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# IMPROPER PAYMENTS: WHERE ARE TRUTH AND TRANSPARENCY IN FEDERAL FINANCIAL REPORTING?

## HEARING

BEFORE THE

FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY SUBCOMMITTEE

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

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# IMPROPER PAYMENTS: WHERE ARE TRUTH AND TRANSPARENCY IN FEDERAL FINANCIAL REPORTING?

**TUESDAY, JULY 12, 2005**

U.S. SENATE,
SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT,
GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY,
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 2:02 p.m., in room SD–562, Dirksen Senate Office Building, Hon. Tom Coburn, Chairman of the Subcommittee, presiding.

Present: Senators Coburn and Carper.

## OPENING STATEMENT OF CHAIRMAN COBURN

Senator COBURN. Good afternoon. The hearing will come to order.

The Federal Financial Management Subcommittee of the Homeland Security and Government Affairs Committee has been holding numerous hearings. I am going to ask unanimous consent that my written testimony be put in the record, if that is OK with my friend from Delaware, reserving the right to object.

Senator CARPER. I won't object.

Senator COBURN. Would you care to state your reservation?

Senator CARPER. No, no, I am fine.

Senator COBURN. And I want to welcome our panelists here.

I have to tell you, as a grandfather and also someone who spent the majority of his time taking care of people in a medical practice, most of whom were Medicaid patients, that the findings that this Subcommittee has uncovered are atrocious. And I asked my staff last night, I said, I want you to go to every accounting firm in the country and find out what the proper rate of improper payments is. Do you know what we heard? Zero is the amount of improper payments. And to think that we have, I believe, 17 of all of the government agencies in compliance in terms of reporting and those at 3.9 percent improper payments, and if you extrapolate that at all across the government, we are talking about $110 to $125 billion a year that this government is spending and paying for things improperly, things that we have not received, overpayments, which says, in effect, that we are terrible managers.

The whole purpose for this Subcommittee hearing is to try to establish the transparency and bring it to light. Unfortunately, this Subcommittee hearing won't get the coverage, the press coverage

in Washington and throughout the country that it deserves, and I would tell you that if the American people truly understood that four to five cents out of every dollar that is spent is paid out for something we did not receive, they would be up in arms. And if they personalized that with four to five percent of their tax money coming back to them because it was wasted and that they could spend that four to five percent on their grandchildren or their children, or to make a downpayment on a home, or to buy a car because they don't have adequate transportation, or to buy just sustenance to live every day in this country, they would ask for that.

And so I think the tone of the hearing ought to be, how do we get out of this mess? How do we start on the track for transparency in this government? Transparency—the problems are so great that agencies don't even comply and the standards that have been set, that if you don't spend $2 billion, it doesn't apply to you. Well, $2 billion is 40 percent of the State of Oklahoma's budget, and for us to set a standard of $2 billion to me seems ludicrous.

So I will tell you, I am not going to let go of this issue. I am going to be here for 6 years, whether I am in the Majority or Minority. I am going to work to make sure that the transparency and the accountability in government agencies comes into line with what the American people deserve and expect.

We must have an environment committed to creating the culture of accountability. That is not just in our finances, that is in every aspect of our government. Creating the culture starts from the top. It starts with the President and some of the great things he has done, but more is required. Today, we just went over the numbers. Tomorrow, the White House will announce the deficit is $75 billion less than what it was going to be. That is a meaningless number. The fact is that $460 billion is going to be added to the Federal debt this year based on what we spend versus what we get in. And if you divide that out, that is about $1,850 per man, woman, and child in this country, $1,850 per man, woman, and child that we are going to spend more than we have.

So the obligation is on you as leaders, or those people testifying, you testifying before us today, but also on the Senate to start doing its job and to do the oversight, to do the accountability, the questioning that is going to be required to get us to the level that we expect of every other area.

The other thing I think is important is Congress passed Sarbanes-Oxley and is requiring every corporation in this country to meet a new standard of professional financial accounting, openness, and transparency, and to think that the very government that is forcing that on the private sector today can't even come close to the same standards themselves, to me this is tremendously ironic and should not be in any way acceptable to anybody in the Congress, regardless of their political stripe.

[The prepared statement of Chairman Coburn follows:]

PREPARED STATEMENT OF SENATOR COBURN

In Fiscal Year 2004, the Federal Government spent $2.5 trillion. At least $45 billion of those dollars were paid improperly, mostly in overpayments—$45 billion. This dollar amount could go to pay for much needed resources for Americans. As you can see, $45 billion would provide 300,000 up-armored humvees, at $150,000 per vehicle. This figure equates to *two* humvees per American Soldier—$45 billion

dollars could also go to pay for seniors world-wide, to get flu vaccinations for the next 6 years. As you can see, it's difficult to even equate $45 billion to things needed by Americans.

Many of these payments were made without adequately supported claims, or for services not provided, or provided to ineligible beneficiaries in programs like Medicare, Social Security, Food Stamps, and Medicaid. I am still astounded by the lack of reporting for programs in the Department of Defense. So far, they have only reported for the Military Retirement Fund and Military Health Benefits programs.

In recent years,the Bush Administration and Congress have made the reduction of improper payments a priority, both through the President's Management Agenda, and the passage of the Improper Payments Information Act in November 2002. The first line of the President's Management Agenda reads: "The President's Management Agenda strives to instill first class financial management practices in departments and agencies throughout the Executive Branch."

I applaud the Administration and the Office of Management and Budget for making *Eliminating Improper Payments* a major focus of the President's Management Agenda. This initiative is a big step in helping to ensure that each taxpayer dollar is accounted for, and I look forward today to discussing ways in which agencies can continue to improve the integrity of their payments.

In Comptroller General Walker's manuscript, "Saving Our Nation's Future: An Intergovernmental Challenge," he estimates that "if we do nothing by 2040 we may have to cut Federal spending by more than half or raise Federal taxes by more than two and a half times to balance the budget." Walker contends that a crucial step in turning this dismal outlook around is "insisting on *truth* and *transparency* in government operations, including Federal financial report."

I couldn't agree more with Mr. Walker's comments, and believe that the Federal Government should be able to provide an explanation for each and every dollar it spends—this means dollars spent properly and improperly. Today's reality is that we have a current budget deficit of $462 billion.

According to the Office of Management and Budget, errors made by the Federal Government compose a total of at least $45 billion in improper payments for FY 2004. We must have "truth," and "transparency" in government operations to combat these billions of dollars in payments that are in no way justifiable.

The astounding figure—$45 billion—did not even include 12 programs with outlays of about $249 billion that were required to report previously under OMB Circular A–11; and required to report at the end of Fiscal Year 2004 pursuant to OMB's implementation guidance to the Improper Payments Information Act of 2002. This amount is just the tip of an iceberg of an unknown size.

Furthermore, there were three agencies, NASA, DOJ, and DHS, who had reported they had performed risk assessments to see whether or not their programs could make improper payments. When outside auditors came in to check on this, they could not confirm that risk assessments had even been done. This is deplorable that agencies have allegedly reported assessments. I *will* look into this potential deceit to uncover the whole story.

I am also interested to hear why agencies that have been required to report improper payment information for several years are still unable to do so. Medicaid is one program that does not report improper payment information, though it has been required to do so since July 2001. Some have argued that because Medicaid is a state-based program, it is too hard to report improper payments. That argument is refuted by the progress the Food Stamp Program has made.

While the Food Stamp Program made payment errors totaling about $1.4 billion in Fiscal Year 2003, the national dollar payment error rate for the program has declined by almost one-third over the last 5 years to a record low rate of 6.63 percent. The decline in their error rate has been widespread, and I look forward to examining the reasons for their success, and remaining challenges in eliminating improper payments. An improper payment rate of 6.63 percent is still way too high considering any improper payment rate in the private sector would be intolerable.

Americans will not tolerate one more year where $45 billion of their hard-earned money is squandered. This problem is inexcusable, no matter how complex and labrynthine the government is. I cannot go back with a number like this to Oklahoma, where my patients and neighbors are struggling to make ends meet, while the government takes up to 40 percent of their income.

I know the witnesses share my outrage and commitment to ending this abuse of the taxpayer trust. Thank you for appearing today.

Senator COBURN. I am very happy that our Ranking Member is here. We first heard things on improper payments on our first Sub-

committee hearing. At this time, I would like to recognize him for an opening statement.

## OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. Thanks, Mr. Chairman. During our caucus luncheon, I was saying earlier to our witnesses, and we welcome each of you today and the folks that are present at the hearing today, that we were just wrapping up our respective caucus luncheons, and I don't know what you guys talked about today, but one of the things we focused on was the number for the budget deficit and just an update as to how we are doing as we come to three-quarters through the year. The good news is that the deficit, as you suggest, is going to be a little bit lower this fiscal year than had earlier been projected. The bad news is this will still be, I believe, the third-largest budget deficit in the history of our country, and as you suggest, add over $400 billion to our Nation's debt.

In our earlier hearings, one of the things we have learned is that about an amount equal to roughly about 10 percent of the anticipated new debt that we will take on this year can be attributed to improper payments, and a lot of times, my dealings in the private sector have been that the improper payments that are made there are oftentimes underpayments as opposed to overpayments. We are not very good in the government at making underpayments, but we are very good in making overpayments. Maybe we can learn how to make those underpayments and that will help a little bit.

But budget deficits, clearly, if we are overpaying, we ought to do something about it and that is our full intent. We are not the first people who made this call. If you go back 4 or 5 years, you will find that this was something that the Congress and President not just talked about, but actually enacted legislation in 2002 and we are seeing in 2004 the first fruits of that work.

It is important for us today not to shoot the messenger. What is the old saying, rate the sin, not the sinner? You are not sinners, but the message that we are going to hear today, I think, is that we recognize and identified a whole lot of areas where we can make progress, and that is, I think, the beginning of actually making progress.

The other thing is while we are concerned about overpayments, Mr. Chairman, I am also concerned about taxes that are owed that ought to be collected by the Federal Government. Before we think about cutting programs, talking about raising taxes for people, we want to make sure that the folks who owe money are actually paying the dollars that are owed.

I have a statement I would also like to enter for the record, Mr. Chairman. I am just glad that we are here. I thank you for your willingness to have this hearing today. This is valuable for this Subcommittee, but even more valuable, I think, for the people of this country. Thank you.

Senator COBURN. Without objection.

[The prepared statement of Senator Carper follows:]

### PREPARED STATEMENT OF SENATOR CARPER

Thank you, Mr. Chairman, for holding this important and timely hearing. At a time when our Federal budget deficit is near historic levels, it's vital that we do all

we can to reduce the number of accidental or fraudulent payments agencies made each year.

As my colleagues are aware, Federal agencies officially make about $45 billion in improper payments each year. Most of these are overpayments. We'll learn today, however, that this is likely only the tip of the iceberg. Some agencies are not doing all they need to do to determine whether or not programs they administer are at risk for improper payments. There are other programs that we know are at risk for improper payments but that aren't figured into the $45 billion tally at all.

Our predecessors on this subcommittee, Mr. Chairman, worked back in 2002 to enact the Improper Payments Information Act—legislation that is clearly helping us get a better sense of the magnitude of the improper payments problem. In addition, OMB has now made the elimination of improper payments a top management priority. It is my hope that the new attention this problem is seeing now will lead to some dramatic improvements in the coming months.

We're just embarking on another appropriations season here in Congress where we'll be called on to make some very difficult decisions about what to do with scarce Federal dollars. I don't need to remind anyone here that every time a dollar is spent improperly, a worthy program is cheated of much-needed funding that could be use to help people.

Freeing up the tens of billions of dollars wasted every year on improper payments wouldn't solve our nation's fiscal problems, Mr. Chairman, but it would probably make our jobs in that area a lot easier. There will always be mistakes made here and there but it seems to me that the key to solving this problem is to find a way to get agencies to abide by the basics of sound financial management.

I think it's inexcusable that an agency is unable to look at its balance sheet and report to OMB on the areas that they think are at risk for improper payments. I understand that GAO will testify today, however, that some agencies simply aren't complying with the 2002 legislation and letting us know where they're vulnerable.

And it's shocking to me that many agencies don't have the ability to detect things like double payments or benefits going out to individuals who don't quality. It's clear however, that too many of these kinds of mistakes are still slipping past agencies' internal controls.

It sounds like we're making progress on this issue, Mr. Chairman, but we probably have a long way left to go. I look forward to hearing a progress report from our witnesses today and to learning what, if anything, we need to do to help agencies further.

Senator COBURN. I would like for you to put up the poster on the $45 billion, if you would.[1]

We have before us today four very distinguished individuals and I will not go into extreme detail on your bios, but I do want to thank you for coming. I want to thank you for the work that you are doing.

Ms. Coler, I want to particularly commend you on the work that you have done with the Federal Food Stamp Program. It is still way too high, but you have demonstrated that if an effort is made, things can change, and I think it is a great example of where we start. I also think it is great because it is a State-run program and people are giving us the statements that, in fact, State-run programs can't be accountable, and, in fact, they can, and I think you have proven that through your efforts at the Department of Agriculture.

On our witness list today is McCoy Williams, who is Director of the Financial Management and Assurance Team of the Government Accountability Office.

We also have Linda Combs. She has been with us before. We thank you for being here.

Senator CARPER. I think the last time Ms. Combs was before us, I think she was here for——

Senator COBURN. Maybe for a hearing on her nomination.

[1] The chart referred to appears in the Appendix on page 37.

Senator CARPER. She has since been confirmed.

Senator COBURN. We are very pleased to have you here.

The bios are about five pages long, so I am going to skip through those. Timothy Hill, thank you——

Senator CARPER. Ms. Combs, does it say where she went to undergraduate school?

Senator COBURN. Yes, it did, and we went through that again, but would you care to elaborate?

Senator CARPER. For the folks in the audience who never heard this, her undergraduate math teacher at Appalachian State University was my father-in-law, and he is deceased now, but he would be so proud to see——

Senator COBURN. Now you get the connection of why he is on this Subcommittee.

Senator CARPER. He would be so pleased to see one of his students sitting at the table accomplishing all the things that you have accomplished.

Ms. COMBS. Thank you so much.

Senator COBURN. Timothy Hill is the Centers for Medicare & Medicaid Services Chief Financial Officer and Director of the Office of Financial Management.

And Kate Coler was appointed Deputy Under Secretary for Food, Nutrition, and Consumer Services on December 1, 2003, and that is my comment in relationship to the work that you have done at the Department of Agriculture. I appreciate it.

We would love to have your testimony. Your full testimony will be made a part of the record. Would you please limit your comments to 5 minutes.

Mr. Williams, please begin.

**TESTIMONY OF McCOY WILLIAMS,[1] DIRECTOR, FINANCIAL MANAGEMENT AND ASSURANCE, U.S. GOVERNMENT ACCOUNTABILITY OFFICE**

Mr. WILLIAMS. Thank you, Mr. Chairman. Mr. Chairman and Senator Carper, I am pleased to be here today to discuss the government-wide problem of improper payments in Federal programs and activities.

Fiscal Year 2004 marked the first year that Federal agencies government-wide were required to report improper payment information under the Improper Payments Information Act of 2002. OMB has continued to provide strong emphasis on the Act through the President's Management Agenda and Federal agencies' response to fulfilling the requirements of the Act has generally been positive. My testimony today is based on our March 31, 2005, report that focused on the extent to which agencies have performed the required assessments to identify programs and activities that are susceptible to significant improper payments, and the annual amount of improper payments estimated by the reporting agencies for Fiscal Year 2004.

Mr. Chairman, we found that agencies made progress in identifying programs susceptible to the risk of improper payments. At the same time, our findings suggest that even with enhanced em-

[1] The prepared statement of Mr. Williams appears in the Appendix on page 39.

phasis on improper payment reporting, certain agencies had not yet performed risk assessments of all their programs and their estimated improper payments for their respective programs.

Specifically, 6 of the 29 agencies we reviewed reported that they had not assessed all programs. We also found that 29 agency programs did not report improper payment estimates. Mr. Chairman, 12 of these programs had prior improper payment reporting requirements under OMB Circular A–11.

I will now focus on the amount of government-wide improper payments reported for Fiscal Year 2004. Mr. Chairman, while 17 agencies reported improper payment estimates totalling more than $45 billion for 41 programs, the magnitude of the government-wide improper payment problem is still unknown because, as I mentioned earlier, some agencies have not yet prepared estimates of significant improper payments for all of their programs.

The $45 billion represents almost a $10 billion, or 27 percent, increase in the amount of improper payments reported by agencies in Fiscal Year 2003. This increase was primarily attributable to changes in the method for estimating and reporting improper payments in the Medicare program.

In closing, Mr. Chairman, we recognize that measuring improper payments and designing and implementing actions to reduce or eliminate them are not simple tasks and will not be easily solved. The level of importance each agency, the Administration, and the Congress place on the efforts to implement the Act will determine its overall effectiveness in assuring that Federal funds are used efficiently and for their intended purposes.

This concludes my statement, Mr. Chairman. I would be pleased to respond to any questions that you or other Members of the Subcommittee may have. Thank you.

Senator COBURN. Thank you. Controller Combs.

**TESTIMONY OF HON. LINDA M. COMBS,[1] CONTROLLER, OFFICE OF FEDERAL FINANCIAL MANAGEMENT, U.S. OFFICE OF MANAGEMENT AND BUDGET**

Ms. COMBS. Thank you, Dr. Coburn, Senator Carper, and Members of the Subcommittee. I am certainly pleased to be here with you today for the first time since being confirmed to the position of Controller and I certainly look forward to working with you on this very important Subcommittee.

There are many significant financial issues facing our government today and certainly the financial reporting that we are talking about today and making our reporting more transparent, improving internal controls processes, and the very important topic which we are here to discuss today of eliminating improper payments.

Let me say I stand with you in creating a culture of accountability in the Federal Government and I think this Administration is saying by the actions that we have put forward in response to the legislation that we continue to make the elimination of improper payments a very high priority. There is simply no more important undertaking than the efficient stewardship of our taxpayer

[1] The prepared statement of Ms. Combs appears in the Appendix on page 48.

dollars. The Federal Government should be accurate and transparent, as we have talked about before, in its financial reporting. Our citizens deserve to know that their money is being spent appropriately for the purpose that it was intended and legislated.

Be assured that we are hard at work to ensure that these things are happening, continue to happen, and I agree, we have much more to do. The bar needs to be set higher and I stand here ready to help you set that bar higher.

When the President's Management Agenda was first announced in 2001, the elimination of improper payments was indeed a key part of the improving financial performance initiative, initially focusing on those Federal programs making annual payments in excess of $2 billion, and the 2002 enactment of the Improper Payments Information Act broadened the review of all these programs and activities.

In May 2003, the agencies began to comply with the Act, and in 2004, last year's Performance and Accountability Reports that were issued on November 15, we saw further evidence of this compliance.

In Fiscal Year 2004, as we just heard Mr. Williams talk about, that marked the first full year of the implementation of the Improper Payments Act by agencies, and agencies reported their improper payment elimination efforts in their November PAR reports. It was soon after that, in January 2005, that OMB issued a report called "Improving the Accuracy and Integrity of Federal Programs." That served one purpose, and that was to aggregate the results of these agency-specific reports into a single comprehensive document. This provided the clearest picture that we have to date on the extent of the government-wide improper payments as well as the significant efforts that continue to be underway to eliminate them.

