security Administration.

Mr. WERFEL. Correct.

Ms. NORTON. That is 0.05 percent there. Does it have to do with experience? Does that have to do with what it takes to qualify because you would think the same would be true in terms of qualifications being so nailed down, the same would be the case with Medicare fee for service. We know exactly who those people are or aren't. Does that have to do with the hands through which it goes and the providers whereas with disability insurance, you have a very low rate which perhaps goes through less hands or fewer hands?

Mr. WERFEL. That is a very good question. My answer to that question is the Social Security Administration has a direct connection to the beneficiary it is paying. The process is one straight line from the Social Security Administration determining eligibility to the payment and it is a unified system throughout whereas school lunch is 50 different States, different State Departments of Education.

Ms. NORTON. Medicare fee for service, you would think there is a straight line there between the physician or whoever gets the money, the State or whoever.

Mr. WERFEL. Medicare is unique in terms of one of the major drivers of error is a cousin of eligibility, it is medical necessity. Medicare is probably the most challenging of all the programs because, for example, a patient comes in and the doctor makes a decision on the spot to keep that patient overnight but when you go back and look at it, Medicare only would have reimbursed for an outpatient experience. That is about training doctors and figuring how to better understand the decisions that are made. It is an enormously complex challenge because it is very difficult to validate medical necessity in real time. That is why you see such high numbers in Medicare.

Mr. PLATTS. I apologize to the gentlelady, but I have to run to the floor.

Ms. NORTON. I appreciate your graciousness, Mr. Chairman.

Mr. PLATTS. As we have seen here on both sides, there is tremendous interest in the issue and I want to wrap up quickly.

When Mr. Lankford talked about block granting Medicaid, I know it is a controversial issue, but it is to go after the issue of saying to the States, we are going to give you a block grant of money so they then buy in and have much greater incentive to go after the improper payments than today when we are paying 57 percent, they are paying 43. They have less incentive than when it is their own money. I think that is what Mr. Lankford discussed, to after school lunch where it is local verification. If we are paying the bill, they are not as concerned because we are paying the bill.

The bottom line is we want to work with you, with the administration, both sides of the aisle, with the committee and really partner with you. I know Mr. Towns and Mr. Connolly both have talked to me about partnering with me. I think Mr. Lankford and others on this side want to work with you on legislative fixes that we need to help you go to the next step, also how we can partner with the administration on getting the Department of Transportation and the Postal Service to comply with the original Improper Payments Act to adequately identify the possible risk.

Any way we can work together, the bottom line is to identify improper payments and how to prevent them in the long term or recovery when they are made.

We appreciate you both being here. Mr. Werfel, you were in the hot seat a little here but we are glad to have the partnership we have with you and your office and look forward to continuing that and working closely with you.

We will keep the record open for 7 days for any additional information you would like to provide or any statements Members would like to submit for the record. We thank you for your testimony.

This hearing stands adjourned.

[Whereupon, at 11:27 a.m., the subcommittee was adjourned.]

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