What we learned from that report was that, indeed, Federal agencies reported a collective total at that time of $45.1 billion in improper payments in 2004, and that represented a 3.9 government-wide improper payment rate. Approximately 92 percent of the Federal improper payments are overpayments. There are seven programs alone that account for 95 percent of the improper payments that were reported in Fiscal Year 2004. If the agencies are successful in meeting their reduction targets, the overall improper payments total measured and reported in Fiscal Year 2004 is expected to decline when the reports come in November 2005, of this year.

A significant and specific PMA program initiative, Eliminating Improper Payments initiative, is also adding further agency focus on eliminating improper payments. As you recall, under the President's Management Agenda, agencies are required to meet a "green" standard, and as agencies continue to move forward toward the completion of the necessary steps for the Improving Financial Management Initiative, improper payments is definitely one of the areas that we track during that.

I think with the tools of the Improper Payments Information Act, and this Administration's efforts that are currently in place, we are building upon our successes. The Federal Government is in a very strong position right now to continue the efforts that we have al-

ready identified and eliminate improper payments throughout agency and program activities.

With our goal of ensuring that each taxpayer dollar is spent wisely, efficiently, and for the purpose of which it was originally intended, we remain committed to eliminating Federal improper payments. We look forward to working with Congress to see that this objective is truly accomplished.

Thank you for the opportunity to speak before you today, and I am pleased to answer any questions.

Senator COBURN. Thank you. Mr. Hill.

**TESTIMONY OF TIMOTHY HILL,[1] DIRECTOR, OFFICE OF FINANCIAL MANAGEMENT, CENTERS FOR MEDICARE & MEDICAID SERVICES, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Mr. HILL. Dr. Coburn, Senator Carper, other distinguished Subcommittee Members, thank you for inviting me here to discuss the CMS's initiatives to reduce improper payments in the Medicare and the Medicaid programs.

In Fiscal Year 2005, the Medicare and Medicaid programs will spend $658 billion on health care benefits for nearly 85 million beneficiaries. By any measure, this is an awesome fiduciary responsibility and one that the agency as a whole and I, in particular, as the Chief Financial Officer (CFO), take very seriously. Given the staggering size of the expenditures for these programs, even small amounts of payment error can represent a significant impact to both Federal and State treasuries and taxpayers. I recognize that Medicare makes up a significant portion of that $45 billion.

Thus, CMS, as part of our overall financial management strategy, has a long history of using improper payment calculations as a tool to preserve the fiscal integrity of the programs that we administer. As a general matter, we look to our improper payment activities to help us identify improper payments, to identify and study their root causes, and to help strengthen internal controls to prevent improper payments from occurring in the future. However, because Medicare and Medicaid vary in terms of their financing and their Administration, our specific approaches to measuring and eliminating improper payments for each program are slightly different.

We began reporting a national improper payment rate for Medicare in Fiscal Year 1996 as part of our annual CFO audit. Beginning in Fiscal Year 2003, we expanded on that process to include a national rate, as well as rates that produce data at much lower levels of aggregation to allow us better management information for our program by assessing how well our claims processors process claims as well as assessing broad categories of providers and benefit types. In 2002, when the Improper Payments Information Act (IPIA) was enacted, CMS needed to make only minor modifications to our ongoing processes to come into compliance with the OMB-issued guidance.

Calculating the error rates is only one step in the process. Remediation is the key to CMS's IPIA compliance activities. The cor-

[1] The prepared statement of Mr. Hill appears in the Appendix on page 52.

nerstone of our remediation efforts in Medicare is our error rate reduction plan, which includes agency-level strategies to clarify our policies and implement new initiatives to reduce improper payments. It also lays out how we use the improper payment information to evaluate the performance of our contractors that process our claims and to target billing education for particularly error-prone benefit areas or provider types.

While we have a long way to go, our efforts to date have shown promise. Our goal is to lower the national Medicare rate, which currently stands at 10.1 percent, to 7.9 percent by November 2005. I am happy to report that our preliminary data indicate that we are on track to meet this 2005 goal.

Let me now turn to compliance for Medicaid and SCHIP. CMS, along with the States, has a strong interest in strengthening financial management and oversight payment accuracy in the Medicaid and SCHIP programs. Thus, our IPIA compliance strategy rests on a policy of joint Federal-State cooperation to achieve the intended outcomes of the statute. Our strategy has evolved since Fiscal Year 2000, when we first initiated a payment accuracy measurement demonstration project to test various methods and strategies for measuring improper payments at the State level. By the end of Fiscal Year 2005, 38 States will have participated in this program.

Last August, based on our experiences with this program, we published a proposed rule that would require States to measure and report IPIA compliant payment accuracy rates for Medicaid and SCHIP. We hope to finalize this rule later this summer using the assessment of our pilots as well as industry and beneficiary comments on our proposed rule. Our goal is to have full IPIA compliance in Medicaid and SCHIP in time for reporting in the Fiscal Year 2008 Performance and Accountability Report.

In addition to becoming IPIA compliant for Medicaid, a key challenge facing CMS in the coming years will be assessing IPIA compliance with the new drug benefit and expanded Medicare Advantage programs. We conducted a risk assessment of the Medicare Advantage program this year, and we will be outlining a strategy for IPIA compliance for Fiscal Year 2006. For the drug benefit, which begins in January, we will be conducting a risk assessment in the next calendar year, in time to lay out a strategy for compliance in 2007.

Mr. Chairman, CMS maintains a strong commitment to protecting taxpayer dollars and ensuring the sound financial management of our programs. We have taken significant actions to both meet and exceed the IPIA standards in Medicare and we are taking a number of proactive steps to become IPIA compliant in Medicaid. We have made a great deal of progress, but we look forward to continuing to work with you to move forward.

I look forward to answering any questions the Subcommittee may have.

Senator COBURN. Thank you very much, Mr. Hill. Secretary Coler.

**TESTIMONY OF KATE COLER,[1] DEPUTY UNDER SECRETARY, FOOD, NUTRITION, AND CONSUMER SERVICES, U.S. DEPARTMENT OF AGRICULTURE**

Ms. COLER. Good afternoon, Dr. Coburn and Senator Carper. I am pleased to be here to share with you some of what USDA and our State partners have been doing over the years to improve the payment accuracy rate in the Food Stamp Program.

The Food Stamp Program ensures access to a nutritious, healthful diet for households through nutrition assistance and nutrition education. The Federal Government pays the full cost of the benefits, which is $24.6 billion for Fiscal Year 2004, and funds approximately half of the expenses incurred by the States to administer the program.

The Office of Management and Budget recently completed a Program Assessment Rating Tool, or PART, review of the Food Stamp Program in 2003. The review showed that food stamp benefits are well targeted to low-income beneficiaries and are virtually always spent for their intended purpose. The program achieves its annual performance goals to reduce payment error while still keeping the program accessible to eligible people.

Also, in May of this year, the Government Accountability Office issued a report on error reduction efforts in the Food Stamp Program. This report noted the significant recent decline in the error rates and suggests that continued attention from top USDA leadership as well as continuing efforts of the Food and Nutrition Service will likely continue to be important factors in further reductions.

There has also been an increase in the participation rates of the Food Stamp Program over the last 4 years. Increasing caseloads can make it quite challenging for State agencies to calculate eligibility with accuracy, and yet I am proud to report that our State partners are doing a better job than ever in accurately determining benefits.

Just 3 weeks ago, on June 24, Agriculture Secretary Mike Johanns announced that the Food Stamp Program has achieved an historic 94.12 percent overall payment accuracy rate, the best performance since the inception of the Food Stamp Program and a 34 percent improvement from just 5 years ago. The result of the combined error rate reduction from Fiscal Year 2000 to 2004 is an aggregate decrease in erroneous benefits of $1.4 billion.

The improvement in payment accuracy is a result of strong partnerships with States who administer the program as well as implementation of program changes from the 2002 Farm Bill. The new Farm Bill has enabled States to better simplify shelter cost deductions and reporting requirements, align food stamp income and resource policy with State TANF and Medicaid programs, and employ other new options to streamline eligibility determinations.

The food stamp payment accuracy rate is developed from a longstanding process called quality control, a system which is mandated by the Food Stamp Act to ensure program integrity. Each State selects and reviews a statistical sample of its participating food stamp households each year and reports the findings to the Food and Nutrition Service, where those findings are then vali-

[1] The prepared statement of Ms. Coler appears in the Appendix on page 60.

dated. Those results are used to calculate an error rate for each State and then weighed to determine a national average.

Erroneous payments, as I mentioned, are at a record low. Fewer than 4.5 percent of payments are overissued and fewer than 1.5 percent are underissued, for a combined total of 5.88 percent. We regard both of these errors, overissuances and underissuances, as equally important. It is critical that payments are given in the proper amount. We want to make sure people are receiving the proper amount to which they are entitled.

It is also important to note with the Food Stamp Program that over 98 percent of the people who participate are, indeed, eligible for some level of benefit. What we are measuring is, are we getting it exactly right?

State agencies are required to do corrective action planning whenever their payment error rate is at 6 percent or greater. The Food and Nutrition Service regional offices work closely with States to assist them in developing effective correction strategies as well as provide them with technical assistance for data analysis, policy interpretation, and training. Additionally, the Food and Nutrition Service enters into settlement agreements that require poor performing States subject to liabilities to undertake targeted error reduction actions and to commit to specific improvement goals.

The Food Stamp Program also has a system in place to recover erroneously issued benefits from food stamp recipients. A little over 12 years ago, FNS approached State agencies and encouraged them to participate in the Treasury Offset Program. That partnership has grown over the years, and as a result, we have collected more than $800 million in delinquent food stamp recipient claims.

We are very proud of our efforts and the progress that we have made to ensure that food stamp benefits provide nutrition assistance and that they are well targeted to the Nation's needy families.

I would also like to point out that in the last Farm Bill, the 2002 Farm Bill, there were legislative changes to the quality control system that may impact our ability to ensure continued improvement in payment accuracy. Those changes reduce the penalties associated with payment errors as well as the incentives that we provide to States that excel in payment accuracy. However, we are working closely with our State partners—from the top all the way through the front-line eligibility workers—to ensure that this mutual commitment to reduce the error rate is still in place even with the new quality control system.

We continue to seek opportunities and strategies to share best practices and information critical to ensuring that the program is administered properly. As we look toward the next Farm Bill in 2007 which authorizes our program, we are going to be holding listening sessions early this fall across the country to get input from our State partners as well as advocates on new ways to improve the program. We are committed to maintaining public confidence in this nutrition assistance program and ensuring that these Federal dollars are used for the purpose for which they were intended.

With that, I will be happy to answer any questions.

Senator COBURN. Thank you all.

I intend on spending quite a bit of time on asking questions. I wanted to give you a heads up on that.

I also would like to put into the record an article[1] in *The Washington Post* 7/12/05, "Medicare's Spinal Tap." I don't know if you saw that. One group of providers, the chiropractors, received $285 million in improper payments in 2001, according to the Inspector General's Office of the Department of Health and Human Services. That amounts to two of every three dollars paid to chiropractors. Medicare is supposed to cover chiropractic care only when there is a reasonable chance of correcting the problem or improving the patient's ability to function. That is from 2001. We are just now hearing about it, 4 years later. So there is a timeliness problem.

Let me just start with some questions, and then I will go to Senator Carper.

Why was 6 percent chosen as an error rate?

Ms. COLER. That is part of the legislation. Historically, the rate that Congress recognized that a State was entitled to enhanced funding or a bonus if they were able to achieve 6 percent. This is the first time that we have actually had a national error rate below that, and so——

Senator COBURN. So it would be your recommendation that the next Farm Bill have something significantly lower than that?

Ms. COLER. Well, we are all working to continue to lower the error rate. I think that is something that Congress will consider.

Senator COBURN. And your net on food stamps, the net overpayment was about 3.3 percent?

Ms. COLER. It was—yes, just a little bit over.

Senator COBURN. And 3.3 percent times the total amount spent on food stamps is how much?

Ms. COLER. The net over-issuance is about $1.1 billion.

Senator COBURN. One-point-one billion dollars——

Ms. COLER. And then the under-issuance is about $350——

Senator COBURN. So it would be $1.4 billion over, and the net being $1.1.

Ms. COLER. Yes.

Senator COBURN. So there is $1.1 billion right there, just right there in one program.

As you can see on the left side, improper payments reported in fiscal 2004, 35 agencies reported improper payments. These programs are considered "significant" to the U.S. consolidated financial statements.

Mr. Williams, can you explain how the distinction is made on "significant"? What makes an agency significant to the U.S. consolidated financial statements?

Mr. WILLIAMS. Mr. Chairman, we basically look at the numbers as far as assets and liabilities and budgets, etc., and based on those numbers, we are looking at the issue from a materiality standpoint. There are certain criteria that we use 2 or 3 percent of total assets, etc. And when we look at all the agencies and we look at how much they contribute, when you are looking at the financial reports, such as the balance sheet and the statement of net costs, that is how we come up with those agencies that have major contributions and consider——

[1] The article appears in the Appendix on page 38.

Senator COBURN. So if I run an agency that is not significant, I don't have to worry about you?

Mr. WILLIAMS. That is not true.

Senator COBURN. OK. Explain that to us.

Mr. WILLIAMS. If you are running an agency that we have determined at the government level that may not be significant to the statements overall, those numbers still could be significant and would be significant to the audit report that is being done at that particular agency level.

Senator COBURN. Is that if it meets the $2 billion?

Mr. WILLIAMS. No. It does not have to meet the $2 billion. It would be significant to the auditors that are looking at that particular entity. In other words, we are looking at the government operations as a whole. While we are looking at it as a whole, there are other auditors down at the various agency or component levels that are looking at government operations, and while it might not be significant to the numbers that we are looking at, those numbers that those individual agencies are producing have some significance or are significant to the auditors that are looking at them at the lower level.

Senator COBURN. Where does the criteria come from? Who developed the criteria to say something is significant or not significant in terms of this legislation?

Mr. WILLIAMS. In terms of this legislation, as far as significant, we at GAO had an opportunity to comment on the draft in the early stages and the issue came up, what should be considered significant when we are talking about an improper payment? I think when the legislation was initially drafted, it had a number of about $1 million as being the point of significance. In various discussions, it was eventually settled on to be $10 million, and the thinking there was every dollar that is an overpayment is significant, but just looking at it from a practical standpoint, when you are talking about an operation that has outlays of over $1 trillion at the time——

Senator COBURN. That is the very point I want to get to.

Mr. WILLIAMS. Right.

Senator COBURN. If you create a culture that says there is significance and non-significance, what I believe you are doing is undermining those that aren't within that frame.

Mr. WILLIAMS. Right.

Senator COBURN. And the President's management plan, I believe, was $2 billion. Wasn't that his criteria, under the President's Management Agenda, was $2 billion? And I guess the question I am asking is, why shouldn't the same standard apply for every agency, every functioning agency of the Federal Government, and why shouldn't a zero improper payment rate be the goal for the entire Federal Government?

Mr. WILLIAMS. That should be the goal——

Senator COBURN. But it is not. That is a point I want to get across. That is not the goal for the Federal Government.

Mr. WILLIAMS. Right.

Senator COBURN. And a goal something less than, and I know—Senator Carper, I am not trying to shoot the messenger. I am trying to make the point—expectations of performance are the most

important thing you all can do in your positions. And if it is not expected, it won't happen except in very rare instances.

So can the average taxpayer decide in their own budget what is significant and what is non-significant? Can they waste in a non-significant area and not waste in a significant area? It just doesn't fly.

So the message I want to send back is maybe we need to rethink and relook both at the President's area and the GAO in terms of what you are looking at and what you are accepting for, as well as OMB, is nobody should be off the radar screen. If they are wasting a dollar, they are stealing it from the next generation and we need to be asking, how do we get this plan all the way out? How does everyone become accountable? It is not just becoming accountable. Having the expectation of accountability changes behavior, and then the follow-up, the auditing.

On this placard over here, what you can see is the total number of agencies that do not even—this doesn't even cover all agencies. This is 70 agencies. It is clearly stated in the IPIA that all Federal agencies must report improper payment information. Where are we? Does anybody care to answer that? We just have 70 programs considered up there. Does the $45 billion, for example, cover the Department of Defense? General Walker testified, I think it was $45 billion in overpayments and $5 billion in underpayments just for the Department of Defense alone. Is that in this $45 billion that you all are reporting, the Department of Defense?

Mr. WILLIAMS. The $45 billion that we are reporting includes the Department of Defense, but it is basically not including those numbers that you just mentioned——

Senator COBURN. So basically, we are really at $94 billion, or $90 billion?

Mr. WILLIAMS. Agencies have reported in the PARs for those that we have on the board there—$45 billion for those 17 agencies under the reporting requirements of the Act.

Senator COBURN. Can anybody on the panel give me the number of total Federal programs? It is in the thousands. That is $45 billion on 70 programs. And if we take and look—if we limit it to significant only—and as you testified—we don't know what the real number is, and we know part of the reason the number of percentage is growing is because we have more accurate reporting. But if we have 70—and we have 35 of the agencies out of that 70 programs reporting and we have $45 billion, is the problem not a great deal larger?

Ms. COMBS. Let me just add that the 70 programs that you are referring to in the improper payments area here, every department and agency is required to work through their internal control mechanism and those are reported through the PAR every year. So it is not like we are giving some of these other programs a pass, so to speak, on these reporting relationships. They are using other mechanisms rather than this particular report. They are reporting it through the PAR, in essence. So I think maybe that might deserve some thought, as well.

Senator COBURN. But I believe these are considered. Seventy were considered, right? Does that mean they are actually reporting,

out of these 70? The 70 did not report, is that correct? Thirty-five reported out of these 70 programs.

Ms. COMBS. Let me get this right——

Senator COBURN. OK.

Ms. COMBS [continuing]. So you can be clear.

Senator COBURN. The IPIA requires every government program to report. We all agree on that, right?

Ms. COMBS. Correct.

Senator COBURN. What percentage report to Congress? That is what it requires. What percentage of the government programs are actually compliant with reporting?

Ms. COMBS. We don't have that percentage, but we will get that.

Senator COBURN. If you would. I think that is really important, because to get a handle on this $45 billion. We know, for example, Medicaid, you don't have a handle on yet. It is $178 billion, I think, this year. We don't know what that is, but if it is 3 or 4 percent of that, you are talking $7, $8, or $10 billion.

I just think one of the things we have to do is—and I am not demeaning the start. We had to start somewhere. But I think that the culture that needs to be created is that everybody is accountable. Everybody has to report under IPIA and everybody ought to do that on a timely basis.

I am going to defer to Senator Carper now and let him ask some questions. Senator Carper.

Senator CARPER. Thanks, Mr. Chairman.

I want to go back to a question that is a follow-up to what the Chairman was asking in referring to the poster over here, the chart to my right. It is different than the question he was asking. What percentage of Federal spending do the 70 programs that are represented on this chart, what percentage of Federal spending do these 70 programs represent? Is it half? Is it less than half? Is it more than half?

Ms. COMBS. It is approximately $2.3 trillion, approximately.

Senator CARPER. All right. And my follow-up question would be, roughly what percentage of spending does that reflect, $2.3 trillion? Is it half? Is it more than half?

Ms. COMBS. The $2.3 trillion I referred to is the outlays. That is the corpus that I think you were referring to. But you are referring to the 70 programs and what part of that $2.3 trillion that——

Senator CARPER. I guess my point is 70 programs doesn't sound like a lot, but, however, it is possible that those 70 programs represent a whole lot of our spending.

Ms. COMBS. Well, that is——

Senator CARPER. That is what I am trying to get to.

Ms. COMBS. We don't have that. We can supply that for you.

Senator CARPER. Can anybody give me a feel for that? Mr. Williams.

Mr. WILLIAMS. We do not have that information. And expanding on that, one of the things that we attempted to do was to identify the universe of all the Federal programs, and that turns out to be a difficult task because of definitional reasons—how do you define this program, is this a program, etc.? But as far as the percentage, we were not able to get that number.

Senator CARPER. All right. I wrote down as someone was testifying, seven programs alone account for 95 percent of improper payments. Who said that?

Ms. COMBS. I did.

Senator CARPER. Would you just elaborate on that, please?

Ms. COMBS. As the assessments were done that Mr. Williams is referring to, there were actually seven programs that were identified that represented 95 percent of all the improper payments that were identified at that time. That was for the 2004 time period.

Senator CARPER. Could you just tell us, what were those seven, do you recall?

Ms. COMBS. Medicare, Earned Income Tax Credit, Unemployment Insurance, Supplemental Security Income, Old Age Survivors' and Disability Insurance, Public Housing/Rental Assistance, and Food Stamps. And might I just say, while I have the microphone here, that those seven programs, I would consider to be the higher-risk areas. And, of course, that is where we wanted to start, with the understanding of our partners and the auditing community, as well as in the IG community, those were some very large areas that we wanted to start with. And so I would consider that those, being as high-risk as they were because of the dollar value, gave us the best opportunity to get that money back to the American people.

Senator CARPER. Would you call them the low-hanging fruit?

Ms. COMBS. I would say this is the greatest opportunity we have at the present time to bring some additional transparency and to bring some additional dollars, in essence, back to the American people.

Senator CARPER. Thank you. A question for anyone on the panel, just a really basic question, but why do improper payments, overpayments or underpayments, why are they occurring in such numbers? Why is this happening?

Mr. WILLIAMS. I will take that. One of the things that we have found in our reviews over the years is that if you look for a root cause for an improper payment, it is a lack of good internal controls. I think that is a common theme that you can find throughout this whole process, is that where you have a breakdown or a lack of internal controls, you have a higher risk for having improper payments.

Senator CARPER. Anyone else?

Ms. COMBS. I would agree with that, and I would also agree that there are probably some timing opportunities, as well. In other words, some of the payments, because people do not have accurate enough financial information at the time that the payment is being made in order to make that payment, something may have happened, and my friends who deal with that all the time are probably best to answer that, but I would expect that may have a large portion to do with what we are trying to deal with here, as well.

Senator CARPER. Mr. Hill.

Mr. HILL. I was also going to suggest that internal control is clearly an issue. It is also important to focus on the complexity and the nature of the programs themselves. Speaking for Medicare and Medicaid, while internal controls are an issue, they are also highly complex programs. Health insurance benefits for providers on be-

half of beneficiaries involve a multitude of payment systems and coverage criteria that some would say are hard to understand and——

Senator COBURN. It is designed to be defrauded.

Mr. HILL. It is certainly where the money is and there is a certain opportunity that folks take to use the system to try and get money to which they are not entitled.

Senator CARPER. Secretary Coler—well, go ahead and then I have a question for you, as well.

Ms. COLER. I was just going to agree that the complexities of the programs do have an impact on the improper payments. One of the nice things we saw with the 2002 Farm Bill, where States could align some of the income eligibility requirements in the Food Stamp Program with other State programs like TANF and Medicaid, it could help because the States could make determinations and streamline those programs, and therefore, we have seen a reduction in some——

Senator CARPER. I think that is a good point. Make that point again for us. That is a good point.

Ms. COLER. As the States have been able to streamline the criteria and eligibility requirements of various programs—many times, often, the eligibility is determined by the same caseworker—it has improved the ability of the States to perform in accurately determining benefits.

Senator CARPER. Thank you. In my last job, I was Governor of Delaware and I have recollections of working with the U.S. Department of Agriculture to try to reduce our error rates, and all the States were trying to do that, as well. One of the things we are trying to do is to go to a paperless system and there was a fair amount of encouragement, some financial incentives, some carrots and sticks that were involved. But I think you have seen a migration in the last decade in virtually every State now to more of a paperless system. Just talk about that transformation, if you will, and how it may have had some positive effect on the better results that we are seeing today with respect to improper payments.

Ms. COLER. Well, with the Food Stamp Program moving to electronic benefit payments, or EBT, we have eliminated paper currency and that is a whole different——

Senator CARPER. Explain how it works now.

Ms. COLER. Sure. It is a debit transaction, just like a commercial debit transaction. The card draws money down from the household's food stamp account to purchase their groceries at an authorized retailer. We have been able to lower the amount of trafficking significantly through EBT, because we are able to use it to monitor transactions. We can better analyze where there might be some suspicious activity and better target our investigative efforts to go after that. So we are 100 percent EBT now. There are no stamps anymore, or at least they are not being issued. It is an item in the President's budget to possibly rename the program to better reflect that it is a nutrition program and to bring it into the 21st Century. EBT has provided a tremendous benefit on the trafficking end and our abilities to reduce those instances.

Senator CARPER. What lessons might we learn from what the Department of Agriculture has gone through in managing and really

overhauling this program? And are any of those lessons applicable to other agencies, particularly the six or seven which have the greatest prospect for reducing improper payments?

Ms. COLER. Well, we see our ability to interact with our State partners, to share the commitment to improve the performance of this program from the top leadership at USDA to the top leadership within the States, but then also encouraging and rewarding performance through our county offices and with eligibility workers. You really need the entire chain to be committed to this. I think program simplifications have helped. We do have a quality control system in place under the law. Because we are a federally-funded program, but State administered, there aren't the incentives for a State to necessarily watch how they are determining eligibility as much as if they were required to have a match on the benefits. So I think that is why we are somewhat unique with this legislated quality control system.

But it has helped. I think efforts to collect liabilities when States were not performing and to be serious that we need all levels to be committed to this has had a significant impact, and so we are pleased with the progress. We recognize that there is always improvement.

Senator CARPER. Continuous improvement.

Mr. Chairman, I have another Subcommittee, Clean Air Chaired by Senator Voinovich, that I need to slip off to. Before I slip out on you, could I just ask two questions of Ms. Combs——

Senator COBURN. Sure, absolutely.

Senator CARPER [continuing]. And then I will be on my way.

To Ms. Combs, let me just ask, it seems to me that maybe the best strategy for addressing the improper payments problem would be to build on agencies' capacity to prevent erroneous or fraudulent payments before they are made. Let me just ask, and I know you are new in this particular position, but what has OMB been doing that you are aware of to help agencies to build up the internal controls that we talked about here earlier that are necessary to prevent improper payments?

Ms. COMBS. Thank you for asking that, because I do look on what has happened thus far as a phase one approach. We are not there yet, but we certainly have come a long way. I think that in the phase one approach, we had a lot of attention and added attention being paid to, in essence, 15 departments that encompassed about 40-some programs. I know you have 70 on your chart here, and that was reflected in the GAO report, and it certainly says how much we have to work on. But just concentrating on those top 15 departments, when we meet with these people on a regular basis and the CFOs in each one of these departments know that they are responsible for doing the risk assessments, they are responsible for coming up with a plan, they are responsible for coming to us and showing us how they are progressing along the way of reducing their improper payments, and the accountability is there at the top levels in each one of these departments and agencies and it does go, then, all the way down.

But it has to start at those top levels. So to answer your question more specifically, that is one of the things that we believe at OMB we can help departments and agencies with. We can showcase the

Kate Colers of the world and the best practices that have taken place in the Food Stamp arena. We can understand better with our CFO Council members, where we get together every couple of months, and then individually, we will have seven or eight of them come in individually and talk about these things.

So, in essence, being a willing helper, and because I have done a CFO job in several departments and agencies, I feel like a lot of people will look to me for some leadership in that regard, as well.

Senator CARPER. One last question, if I could, Mr. Chairman. Ms. Combs indicates she has been CFO, as we know, in a couple of other agencies, I think EPA and DOT, as I recall, are those agencies. I believe you have also had a chance to work on improper payment issues, not just in the public sector, but I think in the private sector, as well. I am wondering what lessons you might share with us briefly that the business community can teach those of us in Federal agencies about building internal controls and reducing, maybe eliminating, improper payments and what efforts, if any, has OMB taken, to your knowledge, to help agencies learn from businesses or even other agencies that have done a good job in those areas, as Ms. Coler has referred to.

Ms. COMBS. I think one of the other things that we have recently done at OMB was to have an industry day where we could bring industry in and let them share with us some of the best practices that they have, have a basic sit-down meeting to say, here are some of our problems. Where have you addressed this in an industry-wide level?

And I think Dr. Coburn mentioned it earlier, the expectation of a zero percent improper payment rate is the right approach. We have to put that out there as our ultimate goal, to be zero percent, because the best possible internal control that you can possibly have is to not let the error occur to begin with.

Yes, you are right, it was very important in the banking business. It was very important in the private sector where I was. And putting the expectation out there, both at the EPA as well as Department of Transportation, certainly helped us to come to the realization that we can do a whole lot better, and we can use some newer technology now that we and many of the other CFOs are exploring to see if some of the newer technology will help us to identify the correct payer before we are actually making the payment. So I think particularly in Mr. Hill's area, that they are looking at some new ways to do that, and I think that, too, will help.

Senator CARPER. Mr. Chairman, I am sorry I have to slip out. Again, to our witnesses, thank you very much for being here and to help us as we try to get our arms around this challenge. I think some good work is being done in this area and I think maybe part of our job is to put a spotlight on the good work, but also to put a spotlight on the areas where we still need a fair amount of work to take place. Thanks very much.

Senator COBURN. Thanks, Senator Carper.

Let us go back to the chart that is up for a minute. There are 35 agencies that are considered significant. Twenty-three agencies assess some programs, not all their programs, but some programs for improper payment, and that is not exactly the same number. Agencies that did not even identify problems for all programs, that

is six of them. In other words, they are not compliant at all. And then there are another three agencies who said they did an assessment, but when they were audited by GAO, there was found no evidence that they did an assessment. Could you comment on that, Mr. Williams?

Mr. WILLIAMS. Actually, there were three agencies that had previous reporting requirements that we identified in the review that did not report. There were also three agencies that did not have the previous reporting requirement. But in addition to that, there were three agencies—NASA, Homeland Security, and Justice—whose auditors questioned the overall assessment that had been performed, and in their opinion, as they reviewed the process, they concluded that the Act had not been complied with. So it was those three agencies.

Senator COBURN. So the demand for internal controls in those three agencies needs to be reinstituted and emphasized.

Mr. WILLIAMS. There needs to be a little bit more emphasis on the overall process, based on what the auditors reported for those three agencies, to make sure that additional steps, additional procedures are being performed to make sure that the agency is in compliance in the eyes of the auditors when they are looking at the compliance issue on their annual audit.

Senator COBURN. Then you go to the other side of this. Seventy total programs were considered for improper payments, that is correct, and 41 of them that estimated out of the 70, but 29 didn't even give an estimate of those 70 programs. Is that correct?

Mr. WILLIAMS. That is the information that we were able to obtain by reviewing the PAR reports for those particular agencies. There was no explanation given in some cases as to why the assessment was not done. In some cases, there were explanations as far as the complexity of the program, etc., and some additional guidelines that we plan to assess these programs in future years. I think we put a chart in the testimony that lays out when each one of the agencies plan to be in compliance.

Senator COBURN. Controller Combs, what is the incentive to have the CFOs at these agencies who didn't comply, what is the up-side, what is the down-side? How do we get them into compliance?

Ms. COMBS. Well, one of the things I think we will notice in the 2005 PARs, which are coming up in just a few months, will be that some of these agencies who did not comply last year will be in compliance this year. And I think the carrot and the stick approach that you have continued to either talk about or allude to is certainly something we have to continue to look at, because we are continuing in our oversight role at OMB to look at the agencies and departments who have special situations such as the ones we just talked about, and see how we can help them become more compliant. I think they are making significant progress, so I think we will see that as we present the November PARs in November 2005.

Senator COBURN. Let me follow up. What are the carrots that you are using, or what are the sticks? You obviously have six programs that didn't do anything. You have three programs that actually demonstrated that they did the assessment, but when they were audited, there was no evidence that they had done this. What

are those carrots and what are the sticks? What are you actually doing at OMB to bring them into compliance?

Ms. COMBS. One of the things that we are doing is to have them come in on a quarterly basis and show us their plans, or more frequently, if we feel like the need is there. But we have some dedicated staff. We have some resources that are dedicated specifically to working with agencies and departments for their internal controls reviews, and the assessments have to be done, the plan has to be laid out very carefully with deadlines and responsibilities. We review those with them. We help them. We share some best practices with them to help them through their specific situation.

Senator COBURN. Should there be any connection between performance and internal controls and what their budget is the next year?

Ms. COMBS. Well, I think that——

Senator COBURN. I mean, that is how the real world works.

Ms. COMBS [continuing]. There is. There is a lot of that anyway. I think that is done through the PART, the Program Assessment Rating Tools. You heard Ms. Coler talk about being assessed by the Program Assessment Rating Tool. There were many of those programs that were assessed, as you recall, that were recommended for sunset.

Senator COBURN. But what I am talking about is with the CFOs of the individual agencies and the programs who don't come into compliance with IPIA or the PART assessment rating or your own directions through your own Administration of internal controls. Where is the consequences there if there is not performance?

Ms. COMBS. Well, they don't get a clean audit, for one thing, because if their internal controls are not sufficient, they would have that consequence.

Senator COBURN. OK. So if I am the CFO of one of these agencies and I don't do that, what happens to me?

Ms. COMBS. I, fortunately, have never had that happen to me.

Senator COBURN. I think that is a realistic question that the American people ought to be able to ask. Here is the law, here is OMB's directions, and here is nonperformance. Is there no consequence to the person who is responsible for that nonperformance in relationship to that?

Ms. COMBS. That is a good question.

Senator COBURN. I want the answer. [Laughter.]

Has there even been an agency that has had its budget cut by not getting a clean audit?

Ms. COMBS. I don't know.

Senator COBURN. The answer is no, and that is the question that ought to be out there on the minds of the people responsible.

I don't have an argument with people who work for our Federal Government. They are all committed and want to do the right thing. The fact is, we have to put a culture of financial management and transparency into every program, not just those deemed "significant." I have real problems with what OMB did in terms of their definition of significance because I think it sends the wrong signal, even though you may be looking at them. But that culture has to be implemented.

The other question I want to ask, where is DOD on all this? I mean, you listed seven programs—you correct me if I am wrong—Social Security, Medicare, Medicaid, then DOD in terms of order of expenditures other than interest. Why isn't DOD on that list? Where are we? What are we going to spend, $500 billion, $480 billion on defense this year, and we have already had testimony from the GAO that there are real problems over there in improper payments. I mean, they are not sacrosanct. If anywhere today we ought to insist that they be more efficient than ever, because every dollar they waste is a dollar we can't use to defend this country. Where are we on DOD?

Ms. COMBS. DOD, I believe, will report this year. I think they were probably one of the ones that didn't report last year.

Mr. WILLIAMS. I can respond to that.

Senator COBURN. Sure, please.

Mr. WILLIAMS. Basically, there were two programs under the old Circular A–11 report requirement from OMB. It was the military retirement fund and military health benefits. And going through the 2004 Performance and Accountability Report for DOD, they basically assessed those two programs and there was a statement in the PAR that it was actually reported for those two programs because, in OMB's implementation guidance, it basically stated that for all the programs that were included under Circular A–11 would continue to report under the Improper Payments Act. But if you looked at those programs, they did not meet the criteria using OMB's guidance of $10 million and 2.5 percent.

So those were the only two programs that reported, and I looked further in the PAR report and DOD's statement basically said that those were the only programs, that they had no other programs that were susceptible to significant improper payments.

Senator COBURN. So that comes back to the definition of "significant." Here, the Department of Defense has decided that the rest of the Department of Defense except those two are not significant, except it is the third-leading expenditure in our country, defending our country. What is going to happen this next year on DOD as far as reporting?

Ms. COMBS. One of the opportunities we have, I think, is, as we have talked about before, we have looked at phase one. That is my term for where we are now. I think we have an opportunity to look again at where we are with the program itself and see if we have got it right. And I know that there is a committee of the CFO Council, the CFOs themselves, that is looking at improper payments. After a year's worth of looking at and seeing how it is shaping up, it is probably an opportunity for the CFO Council to step up and take a look and see whether or not we have got it right.

Senator COBURN. Is the Department of Defense outside the IPIA requirements?

Ms. COMBS. I don't think so.

Senator COBURN. So then why would they not be reporting? Why can they rely on OMB's guidance to not report under the PARs assessment but then totally exclude what the IPIA says in terms of reporting? How do we explain that?

Ms. COMBS. They should be accountable and be——

Senator COBURN. And they should be reporting, correct? They should be reporting the improper payments——

Ms. COMBS. They should be reporting——

Senator COBURN [continuing]. At every level in the Department of Defense, isn't that correct?

Ms. COMBS. To comply with the law.

Senator COBURN. With IPIA. So let me ask Mr. Williams this. Can you give me, or you don't have to today, but could you get back to me, under the GAO's guidelines—under the OMB's guidelines, implementation guidelines, what programs do you all consider outside of their implementation guidance, based on the guidelines that we have today, nonsignificant, 2.5 percent, $10 million? Can you give us a list of the programs that under those guidelines would be presumed to be outside of them?

Mr. WILLIAMS. Yes, we can provide you with that information.

Senator COBURN. I would like to have that, because I think it is—I will go back. I think the guidelines need to be tightened up.

I also would ask, do we need to change the statute in terms of the language? Do we need to have additional Federal legislation that changes the statute that will require individuals to have to report improper payments? In other words, I guess the question I am astounded at is here is a Federal law that is required, and I understand since 2000, we are starting to get Federal financial accountability and transparency and controls in. But here we have one large department that, in essence, is reporting nothing, either through IPIA or your guidelines under the PARs program. Do we need to change the statute? Is there something that needs to be done by Congress to bring that group, or all those groups, not just the Defense Department, but all those others that have not complied into compliance? Do you need more legislation or do you just need better implementation?

Ms. COMBS. I think that is one of the things that we, as the CFO Council's Subcommittee on Improper Payments, could look at, to see whether or not we feel like we have within our own purview of responsibility the strength we need to make that determination and make it work, or do we need to look and work with you folks to see if there is additional legislation that we need to have required. But I think we have—certainly I have, being as new as I am in my position, I know I need a little bit more opportunity to look at some of the things you have brought to our attention today, and Mr. Williams has agreed to come forward with to see exactly where we are with this.

Senator COBURN. Do you have any comments on that?

Mr. WILLIAMS. Mr. Chairman, there are two or three points I would like to make. I was paraphrasing the PAR report for DOD, but I have the specific language here. Basically, when they talk about the Improper Payments Information Act, the statement is DOD's Fiscal Year 2004 survey did not identify any programs or activities where erroneous payments exceeded the established threshold, that is an error rate greater than 2.5 percent and erroneous payments in excess of $10 million, and that is in parentheses, nor were any found to be susceptible to significant risk. So that was basically what DOD reported——

Senator COBURN. I just find that almost laughable, as that is——

Mr. WILLIAMS [continuing]. For 2004.

Senator COBURN. They meet the word of the law, but not the intent.

Mr. WILLIAMS. Now, one of the things that I have had an opportunity to look at is that when the original legislation was drafted, I think the Congressional intent was that anything greater than $10 million would be reported. In looking at correspondence between the Congress and the Director of OMB, OMB's position at the time was that the legislation did not define the word "significant" and in OMB's implementation guidelines "significant" was defined as this 2.5 percent and $10 million. So the correspondence that I saw back from Congress was basically that it was not the Congressional intent of the original legislation, that the Congressional intent was basically $10 million and not the 2.5 percent that was included in the implementation guidelines.

I guess one way that it could be addressed, if the Congress is concerned about the definition of "significant," is maybe "significant" could be dropped from the legislation and just basically spelled out as $10 million is what we are interested in as being the amount they would like to have reports on.

Senator COBURN. Let me just stop you there for a second.

Mr. WILLIAMS. OK.

Senator COBURN. I want you to think about this. If you are a factory worker at Georgia Pacific in Muskogee, Oklahoma, and you hear somebody say $10 million isn't significant, I think about the cultural difference of what we are saying with that. So basically, we need to clarify that.

Mr. WILLIAMS. The Congress has interpreted it one way and the Administration has interpreted it another way, based on the correspondence that I have seen. Congress basically stated that this was our intent. OMB has basically stated that in passing the legislation, you were silent, that you did not define "significant" and we define "significant" in our implementation guidelines, so——

Senator COBURN. Is there any hope to see that change, Controller Combs?

Ms. COMBS. As I mentioned a while ago, I am very happy to look at where we are right now after the year of——

Senator COBURN. And we get all those programs, the list of the programs that don't fall into this.

Ms. COMBS. Correct, and we have a mechanism within the CFO community through the CFO Council to look at that and to help us together assess whether or not that is the appropriate avenue.

Senator COBURN. I want to touch on another area, and anybody, feel free to jump in on this one. There is variability in the options on the part of the Administration in terms of OMB, in terms of how they implement things. But if you really think about the financial controls and operational controls of any organization, whether it be a government agency or a private agency or a charitable foundation, those basic principles are the same in terms of being able to have an audit track, balancing books, knowing where your assets are, knowing what your liabilities are, knowing what your exposure is. Those are all the same.

Should it not be that we fix this so that this doesn't change as administrations change? In other words, Generally Accepted Ac-

counting Principles ought to be the guide no matter who is in charge of the White House. Transparency ought to be the guide no matter who is in charge of the White House. Accountability for performance standards based on the internal controls and financial accounting standards ought to be the guide.

How do we do that as a Congress, because we have seen this Administration has chosen to interpret this one way. If we are going to have Sarbanes-Oxley on the business community in terms of transparency, accountability, timeliness, etc., then why should we not apply those same standards, regardless of the political drift of one administration or the other, to all the government agencies?

Ms. COMBS. Well, I think that is certainly why you have legislation, because that in statute does go from one administration to the other.

Senator COBURN. Well, but it is wide open for interpretation, as OMB has already made. What if the next administration comes in and says significant is this? That is the point I am making. In other words, there shouldn't be a variability, and again, I will go back. We talked to all the major auditing firms in this country and their standard is zero improper payments. So why should we have anything less than that and why should we implement any standard less than that? The Congress sets it as a goal to start, but why shouldn't the goal be reduced to zero? That is the goal, isn't it?

Ms. COMBS. That is my goal.

Senator COBURN. The farm bill's goal is 6 percent. Is zero possible?

Ms. COMBS. Of course, it is possible. If there are departments now who have close to that, it is certainly possible. I think that we have an opportunity here to, as Mr. Williams mentioned, the original legislation was not as clear, but I think we do have an opportunity to look at it and tell whether or not, after the experience we have had, whether we do need to clarify any of the terms of that legislation.

Senator COBURN. So can I have the commitment from you that we will do that, that we will come back and do that in terms of the communication back to Congress, what do we need to change to put this on a financial standard rather than a political standard?

Ms. COMBS. Yes, and I think that one of the things that Mr. Williams mentioned earlier relative to the materiality is what we are probably going to find out, but we are certainly more than happy to work with you on that, because materiality for a program, as Mr. Williams mentioned, is certainly going to be different than it would be for an entire department or certainly government-wide. But with those considerations, the CFO Council, I think, is the appropriate group of people to work and gather the information and look through our successes and look through where you feel like we have some difficulties that we need to work through and see if there are ways we can work through those together.

Senator COBURN. Mr. Hill, let me visit with you for a minute. You have a very tough job. I have been on the other side of this. The fact is, there is nobody in CMS who understands Medicare. Not one person understands every aspect of Medicare, so your job is made particularly difficult. The same is true of Medicaid. You

testified that you hope to have this in place by 2008. What are you finding from your pilot program and what are you seeing?

Mr. HILL. The 2008 commitment that we are making is to produce reportable rates that are IPIA compliant. That in no way means that we are not trying to take action right now.

Senator COBURN. I understand.

Mr. HILL. So we have pilots underway and we are doing as much as we can.

In Medicaid, unlike Medicare, where we have had a lot of history, there are four sets of issues that challenge us. One, unlike in food stamps, is just the diversity of programs. If you have seen one State Medicaid program, you have seen only one State Medicaid program. There are 50 different Medicaid programs, and that causes both methodological as well as logistical issues in terms of determining improper payment rates.

Also, the needs basis of the program where eligibility can vary from State to State, subject to Federal waivers, results in a logistical set of issues.

In adition, a significant portion of the beneficiaries, are in managed care instead of fee-for-service. While the predominance of the benefits are paid on a fee-for-service basis, the fact that a huge portion of the beneficiaries are in managed care, again leads to a challenge.

And the States will tell you as they have told us—that there is a cost issue. They believe they have incentives to keep the error rates down because it is a shared program. They have skin in the game, so to speak, and so they do all that they can to keep their error rates down. What we have heard at the State level is that IPIA compliance, including key requiring a statically valid sample of claims is a Federal requirement, not a State requirement, and that the States have trouble bearing the added costs with their current budget situations.

And so those are the challenges we confront. We think we are going to have, as I noted in my testimony, by the end of the summer, a plan that we can roll out much more publicly in response to our regulations from last year that will address these issues. But those are the issues that we are finding the biggest challenges in the Medicaid program.

Senator COBURN. GAO was kind of critical saying that you weren't putting enough money into your program to develop this. Do you have any answer?

Mr. HILL. One of the GAO criticisms we have heard most recently has to do with our program integrity efforts on Medicaid across the board, which are somewhat separate and distinct from the financial management IPIA activities. The Department and CMS in particular have instituted and implemented a longstanding process working with the States and our regional offices to be very aggressive in helping the States understand what their program integrity issues are and providing the technical assistance and feedback that they want.

Again, as a shared Federal-State partnership, our role, the Federal role, is as much guidance and technical assistance as it is boots on the ground, if you will, much different than Medicare in

terms of fighting fraud and addressing the issues that the States are addressing.

Senator COBURN. A lot of corporations have to deal with multiple State regulatory environments. If, in fact, Federal matching grants were dependent on compliance, don't you think things would turn around pretty fast?

Mr. HILL. I will tell you that coming back from the beach reading the report on the Food Stamp Program and the incentive pieces of the Food Stamp Program, clearly has a lot of things to tell us about not just Medicaid but Medicare in terms of things that we can think about to incent States or contractors who process claims to do a better job.

Historically in Medicaid, there was a program on the eligibility side where the error rates varied against a set norm, and there were penalties assessed on States and we withheld State matching. Not surprisingly, much litigation ensued from that activity and the benefits of the stick, so to speak, were somewhat limited by getting caught up in that litigation.

So the lesson for us as we go forward is to be very deliberate and careful about how we pick the methodologies and how we go about creating the incentives or disincentives.

Senator COBURN. Are a large percentage of the improper payments in Medicare associated with durable medical equipment?

Mr. HILL. Because it is a weighted average, the vast percentage of our overpayments are for Part A hospital inpatient services. That is where most of the payments are. I will tell you, we have ongoing problems, improper payments, fraud, and the whole range of issues in the durable medical equipment (DME) world. The general notion that I have had is whenever we have situations, whether it is DME or unlicensed providers who are providing services for our beneficiaries, that seems to be where we can always kick over stones and find problems. So DME has always been an issue for us.

Senator COBURN. Is FMAP not a big stick for you to use on States in terms of compliance with this?

Mr. HILL. It certainly could be, to the extent that——

Senator COBURN. Don't you have broad discretion there?

Mr. HILL. We do.

Senator COBURN. Very broad discretion of which to force compliance on Medicaid?

Mr. HILL. Right. And again, I think that is where we need to be deliberate with the States in terms of looking at our history with the eligibility quality control program where we imposed FMAP disallowances. We held back on FMAP to the extent error rates went above or below a mean. And again, the States complained and sued and said, the methodologies you used weren't appropriate or weren't valid and we got ourselves hung up in litigation. I think moving forward, to the extent we want to use FMAP or withholding State payments, we need to be sure that the methodologies and the approach we use can withstand that test.

Senator COBURN. Thank you. Well, my hat is off to you. You have got a tough job over there.

Mr. HILL. This is a long hearing. I was kind of hoping I would get away without having questions, but I guess——

Senator COBURN. You are not going to make it. [Laughter.]

I actually have about ten more pages of questions——

Mr. HILL. I am sure you do. [Laughter.]

Senator COBURN. Ms. Combs, the 2001 version of Circular A–11 included the U.S. Agency for International Development in Section 57. GAO reports that in June 2002, a revision to the A–11 Circular reduced the number of CFO Act agencies required to submit erroneous payment data from 15 to 14, removing the Agency for International Development from this list. Can you explain the reasoning for this change, and are they required to report improper payments under the IPIA?

And I would tell you that since we have just had one hearing in this Subcommittee on one program in which we were appalled at not necessarily improper payments, but the lack of attention by this one subpart of U.S. AID, and that is the malaria program, in terms of the money not going where it was supposed to go, and I would just like to know why that was exempted. Where is their reporting and are they required to report under the IPIA?

Ms. COMBS. Yes, they are required to report under the IPIA—and they report through the PAR, the Performance and Accountability Report.

Senator COBURN. Well, they were exempted in 2002 from the A–11 Circular, so explain to me why they were in it and why they are out all of a sudden.

Ms. COMBS. Well, I think there was a—what I understand between the correspondence that I have seen from OMB at the time, it looks like that there might have been a certain threshold that was being looked at at the time and that their annual outlays for their grants and their cooperative agreements didn't meet that threshold at the time. But OMB required U.S. AID to reassess its program inventory as part of the government-wide IPIA implementation in February 2004 and——

Senator COBURN. So they will report this year?

Ms. COMBS. Yes.

Senator COBURN. And they are required to report under the PARs this year?

Ms. COMBS. They are required to report.

Senator COBURN. One of their quotes was, for Fiscal Year 2004, they had assessed all programs and found no risk. Can you explain that?

Ms. COMBS. I believe that—I am not sure I can explain that because I wasn't there then, but I will be glad to get that information.

Senator COBURN. Well, a couple of things, if you would get for the Subcommittee, I would appreciate. Why were they dropped for the 2 years? Why were they not required to report? And why, when they reported in 2004, they assessed all programs and found a risk, actually, and probably, Mr. Williams, I would like for you all to look at that and see if, in fact, they did assess, since we have three agencies who supposedly assessed and the audit trail would say they didn't have a good assessment. If you would do that for us, I would appreciate it.

Mr. WILLIAMS. We will be more than glad to take a look at those.

Mr. Chairman, you have raised two or three points that, if it is OK——

Senator COBURN. Please feel free to comment.

Mr. WILLIAMS [continuing]. I would like to make some points on. There has been discussion about the progress in bringing down the rate in the Food and Nutrition Service, Food Stamp Program.

I would like to add, I testified on this particular area about five times now and I always put a plug in that we at GAO have put together a guide that basically talks about best practice strategies in addressing improper payments. We had an opportunity to talk to the private sector. We had an opportunity to talk to governments of a couple other countries. We had a chance to talk to a couple of State governments, also, to get their input. I would strongly encourage OMB and the agencies to take a look at that particular guideline. There are some pretty good best practices in there as far as things that can be done.

There was also some discussion about the goal of getting improper payments down——

Senator COBURN. Let me stop you for a second.

Mr. WILLIAMS. OK.

Senator COBURN. Controller Combs, have you seen those best practices? I know you know what best practices are. You have proven that. You have implemented them in a lot of places. Have you looked at those, and is that a part of what OMB is doing?

Ms. COMBS. I have seen and am aware of this—you are talking about the report, the recent report?

Mr. WILLIAMS. No, this is a guide that we put out a few years ago. It is called, "Strategies for Addressing Improper Payments," and it is basically a document that goes through various things that other countries have done, other States have done, and things that have been done at various agencies in the Federal Government that have been classified as best practices——

Senator COBURN. And have been successful——

Mr. WILLIAMS [continuing]. And have been successful in addressing the issue, and it has got all kinds of techniques from where we were talking earlier about how the Food Stamp Program has gone from one in which you are issuing stamps to all EBT, and there are techniques in there where we talk about how you can perform various procedures to try to identify where there are areas that you might have a high risk or high incident of improper payments and just across the gamut. These are just best practices, and I have always encouraged at every hearing that I have participated in that this is a guide that we recommend that people take a look at. This is just one more tool in the process.

Senator COBURN. To your knowledge, have the CFOs of all—do you call it CFO Roundtable, is that what you call it?

Ms. COMBS. Council.

Senator COBURN. Council. Have they looked at this?

Ms. COMBS. I am sure, individually, they probably have. As a collective group, the subgroup that I mentioned, the CFO Council subgroup that is looking into improper payments, they were actually instrumental in helping to set up the industry day.

Mr. WILLIAMS. Yes, that is correct.

Ms. COMBS. I think that Mr. Williams or some of your people——

Mr. WILLIAMS. Staff.

Ms. COMBS [continuing]. Actually worked with. But the more of those things that we can continue to do together, and we will look at this particular one together.

Senator COBURN. Continue, Mr. Williams.

Mr. WILLIAMS. The next area that was discussed earlier, you had focused in on the issue of making sure that you have requirements in statute. I go back to 1990 when I was detailed to the Hill to assist in the drafting of the CFO Act of 1990. The big issue that came up at that particular point in time was the current Administration had administratively required agencies to have financial statement audits, and the issue back then, and that issue continues until today, is that the reason why you want to get this financial management in the statute is because administrations change and you want to make sure that years from now, that you have these procedures in place and you don't have another administration to come in down the road and say, I don't think that that is worth the time of the day.

But by having it in statute and having it clear, it gives—it should give the taxpayers some comfort that years from now, we will still have these procedures in place and there will still be these requirements to make sure that things are being done to increase and improve accountability throughout the Federal Government.

The other area that I want to talk a little bit about is internal controls. It was mentioned earlier from one aspect, but internal controls basically have two components. You have what is called preventive internal controls and you have what is called detective internal controls.

Preventive internal controls are those controls that are put in place to prevent an improper payment from occurring in the first place. Detective internal controls are those controls that are put in place to detect after the improper payment has been made.

We, at GAO, have always pushed for more emphasis on the preventive controls because, as the old saying goes, once the horse gets out of the barn, sometimes it is kind of difficult to get it back in. A lot of these programs that we talk about, when you look at them, if there is an improper payment made, it is usually made to a group of our society that cannot afford in a lot of cases to repay that money, and we are not talking millions of dollars, we are talking smaller amounts, but just a huge number of people that might be involved in this process. So you want to put as many preventive controls in place as you possibly can to make sure that the improper payment does not occur in the first place.

The other point about the improper payment issue and looking at it from an internal control standpoint is that it should be the goal of every agency to get their improper payments down to zero. That should definitely be the goal. And there should be internal control procedures put in place to try to make sure that an agency is able to attain that goal.

But from a practical standpoint, you have to look at various programs throughout the Federal Government and there are just some inherent risks in certain programs that you will probably end up with some improper payments, and I think we might have had an example of that over the weekend when you might want to look at

a FEMA program where you are talking about a hurricane coming through and people need help right then. In the process of providing that help right then, there is always the inherent risk that someone is going to make a duplicate payment or someone is going to get a payment that should not receive a payment.

But what you want to look at in those situations where you have those inherent risks is you want to look at the internal controls that you have put in place and you want to follow a concept of I am going to put an internal control in place. I don't want to put an internal control in place that is going to cost me $1.01 that is going to result in me getting back $1. So it should be cost beneficial when you are looking at those internal controls.

Senator COBURN. But I also would tell you that this Subcommittee has had hearings on FEMA, for example, on the last hurricane where we paid for four times as many funerals as the people that actually died——

Mr. WILLIAMS. Exactly.

Senator COBURN. So the compassionate side of the argument, I understand, and food stamps, we are not ever going to get it to zero percent. I understand that, because if we do, we might harm someone, but one percent or half of one percent. Those are all achievable. But in other areas, whether it is defense procurement or——

Mr. WILLIAMS. Yes.

Senator COBURN [continuing]. Benefit payments on people who actually are not due, you are paying for somebody who does not have something, we should have a zero error rate——

Mr. WILLIAMS. That is the point that I have made in previous testimonies, is that there is no standard number across the government. What might be an error rate of 2 percent at one agency might be a real good number. At another agency, it might be that is ridiculous. It should be zero. So you have to look at it on a program-by-program basis when you are setting your goals for what you think your improper payments rate should be.

Senator COBURN. Well, I would propose that the improper payment rate for every agency ought to be zero percent, accepting something less than that in humanitarian regards. But if you set the goal higher than that, you are going to get higher than that.

Mr. WILLIAMS. Exactly.

Senator COBURN. Controller Combs, I want to come back to you for a minute, and again, you are answering questions when you weren't there, but I want to ask as a position. I also would let the panel know—you may not know this—my first degree is I am an accountant. I have a degree in accounting and production management from Oklahoma State University and I did a lot of accounting for the first 10 years of my business career. So it is not something that I am not attuned to, although I will admit auditing was my least favorite subject. [Laughter.]

The second step to comply with IPIA is to develop a statistically valid estimate of improper payments for all programs and all activities identified as susceptible to improper payments and the risk assessment. In the guidance that OMB issued, the statistical estimate must be based on a sample size sufficient to yield an estimate of 90 percent confidence level. Well, I don't know anything that uses a 90 percent confidence level that is worth anything. Every

one that I have ever looked at in statistics, in medicine, in science, and in business is a 95 percent confidence interval.

Why in the world would we choose less than a standard that is accepted across industry, across the government, across science, across engineering, as an acceptable level of a confidence level that is meaningful? Why did the OMB put something in less than something that is—actually, you can't even use 90 percent statistical confidence because what it is saying is 10 percent of the time, it is going to happen by chance alone and you don't know what the "R" factor is on it and it is probably going to be, like, 0.25, which means it doesn't mean anything. So where did we come up with 90 percent?

Ms. COMBS. I don't know where that came from, but I will be glad to——

Senator COBURN. I would love to know that, because the minimum it ought to be is at 95 percent confidence level. Then it is statistically meaningful. Less than that, it is not. And I found it really ironic in looking that they would set a confidence interval that you can't trust statistically.

Ms. COMBS. I will be glad to look into that.

Senator COBURN. All right. We are getting there.

What happens in the future if CMS doesn't have a program for improper payments developed by 2008? What should Congress do?

Mr. HILL. This comes back to the issue you were raising earlier about accountability, and from HHS's perspective, we can't lose sight of the President's Management Agenda and the scorecards that are developed there. The agencies are taking these quite seriously. Now, I don't think in a mandatory program, a benefit program like Medicare, an issue of reducing a budget is a logical outcome of the rate. I mean, you are looking at more management-related actions.

I can tell you, from the CFO of HHS on down through my boss, the Administrator of CMS, to me, the accountability is quite clear for achieving the milestones that are set out in the PMA and it includes achieving the error rate by 2008, and so I can be fairly certain that there will be some quite harsh personal consequences of not meeting that objective.

Now, whether or not that leads to the agency being punished, so to speak, or consequences therein I cannot tell you, but I can tell you from the performance plans and from having to sit before Secretary Levitt and say why we did or did not achieve a yellow or a green or what we achieved is a culture of accountability in HHS.

Senator COBURN. When was CMS first asked to have improper payments data on Medicaid?

Mr. HILL. I believe the first time that it came out was in the Circular A–11 in 2000 or 2001.

Senator COBURN. OK, and so we are going to have that 7 years later?

Mr. HILL. Well, to be clear, sir, we began collecting that data in 2002——

Senator COBURN. I understand, but I am looking at this perspective as a citizen, not somebody from inside Washington.

Mr. HILL. Right.

Senator COBURN. Here is a requirement that comes in 2001, and in 2008, we are going to have it.

Mr. HILL. Correct.

Senator COBURN. I understand the enormity of the problem that you face. If I had my best wish in the world tomorrow, it would be to change all of Medicare and Medicaid to a much simpler system that would work and make your job easier and make actually the delivery of it better. But the fact is, is 7 years from the time a request is made to an agency to become accountable on improper payments to the actual implementation of that, what would you tell the average common citizen in this country why 7 years is an appropriate amount of time to do that?

Mr. HILL. Well, 7 years is certainly not an appropriate amount of time to do it if we were not making good progress. We have been committed and are committed in working with the States. We have gone in and calculated individual State-level error rates in 38 States since 2002.

As I said in the testimony, the way we approach our improper payment calculations is two-fold. First, it is a performance assessment, meeting IPIA requirements, assessing and saying for reporting purposes what our rates are. It is also a management tool, and in that respect, the most important piece there then would be to tell each individual State, whether it is Oklahoma or whether it is Kansas or Delaware, here is your——

Senator COBURN. Oklahoma needs it, by the way.

Mr. HILL. Right, so I think we could work on that. We have been focusing on working with the States to do that.

Now, it is true for the national Medicaid program, we won't have a rate. this year. That is a meaningful number and one that is important, but it is also as important that each individual State has a rate, and far before 2008, we will be there.

Senator COBURN. Great. Let us just play with the numbers here for a minute. Over the last 7 years, including this year, Medicaid will spend a trillion and 50 billion dollars. And if their improper payment rate was 3.9 percent, or 4 percent, that is $45 billion. And the growth is going to grow, to $39 billion over the next 5 years, so we are going to be well over $200 billion. So you are talking about over the 7 years of having another $9 billion had we had appropriate improper payments, if we assume the average is what the nationwide government—and it is probably going to be higher than that.

But if we had it at 4 percent and we saved that money, how many more lives would we impact? How many more lives would have better care? How many more people would not be caught in the crux of making a choice between a pill and supper? I want us to bring it down to real people and how it impacts. So if we had that $40-some billion that wasn't improperly paid out through lots of things, it is not just that we cut the deficit. It is that we impact people's lives the way the programs were intended.

Mr. HILL. Dr. Coburn, that is exactly how we think about the improper payments we make in terms of the benefits that are being denied to the people we serve. We think just because the measurement won't be in place on a national basis until 2008, in no way, shape, or form are we not doing all we can between now and then

to eliminate improper payments. This is a high-risk program. Measurement is important, but I can tell you, even without measuring, it is a high-risk program and we have a robust program and both in Medicare and Medicaid, we are working with the States, at the Federal level, to do all we can to stop inappropriate payment from happening.

I won't be able to tell you 7 years from now how much we saved, because we are doing it as we go. But just because we haven't measured and assessed doesn't mean that we are not taking corrective actions because we know that there are risks and we are putting our resources where those risks are.

Senator COBURN. How often are States' Medicaid programs audited?

Mr. HILL. The single-state audit occurs every year.

Senator COBURN. Every year, every Medicaid program is audited?

Mr. HILL. There is a single-state audit, yes, sir.

Senator COBURN. OK. Am I correct in assuming that under IPIA, every agency is required to submit improper payments to Congress every year? Mr. Williams.

Mr. WILLIAMS. You are correct in assuming that under IPIA, every agency is required to do the assessment and determine if they have programs that are significant to or susceptible to improper payments and report that information to the Congress, is the way that the statute—so that would be every agency is required to report.

Senator COBURN. Are they compliant?

Mr. WILLIAMS. I can't say every agency because I really don't know every agency. We have reviewed the ones that we identified on the board. I do not have the information as to whether those reports have actually made it up to the Congress or not. We have talked about it in terms of these particular agencies that we were able to look at, and we looked at those because those were the ones that had the Performance and Accountability Reports available that we could get access to at the particular point in time that we were doing this particular job. But whether every agency actually complied, I cannot say——

Senator COBURN. OK.

Mr. WILLIAMS [continuing]. As far as providing that information to the Congress.

Senator COBURN. Well, I want to thank each of you for being here. This is a big problem, and it is a problem, if you all solve correctly, you won't have to solve again. It is one of the few problems in government that if you fix the first time, you don't have to fix it again.

So the hope is great that as we implement good financial controls with transparency of those controls—one of the biggest problems we have as Members of Congress is getting information from Federal Government agencies. The American public may not believe that, but we have to fight, beg, plead, claw to get information. And I will tell you, on average, for example, U.S. AID is 4 years behind on transparency, just having available their information for the Congress.

So what you all are doing is tremendously important in terms of improper payments. But the financial controls and the transparency and accountability that goes with those isn't just about improper payments. It is about making us get through the problems.

And I know most of you have read this, and if you haven't, you should. David Walker is right on. We are on an unsustainable path, and every day that goes by that we don't correct these problems, the people in this room probably aren't going to feel, but your grandchildren are.

I thought it ironic a minute ago, I was looking at the iceberg and I am thinking about the Titanic. This country is about to hit a bigger iceberg than that. And so I would applaud your efforts. I want to thank you for being here. But every minute, every day counts in terms of reforming the financial operations of the Federal Government, and what each of you can do, whether it is in your leadership at GAO, leadership in changing the Office of Management and Budget—and I will say it again, the worst performing under the PAR program is OMB. That needs to be said so we can eventually embarrass them to be the best, because they should be the best under this program.

Medicare and Medicaid, the largest percentage of our dollars that are going out, the financial management of that is critical, and we can see what has happened in terms of 30 percent reduction in terms of improper payments at the Department of Agriculture just through one program, $1 billion. But it also means that there is another billion we can save there. There is another billion that doesn't have to be spent if we can improve it and refine it better.

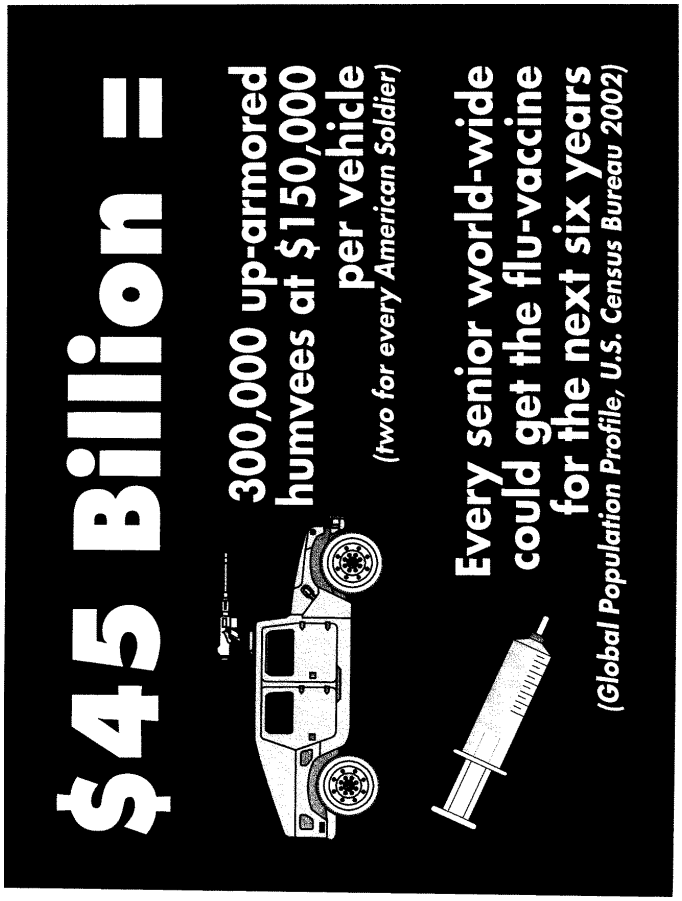
So I would congratulate you on the job you are doing. I think I would again just want to say, from Controller Combs, I really want a real assessment of what "significant" is and I want you to look at that. I really want to know why the U.S. AID is not in that program. I think there is more fraud and waste and abuse in that program as a percentage of the total budget than there is any other aspect of the Federal Government in terms of waste, and I am going to find it, I promise you that, and I will expose it.

This will not be the last hearing. I am going to call you back in 6 months. We are going to talk about it again. We are going to see where we are and see what the programs are. We will have had 2005's numbers then and we will go from there. Thank you all very much for being here.

The hearing is adjourned.

[Whereupon, at 3:58 p.m., the Subcommittee was adjourned.]

# APPENDIX


$45 Billion =
300,000 up-armored humvees at $150,000 per vehicle
(two for every American Soldier)
Every senior world-wide could get the flu-vaccine for the next six years
(Global Population Profile, U.S. Census Bureau 2002)

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**July** 12, 2005 Tuesday
Final Edition

**SECTION:** Health; F02

**LENGTH:** 532 words

**HEADLINE: Medicare's Spinal Tap;**
A Checkup on Health Care Costs and Coverage

**BODY:**

Chiropractors received an estimated $285 million in improper Medicare payments in 2001, according to the inspector general's office of the Department of Health and Human Services. That amounts two of every three dollars paid to chiropractors by the federal health insurance program.

Some people consider periodic manipulations of the spine valuable for maintaining mobility and reducing pain. (See some details under "What Really Works?" Page F1.) The inspector general's analysis found that most of the ineligible payments -- $186 million in all -- went for such maintenance treatments. But Medicare is supposed to cover chiropractic care only when there is a reasonable chance of correcting a problem or improving the patient's ability to function.

Chiropractor Elliott Eisenberg of Richmond said he often sees people whose "spines are so degraded that they'll never get better." While treating them can ease their pain, he said, "I can't charge Medicare for that."

Mark McClellan, administrator of the Centers for Medicare and Medicaid Services, noted in a response to the analysis that previous studies have cited improper payments for maintenance care. He said his agency has taken steps to further educate providers and to target those who do not follow the rules.

The American Chiropractic Association challenged the report, saying in a statement that the findings "do not represent a concerted effort by doctors of chiropractic to overbill the government. . . . The flawed payments "reflect a universal problem in physician documentation" of claims, the association said. . . . "[I]t is simply wrong to conclude . . . that chiropractic care typically rendered to Medicare beneficiaries is not necessary or appropriate."

Meanwhile, Medicare is actually encouraging wider use of chiropractic care. In a demonstration project covering central Virginia and other parts of the country, chiropractors can now bill the insurance program for services that are ordinarily ineligible.

The purpose of the test, according to a statement by McClellan, is "to evaluate whether expanding coverage of chiropractic services reduces overall Medicare expenditures for neuromuskuloskeletal conditions."

Richmond chiropractor Nelson Gregory said many of his Medicare patients now have their physical therapy bills covered. "They're definitely getting more services and better coordination of those services" as a result of his decision to enroll in the pilot project, he said.

Eisenberg is not participating in the study. "Chiropractic used to have people paying cash for a valued service," he said, but many of his colleagues have become dependent on insurance plans that cover only a limited scope of treatment. "I feel it's a slippery slope" to cooperate in the Medicare project, he said.

-- Tom Graham

The System welcomes comments from patients, providers, insurers and others about the delivery of health care. While we cannot advocate on behalf of individuals, we are looking for examples of problems and solutions that may direct our reporting. Contact us by U.S. Mail at the address that appears on Page F2 or by e-mail at thesystem@washpost.com. Do not send original documents.

United States Government Accountability Office

GAO

Testimony

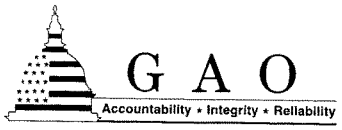
Before the Subcommittee on Federal Financial Management, Government Information, and International Security, Committee on Homeland Security and Governmental Affairs, United States Senate

For Release on Delivery
2:00 p.m. EDT
Tuesday, July 12, 2005

# FINANCIAL MANAGEMENT

# Challenges in Meeting Requirements of the Improper Payments Information Act

Statement of McCoy Williams
Director, Financial Management and Assurance




GAO-05-605T

July 2005

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Accountability·Integrity·Reliability

# Highlights

Highlights of GAO-05-605T, a testimony before the Subcommittee on Federal Financial Management, Government Information, and International Security, Committee on Homeland Security and Governmental Affairs, United States Senate

## FINANCIAL MANAGEMENT

# Challenges in Meeting Requirements of the Improper Payments Information Act

### Why GAO Did This Study

Improper payments are a longstanding, widespread, and significant problem in the federal government. The Congress enacted the Improper Payments Information Act (IPIA) of 2002 to address this issue. Fiscal year 2004 marked the first year that federal agencies governmentwide were required to report improper payment information under IPIA. One result of the IPIA has been increased visibility over improper payments by requiring federal agencies to identify programs and activities susceptible to improper payments, estimate the amount of their improper payments, and report on the amount of and their actions to reduce their improper payments in their annual Performance and Accountability Reports (PAR).

Because of continued interest in addressing the governmentwide improper payments issue, we continue to report on the progress being made by agencies in complying with certain requirements of the IPIA. My testimony today summarizes the results of our most recent report on agencies' progress in meeting the requirements of the IPIA. Ultimately, the success of this legislation hinges on each agency's diligence and commitment to identifying, estimating, and determining the causes of, then taking corrective actions, and measuring progress in reducing improper payments.

www.gao.gov/cgi-bin/getrpt?GAO-05-605T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact McCoy Williams at (202) 512-6906 or williamsm1@gao.gov.

### What GAO Found

The Office of Management and Budget (OMB) has continued to provide strong emphasis on IPIA through the President's Management Agenda, and federal agencies' response to fulfilling the requirements of the IPIA has generally been positive. To date, the federal government has made progress in identifying programs susceptible to the risk of improper payments in addressing the new IPIA requirements. At the same time, our review of the fiscal year 2004 PARs for 29 of 35 federal agencies that the U.S. Treasury determined to be significant to the U.S. government's consolidated financial statements, shows that even with the enhanced emphasis on improper payment reporting fueled by the new legislation, certain agencies reported that they have not yet performed risk assessments of all their programs and/or estimated improper payments for their respective programs.

As fully anticipated, the number of agencies reporting improper payment information is growing, but the magnitude of the problem remains unknown, because some agencies have not yet prepared estimates of improper payments for all of their programs. In the 29 agency PARs included in GAO's fiscal year 2004 review, 17 agencies reported over $45 billion of improper payments in 41 programs. This represented almost a $10 billion, or 27 percent, increase in the amount of improper payments reported by agencies in fiscal year 2003. This increase was primarily attributable to changes in the method for estimating and reporting improper payment amounts in one major program, Medicare. Future estimates are likely to trend higher because agencies' governmentwide estimate did not report for 12 programs with outlays of $248.7 billion in fiscal year 2004. These 12 were previously required to annually report improper payments under OMB Circular No. A-11 during the past 3 years. This included some of the largest risk-susceptible federal programs, such as the Department of Health and Human Services' Medicaid Program, with outlays exceeding $175 billion annually, or the Department of Education's Title I Program, with outlays of over $10 billion annually.

**Number of Agencies and Amounts of Improper Payments Reported (Fiscal Years 1999-2004)**

| Fiscal year | Agencies reporting improper payments* | Reported amounts of improper payments (in billions) |
|---|---|---|
| 1999 | 8 | $20.7 |
| 2000 | 8 | $19.6 |
| 2001 | 8 | $20.9 |
| 2002 | 7 | $19.5 |
| 2003 | 13 | $35.7 |
| 2004 | 17 | $45.4 |

Source: GAO.

*Other agencies acknowledged making improper payments in their PARs but did not disclose dollar amounts.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss the governmentwide problem of improper payments in federal programs and activities. Our work over the past several years has demonstrated that while improper payments are a significant and widespread problem in the federal government, the extent of the problem initially had been masked because only a limited number of agencies reported their annual payment accuracy rates and estimated improper payment amounts in their Performance and Accountability Reports (PAR).

Fiscal year 2004 marked the first year that federal agencies governmentwide were required to report improper payment information under the Improper Payments Information Act of 2002 (IPIA).[1] The IPIA has increased visibility over improper payments to a higher, more appropriate level of importance by requiring executive agency heads, based on guidance[2] from the Office of Management and Budget (OMB), to identify programs and activities susceptible to significant improper payments, estimate amounts improperly paid, and report on the amount of and their actions to reduce their improper payments.

Because of continued interest in addressing the governmentwide improper payments issue, we continue to report on the progress being made by agencies in complying with certain requirements of the IPIA. In my testimony today, which is based on our March 31, 2005 report,[3] I will discuss (1) the extent to which agencies have performed the required assessments to identify programs and activities that are susceptible to significant improper payments and (2) the annual amount of improper payments estimated by the reporting agencies.

To obtain information for our March 2005 report, we conducted a review of improper payment information reported by agencies in their fiscal year 2004 PARs. We further reviewed OMB guidance on implementation of the IPIA and its report on the results of agency-specific reports, significant

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

[2]OMB Memorandum M-03-13, "Improper Payments Information Act of 2002" (Public Law 107-300), May 21, 2003.

[3]GAO, *Financial Management: Challenges in Meeting Requirements of the Improper Payments Act*, GAO-05-417 (Washington, D.C.: Mar. 31, 2005).

findings, agency accomplishments, and remaining challenges. We did not assess the effectiveness of the agencies' efforts or independently validate the data that they or OMB reported. We conducted our work from November 2004 through February 2005 in accordance with U.S. generally accepted government auditing standards.

## Background

Before I discuss our review of the fiscal year 2004 PARs, I would like to summarize the IPIA. The act, passed in November of 2002, requires agency heads to review all their programs and activities annually and identify those that may be susceptible to significant improper payments. For each program and activity agencies identify as susceptible, the act requires them to estimate the annual amount of improper payments and submit those estimates to the Congress before March 31 of the following year. The act further requires that for programs for which estimated improper payments exceed $10 million, agencies report annually to the Congress on the actions they are taking to reduce those payments.

The act requires the Director of OMB to prescribe guidance for federal agencies to use in implementing it. OMB issued guidance in May 2003 requiring the use of a systematic method for the annual review and identification of programs and activities that are susceptible to significant improper payments. The guidance defines significant improper payments as those in any particular program that exceed both 2.5 percent of program payments and $10 million annually. It requires agencies to estimate improper payments annually using statistically valid techniques for each susceptible program or activity. For those agency programs determined to be susceptible to significant improper payments and with estimated annual improper payments greater than $10 million, the IPIA and related OMB guidance require each agency to report the results of its improper payment efforts for fiscal years ending on or after September 30, 2004. OMB guidance requires the results to be reported in the Management Discussion and Analysis (MD&A) section of its PAR.

Working with the Chief Financial Officer Council's Improper Payments Committee, OMB issued a standardized format on July 22, 2004 for reporting IPIA information. To satisfy the reporting requirements of the IPIA for fiscal year 2004, the framework instructed agencies to provide in the MD&A portion of the fiscal year 2004 PAR a brief summary of both what they have accomplished and what they plan to accomplish. All other required reporting details were to be included in an appendix to the PAR. The framework for the information reported in the appendix incorporates

the requirements set forth in the law and further illustrates the reporting format required in OMB's implementation guidance.

The fiscal year 2004 PARs, the first set of reports representing the results of agency assessments of improper payments for all federal programs, was due November 15, 2004.[4] In our December 2004 report on the U.S. government's consolidated financial statements for the fiscal years ended September 30, 2004 and 2003, which includes our associated opinion on internal control, we reported that while most agencies acknowledged the IPIA reporting requirements in their PARs, they did not always indicate whether they had completed agencywide assessments, and they did not estimate improper payments for all of their susceptible programs.

I will now discuss the extent to which agencies performed the assessments of their programs and activities.

## Progress Made but Challenges Remain in Addressing Key Requirements of the Act

We reviewed the fiscal year 2004 PARs for 29 of 35 federal agencies[5] that the U.S. Treasury determined to be significant to the U.S. government's consolidated financial statements. Overall, we found that agencies made progress in identifying programs susceptible to the risk of improper payments. At the same time, our findings suggest that even with the enhanced emphasis on improper payment reporting, certain agencies have not yet performed risk assessments of all their programs and/or estimated improper payments for their respective programs. Furthermore, as shown in table 1, we found that certain agencies required by OMB in years before enactment of the act,[6] to report selected improper payment information for

[4]For fiscal year 2004, OMB accelerated the financial statements reporting date for agencies to Nov. 15, 2004.

[5]See *Treasury Financial Manual*, vol. 1, part 2, ch. 4700, for a list of the 35 agencies. Six of the 35 agencies had not issued PARs as of our fiscal year 2004 audit report on the U.S. government's consolidated financial statements; therefore, these agencies were not included in our review.

[6]Prior to the governmentwide IPIA reporting requirements beginning with fiscal year 2004, OMB's Circular No. A-11, Section 57 required certain agencies to submit similar information, including estimated improper payment target rates, target rates for future reductions in these payments, the types and causes of these payments, and variances from targets and goals established. In addition, agencies were to provide a description and assessment of the current methods for measuring the rate of improper payments and the quality of data resulting from these methods.

the past 3 years, had not performed much better than agencies that reported for the first time in fiscal year 2004.

**Table 1: Summary of Improper Payments Information Reported in Agency Fiscal Year 2004 PARs**

| Agency type | Agencies reported they had assessed all programs | Agencies reported they had *not* assessed all programs | Total number of agencies | Programs that estimated improper payments | Programs that did *not* estimate improper payments | Total number of programs |
|---|---|---|---|---|---|---|
| Agencies with prior reporting requirements under OMB Circular No. A-11 | 12 | 3 | **15** | 34 | 12 | **46** |
| Agencies with no prior reporting requirements | 11 | 3 | **14** | 7 | 17[a] | **24** |
| **Total** | **23** | **6** | **29** | **41** | **29** | **70** |

Source: GAO's analysis of agencies' fiscal year 2004 PARs.

[a]For 10 of 17 programs, agencies reported their programs were not susceptible to significant improper payments.

As the table shows, there were no significant differences in terms of not meeting key requirements of the act between the two agency reporting categories. Specifically, we found that six agencies which had not performed risk assessments for all programs were equally divided among the agencies with prior reporting requirements and agencies with no previous reporting requirements. Although a majority of the agencies had performed risk assessments to identify programs and activities susceptible to significant improper payments, the adequacy of the risk assessments was questionable. For example, three agency auditors cited agency noncompliance with the IPIA in their annual reports included in the agency PARs. Two agency auditors reported that their agency's risk assessment did not consider all payment types or programs. The remaining auditor reported the agency did not institute a systematic method of reviewing all programs and identifying those it believed were susceptible to significant erroneous payments. In all 3 instances, agencies reported having assessed all programs and that the programs were not susceptible to significant improper payments.

We also found that of the 29 agency programs that did not report improper payment estimates, 12 programs had prior reporting requirements

compared to 17 programs with no prior reporting requirements. Because the 12 agency programs were required to estimate improper payments information for the past 3 years, we believe these programs had sufficient time to estimate their improper payments and should have been in a position to fully comply with the requirements of the act. I will discuss these 12 programs further in the next section and highlight additional information in table 2.

## Magnitude of Improper Payments is Still Unknown

The magnitude of the governmentwide improper payment problem is still unknown because, in addition to not assessing all programs, the agencies had not yet prepared estimates of significant improper payments for all of the programs. Specifically, of the 29 agency PARs included in our fiscal year 2004 review, only 17 agencies reported improper payment estimates totaling more than $45 billion for 41 programs. Although this estimate increased about $10 billion, or 27 percent from the prior fiscal year, we determined that this increase was primarily attributable to changes in the method for estimating and reporting improper payment amounts in the Department of Health and Human Services' Medicare Program.

I would also like to point out that the governmentwide estimate did not include the 12 programs with prior improper payment reporting requirements which totaled $248.7 billion in outlays for fiscal year 2004. As shown in table 2, these included some of the largest federal programs determined to be susceptible to risk, such as the Department of Health and Human Services' Medicaid Program, with outlays exceeding $175 billion annually, and the Department of Education's Title I Program, with outlays of over $10 billion annually.

**Table 2: Programs That Did Not Report Improper Payment Estimates as Previously Required Under OMB Circular No. A-11 and Target Dates for Expected Estimates**

| Program | Fiscal year 2004 outlays (in billions) | Target fiscal year for estimate | | | | |
|---|---|---|---|---|---|---|
| | | 2005 | 2006 | 2007 | 2008 | Did not report |
| Department of Agriculture – Agriculture Marketing and Assistance | $8.8 | X | | | | |
| Department of Health and Human Services – Foster Care – Title IV-E | 4.7 | X | | | | |
| Department of Health and Human Services – State Children's Insurance Program | 4.6 | X | | | | |
| Department of Health and Human Services – Child Care and Development Fund | 4.8 | X | | | | |
| Small Business Administration – 7(a) Business Loan Program | .7 | X | | | | |
| Department of Health and Human Services – Medicaid | 175.3 | | X | | | |
| Department of Agriculture – School Programs | 8.4 | | | X | | |
| Department of Agriculture – Women, Infants, and Children Program | 4.8 | | | | X | |
| Department of Labor – Workforce Investment Act | 3.1 | | | | | X |
| Department of Education – Title I | 10.3 | | | | | X |
| Department of Health and Human Services – Temporary Assistance for Needy Families | 17.7 | | | | | X |
| Department of Housing and Urban Development – Community Development Block Grant | 5.5 | | | | | X |
| **Total** | **$248.7** | **5** | **1** | **1** | **1** | **4** |

Sources: OMB and cited agencies' fiscal year 2004 PARs.

Of these 12 programs, 8 reported that they would be able to estimate and report on improper payments sometime within the next 4 years, but could not do so for fiscal year 2004. The other 4 programs in 4 agencies did not estimate improper payment amounts and the PARs were silent about whether they would report estimates in the future. As a result, improper payments for several large programs susceptible to risk will not be known for several years, even though these agencies were required to report this information with their fiscal year budget submissions since 2002.

OMB reported that some of the agencies were unable to determine the rate or amount of improper payments because of measurement challenges or time and resource constraints, which OMB expects to be resolved in future reporting years. Although OMB reported that the $45 billion in improper

payments establishes a baseline from which short- and long-term program improvement strategies and priorities will be based, it recognizes that fiscal year 2005 reductions in improper payments will be affected by outlay changes as well as the identification of new improper payments as additional programs are measured and methodologies are enhanced.

## Conclusion

In closing, Mr. Chairman, I want to say that we recognize that measuring improper payments and designing and implementing actions to reduce or eliminate them are not simple tasks and will not be easily solved. The ultimate success of the governmentwide effort to reduce improper payments depends, in part, on each federal agency's continuing diligence and commitment to meeting the requirements of the act and the related OMB guidance. The level of importance each agency, the administration, and the Congress place on the efforts to implement the act will determine its overall effectiveness and the level to which agencies reduce improper payments and ensure that federal funds are used efficiently and for their intended purposes. Without such efforts, the likelihood of designing and implementing actions governmentwide to reduce or eliminate improper payments is doubtful. Fulfilling the requirements of the IPIA will require sustained attention to implementation and oversight to monitor whether desired results are being achieved.

This concludes my statement, Mr. Chairman. I would be pleased to respond to any questions that you or other Members of the Subcommittee may have.

## GAO Contacts and Staff Acknowledgments

For more information regarding this testimony, please contact McCoy Williams, Director, Financial Management and Assurance, at (202) 512-6906 or by e-mail at williamsm1@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 Lisa Crye, Danielle Free, Carla Lewis, Donell Ries, and Alana Stanfield.

**Statement of The Honorable Linda M. Combs**
**Controller, Office of Federal Financial Management**
**Office of Management and Budget**

**Before the**
**Subcommittee on Federal Financial Management, Government Information, and International Security**
**Committee on Homeland Security and Governmental Affairs**
**United States Senate**
**July 12, 2005**

Thank you, Dr. Coburn, Senator Carper, and Members of the Committee.

I am pleased to be here today for the first time since being confirmed to the position of Controller at the Office of Management and Budget (OMB). I look forward to working with this Subcommittee on the many significant financial management matters facing our government – including the initiative to eliminate improper payments. I welcome a healthy discussion today on the specific challenges facing the government in this effort, as well as several of the success stories reported by agencies over the past year.

Let me begin by saying that this Administration continues to make the elimination of improper payments a high priority, as there is no more important undertaking than the efficient stewardship of taxpayer dollars. Citizens deserve to know that the government is spending their money appropriately and for the intended purpose, and we are working to ensure this is happening. Through the government-wide efforts to improve financial management under the President's Management Agenda (PMA), as well as the PMA Eliminating Improper Payments initiative in particular, we continue to strive to eliminate improper payments within Federal programs and activities.

When the PMA was first announced in 2001, the elimination of improper payments was a key part of the government-wide Improving Financial Performance initiative. This effort initially focused on those Federal programs making annual payments in excess of $2 billion, as set out in Section 57 of OMB Circular A-11. The Administration's goal to eliminate improper payments was later endorsed by the Improper Payments Information Act (IPIA) enacted by Congress in 2002. In essence, the IPIA extended the scope of review from Section 57 programs to all major Federal agency programs and activities.

Following the enactment of the IPIA, the Administration provided guidance (OMB Memorandum M-03-13) in May of 2003 for agencies to comply with the Act. This OMB guidance outlined the steps for agencies to properly identify and eliminate

improper payments, which included compiling an inventory of all payments/outlays, conducting risk assessments and statistical analyses, and developing and implementing corrective action plans. The results of agency efforts to eliminate improper payments are then to be reported on an annual basis in the Performance and Accountability Report (PAR), which is issued on November 15.

Fiscal Year (FY) 2004 marked the first full year of IPIA implementation by the agencies. As such, pursuant to OMB guidance, agencies reported in their November 2004 PARs the results of their efforts to identify and eliminate improper payments. Soon after, OMB issued a report in January 2005 that served to aggregate these results of the agency-specific reports into a single comprehensive document, highlighting particular accomplishments and remaining challenges. This OMB report, *Improving the Accuracy and Integrity of Federal Payments*, provides the clearest picture to date on the extent of government-wide improper payments, as well as the significant efforts underway to eliminate them. Additionally, the report establishes the baseline from which short- and long-term program improvement efforts and priorities will be based as agencies strive to eliminate their improper payments in the years to come. Some of the key findings in the OMB report include the following:

- Federal agencies reported a collective total of $45.1 billion in improper payments in FY 2004, which represents a 3.9% government-wide improper payment rate;

- Approximately 92% of Federal improper payments are overpayments;

- Seven programs alone account for 95% of the improper payments reported in FY 2004 – Medicare; Earned Income Tax Credit; Unemployment Insurance; Supplemental Security Income; Old-Age, Survivors, and Disability Insurance; Public Housing/Rental Assistance; and Food Stamps;

- Federal agencies determined that 60% of all Federal outlays in FY 2004 ($1.4 trillion out of $2.3 trillion) were risk susceptible for a significant level of improper payments;

- If agencies meet their reduction targets, the overall improper payments total for programs and activities measured and reported in FY 2004 is expected to decline significantly when reported in FY 2005.

Many agencies have already reported significant results in eliminating their improper payments. For instance, the Department of Housing and Urban Development (HUD) has eliminated a total of over $1.5 billion in improper payments since 2000,

largely due to improved program guidance, training, oversight activities, and data matching. Also, the Social Security Administration projects approximately $600 million in savings – in addition to the $100 million reduction already realized – in its Supplemental Security Income (SSI) program by FY 2007 through improved data matches to verify income and assets. Additionally, the Department of Labor expects to eliminate over $370 million in improper payments in its Unemployment Insurance (UI) program over the next 10 years through an increase in data matching processes. We look forward to continuing to work with these and other agencies in meeting their reduction targets and achieving savings.

A new PMA program initiative, Eliminating Improper Payments, is also serving to focus agency efforts on identifying and eliminating improper payments through the OMB Scorecard process. Beginning in the first quarter of FY 2005, OMB now tracks, on a quarterly basis, the progress of the 15 major agencies with the programs and activities with the highest risk of improper payments. Under this initiative, we are better ensuring that those taxpayer dollars most susceptible to risk for improper payments receive the greatest amount of focus and review. For example, in order to "get to yellow" on status, agencies must, in part, have a risk assessment in place that identifies all programs that are at significant risk of improper payments, as well as have an OMB-approved plan for measuring improper payments and meeting particular milestones. For an agency to "get to green," it must, in part, actually demonstrate that improper payments are being reduced consistent with its reduction targets (in addition to reaching the yellow standards of success). As agencies continue to focus their efforts and take the necessary action toward identifying and eliminating improper payments, we expect more to achieve "green" in both progress and status in the coming quarters.

The effort to eliminate improper payments also extends to the work of the Chief Financial Officers (CFO) Council and its Improper Payments Committee. Comprised of representatives of the CFO Council, this Committee assists agencies in their efforts to identify and reduce improper payments in their programs and activities and comply with IPIA requirements and the OMB guidance. Since 2001, the Committee has served as a forum for sharing best practices and common challenges to provide agencies with proven solutions.

Some of the recent efforts of the Committee include the following: developing a standard format for reporting of IPIA implementation and information in the agency PARs; hosting a joint government-private sector Industry Day in 2004 that served as an initial step toward finding private sector solutions to overarching improper payment measurement challenges across government; and convening a follow-up Industry Day session in April 2005 for the agencies to present to vendors on potential areas for private sector technology solutions. I look forward to continuing to work with the Improper Payments Committee, as well as the rest of the CFO Council, to provide helpful guidance to the agencies in this effort.

With the tools of the IPIA and this Administration's management initiatives in effect, the Federal Government is in a strong position to continue its efforts to identify and eliminate improper payments throughout agency programs and activities. With the goal of ensuring that each taxpayer dollar is spent wisely, efficiently, and for the purpose for which it was originally intended, we will remain committed to eliminating Federal improper payments. We look forward to working with the Congress to see this objective is accomplished.

Thank you, Mr. Chairman for the opportunity to speak before you today. I am pleased to address any questions.

**TESTIMONY OF**
**TIM HILL**
**DIRECTOR**
**OFFICE OF FINANCIAL MANAGEMENT**
**IN THE**
**CENTERS FOR MEDICARE & MEDICAID SERVICES**
**ON**
**MEDICARE AND MEDICAID IMPROPER PAYMENTS**
**BEFORE THE**
**SENATE HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS**
**SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION AND INTERNATIONAL SECURITY**
**JULY 12, 2005**

Chairman Coburn, Senator Carper, distinguished Subcommittee members, thank you for inviting me here to discuss the Centers for Medicare & Medicaid Services (CMS) initiatives to reduce improper payments in the Medicare and Medicaid programs. At CMS, we consider ourselves a leader in engaging in activities to identify, reduce and recover improper payments in Medicare and Medicaid.

Today, I would like to give you some background on the Medicare, Medicaid and SCHIP programs, and then discuss the types of payment errors we are finding and our proposed actions for reducing the occurrence of errors. Finally, I will discuss briefly some of the challenges we face complying with the Improper Payments Information Act of 2002 (IPIA). It is important to note that because my testimony focuses on our efforts to identify incorrect or erroneous payments and not on CMS fraud and abuse efforts, the improper payments I will be discussing are generally not due to bad actors but rather other types of errors.

**Background on Medicare and Medicaid**

Medicare is a Federal health insurance program that provides medical insurance to 42 million people. About 36 million individuals are entitled to Medicare because they are over the age of 65 and about 6 million beneficiaries who are under age 65 are entitled because of disability; those under age 65 generally begin to get Medicare when they have been receiving Social Security disability cash benefits for 24 months. Total Medicare spending for 2005 is estimated to be about $328 billion.

The majority of Medicare spending is for fee-for-service hospital and physician services. The fee-for-service component of Medicare also covers a wide range of other items and services, including home health care, ambulance services, medical equipment, and preventive services. This fee-for-service component of Medicare is administered by CMS through contracts with private companies that process claims for Medicare benefits. During 2005, CMS estimates that Medicare contractors will process well over one billion claims (1.156 billion claims) from providers, physicians, and suppliers for items and services that Medicare covers. Specifically, CMS administers the claims processing and payment systems for Medicare through contracts with Carriers, Durable Medical Equipment Regional Carriers (DMERCs), Fiscal Intermediaries (FIs), and Quality Improvement Organizations (QIOs). These entities review claims submitted by providers to ensure payment is made only for medically necessary services covered by Medicare for eligible individuals.

In addition to fee-for-service, Medicare also pays private plans. The Medicare Advantage plans, which include both coordinated care plans and private fee-for-service plans, generally provide more benefits at a lower cost to beneficiaries. Currently, about 4.8 million beneficiaries are enrolled in Medicare Advantage local plans. The Medicare Prescription Drug, Improvement and Modernization Act (MMA) expanded the program with the establishment of a new regional contracting option for health plans, called Medicare Advantage regional plans. Local Medicare Advantage plans serve individual counties and groups of counties, whereas regional PPOs will bid to serve an entire region - which may be a state or multi-state area. Both local and regional plans must provide all original Medicare benefits.

Medicaid is a partnership between the Federal government and the states. While the Federal government provides financial matching payments to the states, each state is responsible for overseeing its Medicaid program, and each state essentially designs and runs its own program within the Federal structure. The Federal government pays the states a portion of their costs through a statutorily determined matching rate called the Federal Medical Assistance Percentage, or FMAP, that currently ranges between 50 and 77 percent. In FY 2005, total Medicaid expenditures – those that include both Federal and state contributions – are estimated to be approximately $330 billion. Roughly 57 million American will be enrolled in the Medicaid program during 2005.

In addition to Medicaid, CMS also administers the State Children's Health Insurance Program (SCHIP). Program benefits became available October 1, 1997, and will provide $40 billion in Federal matching funds over 10 years to help states expand health care coverage to the Nation's uninsured children. SCHIP is a state-administered program and each state sets its own guidelines regarding eligibility and services. Total SCHIP expenditures, including both Federal and state contributions, are estimated to be $7.6 billion with an enrollment of approximately 6.2 million beneficiaries during FY 2005.

**CMS IPIA Compliance**

Given the staggering size of these programs' expenditures, even small amounts of payment error can represent a significant impact to both Federal and state treasuries and taxpayers. For this reason, CMS, as part of a sound financial management strategy, has a relatively long history of using improper payment calculations as a tool to preserve the fiscal integrity of Medicare, Medicaid and SCHIP. CMS uses improper payments calculations to identify the amount of money that has been inappropriately paid, identify and study the causes of the inappropriate payments, and focus on strengthening internal controls to stop the improper payments from continuing. However, the variation in financing and administration among Medicare, Medicaid and SCHIP requires distinct approaches to applying this financial management tool.

*Medicare IPIA Compliance*

In 1996, the Department of Health and Human Services' (DHHS) Office of Inspector General (OIG) began estimating improper payments in the Medicare fee-for-service (FFS) program as part of the Chief Financial Officer's Audit. The OIG produced FFS error rates from FY 1996 to FY 2002. Beginning in FY 2003, CMS, working with the OIG, implemented a much more robust process – the Comprehensive Error Rate Testing (CERT) program – to assess and measure improper payments in the Medicare fee-for-service program. The CERT program not only produces a national paid claims error rate, but also very specific improper payment rates. These include:

- contractor-specific improper payment rates – measures the accuracy of our claims processors;
- provider-type specific improper payment rates – measures how well the providers who care for our beneficiaries are preparing and submitting claims to the program;
- other management related information which provide insight into payment errors by region and reason.

Thus, in 2002 when the Improper Payments Information Act (IPIA) was enacted, CMS needed to make only minor changes to our ongoing processes to come into compliance with the OMB guidance on the IPIA. And in fact, CMS has gone beyond the scope of the IPIA requirements and OMB guidelines to calculate additional improper payment rates, as discussed earlier. This enhanced scrutiny reflects the Agency's increased commitment to use more detailed data and analysis to identify and eliminate improper payments.

Calculating rates is only one step in the process. Remediation is the key part of CMS IPIA compliance activities. CMS, through its contractors, including the Carriers, DMERCs, FIs, and QIOs use the error rates to identify where problems exist and target improvement efforts. The cornerstone of these efforts is our Error Rate Reduction Plan (ERRP), which includes agency level strategies to clarify CMS policies and implement new initiatives to reduce improper payments. In the past, ERRPs have included plans to conduct special pilot studies (i.e. electronic medical record submission pilot) and specific education-related initiatives. CMS also directs Carriers, DMERCs, and FIs to develop local efforts to lower the error rate by targeting provider education and claim review efforts to those services with the highest improper payments. The type and nature of the errors we see in the program all lend themselves to different types of corrective actions to mediate them.

For example, a primary cause of Medicare payment errors in the past has been providers not submitting the medical record documentation needed to verify the appropriateness of payment in response to our requests for documentation. Often providers did not understand the CERT program or were concerned that submitting medical records to a CMS contractor would be in violation of Health Insurance Portability and Accountability Act (HIPAA) regulations. However, the HIPAA Privacy Rule permits disclosure of protected health information to carry out treatment, payment or health care operations. Thus, we expanded our education efforts to ensure that providers understand that responding to our requests does not violate HIPAA.

Another significant cause of errors has been providers not submitting the appropriate types of medical record documentation to support the types of services billed to the Medicare program. CMS implemented a number of corrective actions to reduce these types of errors, including education and more intensive efforts to locate and contact providers.

CMS also uses contractor-specific error rates to evaluate the performance of the contractors that process Medicare claims. Current contracting authority, however, limits CMS' ability to take action against contractors with high error rates. However, Section 911 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) requires the Centers for Medicare & Medicaid Services (CMS) to take the necessary steps between now and 2011 to implement Medicare Contracting Reform (MCR), which will change the contracting process and the contractor incentive structure. One key outcome of this initiative will be the ability to use incentives to get our contractors to eliminate improper payments. In 2004, CMS conducted a study to evaluate whether the Agency could reduce improper payments by using award fees as incentives for contractors to lower their paid claims and provider compliance error rates. The outcome of that pilot was positive and CMS plans to use award fees as incentives in the future as part of MCR.

We believe our efforts in Medicare have been a success. Our goal is to lower the national Medicare FFS error rate, which currently stands at 10.1 percent, to 7.9 percent by November of 2005. Our long terms goals are improper payment rates of 6.9 percent in 2006, 5.4 percent in 2007, and 4.7 percent in 2008. Preliminary data indicates that CMS is on track to meet its November goal. Also, beginning in 2006, CMS will be producing error rates twice a year. This increased availability of data will help CMS and its contractors to better target efforts to reduce error rates.

The key challenge facing CMS in the coming years will be assessing IPIA compliance with the new drug benefit and expanded Medicare Advantage programs. We conducted a risk assessment of the Medicare Advantage program this year and believe the risk to be substantial and will thus be outlining a strategy for IPIA compliance for FY 2006. For the drug benefit, which begins this January, we will be conducting a risk assessment during calendar 2006 in time to lay out a strategy for IPIA compliance by FY 2007.

*Medicaid and SCHIP IPIA Compliance*

CMS, along with the states, has a strong interest in strengthening financial oversight and ensuring payment accuracy in the Medicaid and SCHIP programs. The states provide a crucial first line of defense in safeguarding Medicaid and SCHIP program dollars. At the Federal level, CMS's primary role is to exercise proper oversight and review of state financial practices and to provide guidance and support for states' program integrity efforts. Prior to 2000, three states --

Illinois, Texas, and Kansas -- on their own initiative had attempted to estimate improper payment rates for their programs.

However, no model had been developed to estimate payment errors at the national level. Thus, in fiscal year (FY) 2000, CMS adopted a Government Performance and Results Act (GPRA) goal to explore the feasibility of developing a methodology to estimate improper payments for the Medicaid programs. To meet this goal, CMS initiated the payment accuracy measurement (PAM) demonstration project. This commitment has evolved into a five-year project to test various methods and strategies for measuring improper payments at the state level. By the end of FY 2005, 38 states will have participated in the program. Our lessons learned from this activity are driving our IPIA compliance strategy going forward.

IPIA compliance strategy for Medicaid and SCHIP rests on a proposed policy of joint state-Federal cooperation to achieve the intended outcome of the statute. In August of 2004, CMS published a proposed rule that would require states to measure improper payments in their Medicaid and SCHIP programs. According to the proposed regulation, the states would report their error rates to CMS, and CMS would calculate an IPIA compliant national error rate.

CMS has received extensive comments to this draft regulation from states and consumer advocacy groups. In addition, the lessons learned from our state pilots have highlighted some significant differences with Medicare that will cause us to have a longer timeline for IPIA compliance. In particular, because Medicaid and SCHIP are needs-based programs, a robust eligibility component must be factored into improper payment rate calculation. Also, the significant percentage of Medicaid and SCHIP beneficiaries who receive care in a managed care setting, rather than through fee-for-service providers, requires a particularly careful assessment of these payments.. Finally, many comments on the rule express concern that IPIA is a Federal, not state, responsibility and the cost and administrative burden that each state would incur by measuring the error rate each year would be high.

Based on these assessments of the pilots and comments on the rule, we plan to publish an Interim Final Rule rule later this summer that will lay out CMS's strategy for full-IPIA compliance in Medicaid and SCHIP, including managed care, eligibility and fee-for-service components, in time for reporting in the FY 2008 Performance and Accountability Report.

**Fraud, Waste and Abuse**

As I previously mentioned, CMS's actions to safeguard Federal funds are not just limited to the error rate programs described in this testimony. Program and fiscal integrity oversight is an integral part of CMS's financial management strategy and a high priority is placed on detecting and preventing improper or fraudulent payments. To that end, CMS has made significant changes to its program integrity activities in the past year. These changes include the creation of new divisions within CMS to focus on data analysis to identify problem areas through trend analysis of claims data and to oversee potential fraud areas in the Discount Drug Card and Prescription Drug programs.

Several specific actions have been taken by CMS to ensure that Federal dollars are being properly spent and fraudulent billings are stopped when they are detected. In particular, a new satellite office in Los Angeles, California has been created, to work in conjunction with an existing satellite office in Miami, Florida, and has been instrumental in helping curtail fraudulent spending in high risk areas. Nine Medicare-Medicaid (Medi-Medi) match projects that CMS has in place in key states also help identify aberrant spending through their matching of Medicare and Medicaid claims data. For the first time, Medicare claims and Medicaid claims are being jointly data mined to identify fraud and abuse. Data mining health care claims for fraudulent activity has been commonplace for several years now. However, by blending both programs claims, patterns emerge that may not have been as evident when viewed separately. In many cases, a small number of crooked providers are exploiting both programs. The knowledge gleaned from our Medi-Medi activities helps both programs identify vulnerabilities and plug those gaps. This project will help reduce overall payment errors.

When instances of fraud or abuse are detected through any of these oversight mechanisms, CMS refers those cases to law enforcement. CMS has actively partnered with its law enforcement partners at the Department of Justice and Office of Inspector General to aggressively pursue enforcement actions against those providers and suppliers that are found to be deliberately defrauding the Federal health care programs.

**Conclusion**

CMS is strongly committed to protecting taxpayer dollars and ensuring the sound financial management of the Medicare and Medicaid programs. As evidenced by the testimony today, the

Agency has taken significant actions to both meet and exceed the IPIA standards in Medicare, and CMS is taking a number of proactive steps to become IPIA compliant in Medicaid. Going forward, the Agency is developing a comprehensive strategy that will strengthen Federal oversight of State financial practices. We have made a great deal of progress and we look forward to continuing to work cooperatively with you. CMS and the Administration fully support this Subcommittee's efforts to improve the fiscal health of the Medicare and Medicaid programs. I look forward to answering any questions you might have.

**TESTIMONY OF**
**KATE COLER**
**DEPUTY UNDER SECRETARY**
**FOOD, NUTRITION, AND CONSUMER SERVICES**
**UNITED STATES DEPARTMENT OF AGRICULTURE**
**BEFORE THE**
**SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT**
**GOVERNMENT INFORMATION AND INTERNATIONAL SECURITY**
**COMMITTEE ON**
**HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS**

**UNITED STATES SENATE**

**JULY 12, 2005**

Good afternoon, Mr. Chairman and Members of the Committee. I am Kate Coler, Deputy Under Secretary for Food, Nutrition, and Consumer Services (FNCS) at the United States Department of Agriculture (USDA). I am pleased to be here to describe to you how our hard work at USDA has significantly lowered the error rate of the Food Stamp Program (FSP) over the last five years. I believe our efforts will assist you in your oversight examination of the Improper Payments Information Act of 2002.

To begin, I would like to share some thoughts about the Food Stamp Program and the people it serves. The FSP ensures access to a nutritious, healthful diet for households through nutrition assistance and nutrition education. This access provides the opportunity for low-income recipients to consume a diet consistent with the Dietary Guidelines for Americans. It enables low-income households to obtain a more nutritious diet by issuing monthly allotments of benefits redeemable for food at authorized retail stores.

Eligibility and allotment amounts are based on household size, income, and expenses; eligibility is also based on assets, citizenship or legal immigration status, work requirements, and other factors. Benefit levels are based on the cost of the Thrifty Food Plan. The Federal Government pays the full cost of benefits -- $24.6 billion for FY 2004 -- and funds approximately half of the expenses incurred by the States to administer the program.

Today's hearing focuses upon how important it is to make sure those benefits are accurately targeted and delivered in the correct amount. The Office of Management and Budget completed a Program Assessment Rating Tool (PART) review of the Food Stamp Program in 2003. The review showed that food stamp benefits are well targeted to low-income beneficiaries, and are virtually always spent for their intended purpose. The program achieves its annual performance goals to reduce payment error while still keeping the program accessible to eligible people.

Also, in May of this year, the Government Accountability Office issued a report on error reduction efforts in the Food Stamp Program. This report noted the significant recent decline in error rates and suggests that continued attention from top USDA management and on-going efforts by the Food and Nutrition Service will "...likely continue to be important factors in further reductions."

Who are the beneficiaries of the Food Stamp Program? USDA's most recent survey of food stamp household characteristics, conducted during 2003, indicates that nearly 60 percent of all participants are children (under 18 years of age) or elderly (age 60 or older). Nine out of ten households have income below the poverty level; more than one-third of all food stamp households have income at or below 50 percent of poverty. Eleven percent of food stamp households have no countable income of any kind. The proportion of households with earnings reached an all time high in 2003 while the proportion of households with public assistance income reached an all time low.

There has been an increase in participation in the Food Stamp Program over the last four years. This increase is the result of multiple factors including:

- Policy changes that simplified and streamlined the process of applying for benefits;
- Restoration of benefits for certain legal immigrants;
- Grants to States and non-profit organizations, including faith-based and community organizations, to improve access and provide outreach to those who are eligible, but not currently participating;
- Education efforts to help those who are eligible for the program know about the benefits so that they can make an informed choice about participating in this critical nutrition program that helps families put healthy food on their tables; and,
- The economy.

The first four factors I mentioned came in large part as provisions in the 2002 Farm Bill and were championed by President Bush as a part of his priority to ensure access to food stamp benefits for those who are eligible for the Program

However, increasing caseloads can make it quite challenging for State agencies to calculate eligibility with accuracy. And yet, I am proud to report that States are doing a better job than ever accurately determining benefits.

Three weeks ago, on June 24, Agriculture Secretary Mike Johanns announced that the Food Stamp Program has achieved an historic 94.12 percent overall payment accuracy rate—the best performance since the inception of the program and a 34 percent improvement from just five years ago. The result of the combined error rate reduction from FY 2000 to FY 2004 is an aggregate decrease in erroneous benefits of nearly $1.4 billion. This improvement in payment accuracy is a result of strong partnerships with States administering the program as well as implementation of program simplifications and policy options provided in the 2002 Farm Bill.

The Farm Bill has enabled States to better simplify shelter cost deductions and reporting requirements, align food stamp income and resource policy with State TANF and/or Medicaid programs, implement a transitional benefits alternative, and employ other new program simplifications and options to streamline eligibility determinations and reduce errors.

On June 24, Secretary Johanns awarded $30 million to 16 States for exemplary administration of the Food Stamp Program in FY 2004. The seven States with the best payment accuracy rates and the three States with the most improved payment accuracy rates will divide $24 million. An additional $6 million will be divided between the four States with the lowest negative error rates

and the two States with the most improved negative error rates. Negative error rates measure whether States correctly deny, suspend, or terminate benefits.

As noted in the FY 2004 Performance and Accountability Report, the food stamp error rate is developed from a long-standing program integrity process called Quality Control (QC), a system mandated by the Food Stamp Act to ensure program integrity. Each State selects and reviews a statistical sample of its participating food stamp households each year and reports the findings to FNS, where the findings are validated. The results are used to calculate a final error rate for each State agency and weighted to determine a national average combined error rate for the Food Stamp Program. Erroneous payments are at a record low—less than 4.5 percent overissued and less than 1.5 underissued—for a combined total of 5.88 percent. We regard both kinds of error—overissued or underissued—as equally important. It is critical that payments are correct and that those who are eligible for the benefits receive the proper amount—not too much, and certainly not too little. It is important to note in this discussion that 98% of the Food Stamp recipients are eligible for some benefit—the key is in getting the amount right.

State agencies are required to do corrective action planning whenever their payment error rate is six percent or greater. Current FSP regulations provide that corrective action planning shall also be done by a State agency when the State agency's negative case error rate exceeds one percent. Corrective action planning is also required based on the results of reviews, audits or investigations; when 5 percent or more of the QC sample being coded is incomplete; or when deficiencies that result in negative actions against households are caused by State agency rules, practices, or procedures.

The Food and Nutrition Service regional offices work directly with States to assist them in developing effective corrective action strategies to reduce payment errors and assure accurate negative case decisions. Regional offices provide technical assistance to States in data analysis, policy interpretation, training, development and monitoring of corrective action strategies, facilitating the information exchange with and among States through annual payment accuracy conferences, State exchange funding, and specific error reduction funds.

Additionally, FNS has and will continue to enter into QC settlement agreements that require poor performing States subject to QC liabilities to undertake targeted error reduction actions and to commit to specific improvement goals. FNS also focuses efforts on States with high issuance volume and high payment error rates. This ensures that special attention and technical assistance are available to States that have a significant impact on the national payment error rate.

The Food Stamp Program also has systems in place to recover erroneously issued benefits from food stamp recipients. Claims are established by State agencies against households who have received more food stamp benefits than they should have. A little over 12 years ago, FNS approached its State agencies and encouraged them to participate in TOP—the Treasury Offset Program. TOP offers a way to recover food stamp overissuances by reducing a delinquent food stamp debtor's income tax refund or other Federal payments. That partnership grew, and as a result, we have collected more than $800 million in delinquent food stamp recipient claims.

All of these activities have proved to be very cost efficient and effective toward protecting the integrity of Federal dollars issued in the form of food stamp benefits.

Mr. Chairman, our Department is very proud of the progress we have made in ensuring that food stamp benefits provide nutrition assistance and are well targeted and efficiently and accurately delivered to the nation's needy families. I would like to point out at this time that the 2002 Farm Bill did make changes that could affect USDA's ability to ensure continued improvement in payment accuracy. Those changes reduced the penalties associated with payment errors and the incentives provided to States who excel in payment accuracy. We continue to work with States to ensure that these changes do not affect our mutual commitment to reducing improper payments in the Food Stamp Program.

With that in mind, we continue to seek opportunities and strategies that result in improved Program administration. For example, recent USDA efforts relating to program integrity in the Food Stamp Program include:

- Maintaining a National Payment Accuracy Work Group comprised of program experts from around the nation to ensure continued error reduction through increased monitoring and analysis of error rate data, improvements in State corrective actions, and increased technical assistance to States;
- Providing direct technical assistance to State agency personnel;
- Cosponsoring and participating in Regional and State conferences that address payment accuracy;
- Publishing and disseminating information on payment accuracy "best practices;"
- Structuring settlement agreements for poor performing States that include new investment of portions of the liability amount in activities specifically aimed at error reduction; and
- Managing a State Exchange Program that enables States to interact with and review successful error reduction strategies employed by other States.

Sharing "best practices" and information is critical to the future of our programs.
But I would be remiss if I did not mention one of the key aspects to payment accuracy—leadership. This Administration has been clear in its expectations of States to properly administer government programs. That message has clearly been articulated from the Secretary and the Under Secretary to the States. The States have, in turn, taken greater ownership of the responsibility for improving payment accuracy in the Food Stamp Program. The partnership between the Food and Nutrition Service's Food Stamp Program and the State Administrators is critical to our continued success.

Finally, the Department will be holding listening sessions, beginning this summer, to gather public input on ways to further improve the Food Stamp Program in preparation for the 2007 Farm Bill. We are committed to maintaining public confidence in our nutrition assistance programs by ensuring that Federal dollars are used for the purpose for which they were intended.

Mr. Chairman, this concludes my remarks. I would be happy to answer any questions at this time.

**RESPONSES TO QUESTIONS FROM MR. WILLIAMS**

**United States Government Accountability Office**
**Washington, DC 20548**

September 16, 2005

The Honorable Tom Coburn
Chairman, Subcomittee on Federal Financial Management, Government Information, and International Security
Committee on Homeland Security and Governmental Affairs
United States Senate

Subject: *Post-Hearing Questions Related to Agency Implementation of the Improper Payments Information Act*

Dear Mr. Chairman:

On July 12, 2005, we testified before your subcommittee at a hearing entitled "Improper Payments: Where Are Truth and Transparency in Federal Financial Reporting?" At that hearing, we discussed our findings on federal agencies' implementation of the Improper Payments Information Act of 2002 (IPIA) based on our review of agencies' fiscal year 2004 Performance and Accountability Reports (PAR). Our review focused on the extent to which agencies have performed the required assessments to identify programs and activities that are susceptible to significant improper payments, and the annual amount estimated for improper payments by federal agencies.

This report responds to your August 24, 2005, request that we provide answers to follow-up questions relating to our July 12, 2005, testimony. Your questions, along with our responses, follow.

1. *Pursuant to the Improper Payments Information Act of 2002 (P.L. 107-300), OMB provided implementation guidance to agencies, and provided the Social Security Administration with supplemental guidance on improper payments reporting. This guidance establishes a distinction between "avoidable" and "unavoidable" payments. Are you concerned with this supplemental guidance? What are the implications of making this distinction? Is it GAO's understanding that agencies would not be required to report improper payment information to the Congress if they are considered to be "unavoidable" under OMB's guidance?*

On August 28, 2003, the Office of Management and Budget (OMB) advised Social Security Administration (SSA) on improper payment reporting. Under this advice, SSA could exclude from its estimate of improper payments those payments that it made following constitutional, statutory, or judicial requirements even though those payments are

subsequently determined to be incorrect. These payments were deemed by OMB to be "unavoidable" improper payments, as there are no administrative changes SSA could implement that would eliminate such payments nor would SSA be likely to receive other relief from such requirements.

IPIA defines an improper payment as a 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, and includes any payment to an ineligible recipient, any payment for an ineligible service, any duplicate payment, any payment for services not received, and any payment that does not account for credit for applicable discounts.

While the definition of improper payments does not use the terms "avoidable" or "unavoidable," we agree with OMB that a payment that was made following a legal requirement to make the payment subject to subsequent judicial or administrative determinations that the payment is not due should not be included in an agency's estimate of its improper payments. We agree with OMB's conclusion not because it is an "unavoidable" payment but rather because it does not meet the definition of an improper payment under the act.

For example, SSA has cited that it is required by statute to continue making a payment, even if SSA concludes that the recipient is no longer eligible, until certain due process requirements have been met. In this example, SSA, because of the statutory requirement, must make the payment. Because SSA is continuing to make the mandatory payment, the amount is not incorrect under IPIA. The statute requires SSA to make the payment until applicable due process requirements result in a determination that the person is ineligible; therefore, the mandatory payments have not been made to an ineligible recipient. Accordingly, the facts would not support inclusion of these payments as improper payments as defined under IPIA.

While we recognize that OMB's advice is only applicable to SSA, we are concerned that other agencies might rely on it, particularly in light of the justification OMB provided for not including the above, and similar, payments. In its February 13, 2004, response to the Senate Committee on Finance inquiry, OMB discussed in detail its advice to SSA and its rationale for establishing a distinction between "unavoidable" and "avoidable" improper payments. While we concur with OMB's result for the SSA examples cited in its response to the committee inquiry, we are concerned that the result is based on a principle that might not always be applicable in other fact situations. We would caution OMB against concluding that any payment that is unavoidable – that is, the agency cannot do anything about it – should not be included as an improper payment under IPIA. Rather, the exclusion of payments should be made individually on a fact-specific basis using the definition provided in IPIA. In addition, we believe that agencies should track and monitor theses types of payments as part of their debt collection efforts and have the ability to readily report this type of information upon request.

2. *Is SSA the only agency where "unavoidable" and "avoidable" improper payment distinctions arise? If not, which other agencies have raised these issues, and what is GAO's concern with such a distinction?*

Many of the government programs with improper payments are benefit programs like those of SSA, which involve recipients and providers of services. Although there could be other agencies that also face having to make payments as a result of legal or regulatory requirements, we are not aware of other agencies having raised the issue of "unavoidable" and "avoidable" improper payments. It is our understanding that OMB's advice was specific to SSA.

3. *In its report, entitled "Financial Management: Challenges in Meeting Requirements of the Improper Payments Information Act," GAO reported, based on information provided by OMB from PARs collected, that all programs and activities in the Department of Defense had been assessed for risk of making improper payments. Only two programs within the Department of Defense reported improper payment information: the Military Retirement Fund and Military Health Benefits. Please comment on the following:*

- *Whether or not GAO believes that all programs in the Department of Defense have been adequately assessed for risk of improper payments.*

In its fiscal year 2004 PAR, the Department of Defense (DOD) reported it had assessed all programs and activities for susceptibility to significant improper payments, that is, improper payments exceeding $10 million and 2.5 percent of program payments, pursuant to criteria OMB included in its implementing guidance. While we have provided data on DOD's and other agencies' implementation efforts to meet certain requirements under IPIA, we have not analyzed DOD's assessments of its programs nor its improper payment estimates.

- *Any other programs within the Department of Defense that GAO suspects to be at risk for making "significant" improper payments.*

Based on GAO's most recent high-risk series work[1] and an August 2005 DOD Office of Inspector General (OIG) report on DOD's identification and reporting of erroneous payments,[2] we believe DOD may have other programs and activities that are at risk of making significant improper payments. In our January 2005 High-Risk Update, we identified 25 high-risk areas. Of the 25, 14 areas involve DOD, including 6 governmentwide high-risk areas (see table 1).

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[1]GAO, *High-Risk Series: An Update*, GA0-05-207 (Washington, D.C.: January 2005).
[2]Department of Defense Office of Inspector General, *Financial Management: Identification and Reporting of DoD Erroneous Payments*, D-2005-100 (Arlington, Va.: Aug. 17, 2005).

**Table 1: GAO Designated DOD High-Risk Areas**

| DOD high-risk areas | Year designated |
|---|---|
| Approach to Business Transformation | 2005 |
| Personnel Security Clearance Program | 2005 |
| Support Infrastructure Management | 1997 |
| Business Systems Modernization | 1995 |
| Financial Management | 1995 |
| Contract Management | 1992 |
| Supply Chain Management (formerly Inventory Management) | 1990 |
| Weapon Systems Acquisition | 1990 |
| **Total** | **8** |
| **Governmentwide high-risk areas** | |
| Establishing Appropriate and Effective Information-Sharing Mechanisms to Improve Homeland Security | 2005 |
| Management of Interagency Contracting | 2005 |
| Managing Federal Real Property | 2003 |
| Implementing and Transforming the Department of Homeland Security | 2003 |
| Strategic Human Capital Management | 2001 |
| Protecting the Federal Government's Information Systems and the Nation's Critical Infrastructure | 1997 |
| **Total** | **6** |
| **Grand total** | **14** |

Source: GAO.

For years, GAO has reported on inefficiencies and lack of adequate transparency and appropriate accountability across DOD's major business areas, resulting in billions of dollars of wasted resources annually. In addition, DOD's financial management deficiencies represent the single largest obstacle to achieving an unqualified opinion on the U.S. government's consolidated financial statements. Among other things, these deficiencies adversely affect the department's ability to control costs, ensure basic accountability, and prevent fraud. DOD's financial management problems have negatively affected its business operations, including activities related to military pay, travel, property, contract payments, and automated systems. Based on this, we believe that programs related to these areas may be at risk of making significant improper payments.

In its August 2005 report, the DOD OIG reported that DOD estimated approximately $977.5 million in erroneous payments associated with DOD fiscal year 2004 operations. DOD also identified the military pay activity as being at high risk of erroneous payments. Because DOD did not complete its preliminary estimates or identify high-risk areas until January 2005, none of this information was reported in DOD's fiscal year 2004 PAR. As

stated in our response to the first part of question 3, we have not analyzed DOD's assessments of its programs nor its improper payment estimates.

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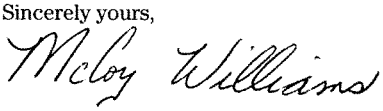
We are sending a copy of this report to the Director of OMB and other interested parties. This report is also available on GAO's home page at http://www.gao.gov. Should you have any questions on matters discussed in this report or need additional information, please contact me at (202) 512-6906 or at williamsm1@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Major contributors to this report include Carla Lewis, Assistant Director; Verginie Amirkhanian; and Donell Ries.

Sincerely yours,



McCoy Williams
Director, Financial Management and Assurance

(195069)

**Written Questions for Ms. Linda M. Combs:**

1. How does IPIA information actually get delivered to Congress? In statute, the IPIA says that the agencies are to report to Congress, but I'm not sure how that actually happens. For PAR reporting, statute says all agencies are to use the same method of reporting, and that method is to be determined by OMB. Does OMB bring the PARs of evaluated PARs to the Hill, or is the information transmitted through OMB's scorecard?

   IPIA information is delivered to Congress primarily through agency submission of the annual Performance and Accountability Reports. The CFO Council standardized the PAR reporting format for agencies to follow beginning with the FY 2004 submission. In addition, OMB issued a first government-wide report entitled, "Improving the Accuracy and Integrity of Federal Payments," in January 2005, which was transmitted to Congress. OMB plans to issue this report annually. The scorecard process for the Eliminating Improper Payments PMA initiative contains quarterly updates on agency progress which is posted on the OMB and Results.gov web sites, but is not specifically transmitted to Congress.

2. The Improper Payments Information Act requires agencies to report improper payments to Congress each year, but when these payments are estimated to exceed $10 million or more in any program or activity. OMB's implementing guidance further modifies this reporting requirement by requiring agencies to only report improper payments in a program exceeding both 2.5 percent of program payments and $10 million.

   A) Please explain in detail OMB's justification for imposing the 2.5 percent standard and whether or not *you* have given consideration to changing this standard?

   OMB developed its implementation guidance to ensure that agencies implement effective and aggressive approaches for detecting and eliminating improper payments. By establishing a risk threshold of a 2.5% error rate and $10 million, OMB has enabled agencies to prioritize error reduction activities on programs where taxpayers will see the most benefit from agency efforts. Notably:

   - $1.4 billion (60%) out of $2.3 trillion in total Federal FY 2004 outlays were determined to be risk susceptible.
   - The $900 billion deemed to be not risk susceptible is comprised primarily of employee compensation, contracts and administrative expense, net interest on the public debt, and small outlay/low risk programs.

   OMB will work closely with agencies that report on programs with more than $10 million in improper payments, but that fall below the 2.5% error rate threshold, to ensure proper monitoring. We are currently working with the Chief Financial Officer's Council to determine potential changes to OMB's implementation guidance for the FY 2006 reporting cycle.

B) Does this criteria leave out any DOD programs? If so, which ones?

DOD will report on all programs that meet the guidance standards in the upcoming FY 2005 PAR. While not publicly reported, DOD actively tracks all programs with improper payments that exceed $10 million, regardless of the improper payment rate.

3. Please list the agencies and programs that previously reported improper payments under Section 57 of Circular A-11 that currently do not meet the two-prong OMB guidance standard?

OMB's implementing guidance requires that all Section 57, A-11 programs, regardless of improper payment amount or rate, be reported under the IPIA. A small number of programs were eliminated from A-11 prior to the issuance of OMB's implementing guidance or have otherwise been exempted from IPIA reporting. Such programs, when measured, consistently demonstrated low amounts of improper payments (i.e., less than $10 million). OMB continues to work with agencies to periodically examine whether these programs should be added back to IPIA reporting.

4. The 2001 version of Circular A-11 included the U.S. Agency for International Development in Section 57, while the June 2002 revision to Circular A-11 (as reported by GAO), reduced the number of CFO Act agencies required to submit erroneous payment data from 15 to 14, removing AID from the list. Please explain the reasoning for this change.

As referenced above, a small number of programs were eliminated from A-11 prior to the issuance of OMB's implementing guidance or have otherwise been exempted from IPIA reporting. Such programs, when measured, consistently demonstrated low amounts of improper payments (i.e., less than $10 million). In the case of USAID, the agency adequately demonstrated such a small improper payment amount and rate that the costs of tracking improper payments did not justify the benefits.

5. Do you support USAID's internal assessment that none of their programs were considered to be at risk for "significant" improper payments? Please provide, in detail, OMB's reasoning for supporting or refuting their conclusion.

Agencies are required to perform their risk assessments on an annual basis. When USAID submitted their documentation for FY 2004, OMB deemed it acceptable. However, we pointed out at that juncture that USAID must implement a recovery auditing effort as they fund more than $500 million in contracts annually. USAID's recovery auditing report will be submitted as part of

the FY 2005 PAR. We will also re-evaluate their risk assessments at that time to determine acceptability.

6. Please explain in detail measures OMB is currently taking to ensure federal agencies are taking proactive measures to improve weak internal controls and implement safeguards to ensure against improper payments?

Through the President's Management Agenda, OMB is holding agencies accountable for strengthening internal controls related to financial management, including controls associated with the accuracy and integrity of payments. In order to move from "red" to "yellow" status on the Improving Financial Performance scorecard, agencies must remediate all auditor-identified internal control material weaknesses as well as those identified pursuant to the Federal Managers Financial Integrity Act. In order to move from "red" to "yellow" status on the Eliminating Improper Payments scorecard, agencies must establish corrective action plans to remediate internal control weaknesses related to payment errors.

In addition, OMB recently published a revised Circular A-123, Management Responsibility on Internal Controls, which will strengthen the overall internal control environment. This will have a beneficial effect on preventing and eliminating improper payments.

7. Pursuant to the Improper Payments Information Act of 2002 (P.L. 107-300), OMB provided implementation guidance to agencies, and provided the Social Security Administration with supplemental guidance on improper payments reporting. This guidance establishes a distinction between "avoidable" and "unavoidable" payments.

OMB is requiring all agencies, including the Social Security Administration (SSA), to fully comply with the provisions of IPIA. In some cases, however, SSA is compelled by certain statutory and judicial requirements, such as due process, as well as other timing requirements, to make payments. Thus, for improper payment purposes, SSA is judged on whether these payments were correct given such constraints. Subsequent information may indicate that a particular SSA payment should not have been made; but if the information was either unavailable at the time of the payment, or could not be incorporated into the payment determination for legal reasons, then the initial payments falls outside the scope of the improper payment effort.

8. Why did OMB decide to adopt this distinction in this context?

See Response to #7 above.

9. Are agencies required under OMB's guidance to report unavoidable improper payment information to Congress? Is SSA the only agency where "unavoidable" and "avoidable"

improper payment distinctions arise? If not, which other agencies have raised these issues and how has OMB responded to them?

Other than the situation at SSA discussed above, no other instances have been raised to OMB. If an agency is required by law to make a payment and the agency complies with such law, the payment does not fit the definition of an improper payment.

A) Are "unavoidable" improper payment statistics collected?

No.

B) Are "unavoidable" improper payment statistics reported to OMB?

No.

10. What dollar impact does the introduction of this avoidable/unavoidable distinction have on the amounts of improper payments reported by SSA for 2004? What would the improper payment rate or amount be for SSA for 2004 under 2002 improper payment definitions?

As noted above, the unavoidable payments are not included in improper payment totals. The definition of an improper payment has not changed since 2002.

11. I understand that the second step in order to comply with the IPIA, is to develop a statistically valid estimate of improper payments for all programs and activities identified as susceptible to significant improper payments in the risk assessment. According to OMB's guidance, the statistical estimate must be based on a sample size sufficient to yield an estimate with a 90% confidence interval, plus or minus 2.5 %. Why doesn't OMB use the standard statistical estimate of a 95% confidence interval as used in Chi square calculations?

In issuing these statistical standards, OMB's goal was to give agencies a testing methodology that would produce payment error rate with a certain minimum precision at a reasonable cost. It is common for statistical surveys to present estimates of population parameters with either a 95% or a 90% confidence interval. The key to creating an acceptable survey is balancing the appropriate level of precision needed within a reasonable, cost effective sample size. The higher the desired degree of precision becomes; the larger the sample size must become to reach the desired confidence interval. For the purposes of the IPIA, the reasonable level (i.e., that level which best balances the costs of conducting the survey to measure results against the desired confidence level) chosen was a minimum level of precision for the estimate of +/- 2.5% with 90% confidence.

12. What changes does OMB anticipate making to its implementing guidance memorandum M-03-13 to better assist agencies in implementing the requirements of the IPIA? Will any changes be made to the sampling methodology for calculating an improper payment estimate?

After working closely with the CFO Council and individual agencies and departments over the past two years, OMB has determined that some modifications to M-03-13 may be warranted. The types of changes under consideration include, but are not limited to:

- Assisting agencies that fund State-administered grant programs in developing cost-effective methodologies to obtain national error rates;
- Incorporating the CFO Council's Alternate Methodologies white paper that discusses the use of component rates reported annually as a precursor to comprehensive reporting; and,
- Allowing for different types of statistical sampling such as attribute sampling, judgmental, and/or systemic, that integrate the nuances of differing programs thereby resulting in more informative conclusions.

13. OMB's June 2005 scorecard for eliminating improper payments show DOD's current status as "yellow," an improvement from previous scorecards in which OMB had scored DOD as "red." Please explain OMB's rationale for DOD's "yellow" status.

DOD is currently yellow on status for the EIP scorecard, because they have completed their annual risk assessments, have an OMB-approved measurement plan in place, have set improper payment reduction targets, and have developed and implemented corrective actions to reach these targets. Thus far, the two programs they are reporting on are Military Health Benefits and Military Retiree Funds. During FY 2005, as a result of their annual risk assessment, they identified an additional risk-susceptible program—Military Pay—which they will be reporting on for the first time in the FY 2005. OMB is also working with DOD to ensure more comprehensive reporting and enhanced accountability for improper payments to vendors.

**RESPONSES TO QUESTIONS FROM MR. HILL**

1. In its November 2004 Performance and Accountability Report (PAR), CMS articulated it would be able to provide improper payment estimates for Medicaid by fiscal year 2006. This is cited in Table 1: "Programs Required to Report under A-11 and Projected Year of Improper Payment Estimates," on page 10 of GAO's Report: *"Financial Management: Challenges in Meeting Requirements of the Improper Payments Information Act" March, 2005 (GAO-05-417).*

   However, on page six of your written testimony, you state:

   > "Based on these assessments of the pilots and comments on the rule, we plan to publish an Interim Final Rule later this summer that will lay out CMS's strategy for full-IPIA compliance in Medicaid and SCHIP, including managed care, eligibility and FFS components, in time for reporting in the FY 2008 Performance and Accountability Report."

   Could you please explain to me the reason for this discrepancy?

   Answer: CMS initially planned to implement Medicaid payment error rate measurement in fiscal year 2005 for reporting in the fiscal year 2006 Performance and Accountability Report. However, CMS changed its strategy and is working closely with OMB to finalize an approach for national implementation. CMS expects to report Medicaid and SCHIP improper payment estimates that are fully compliant with the requirements contained in the IPIA and OMB guidance by fiscal year 2008.

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