AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

S. Hrg. 112–557

ASSESSING EFFORTS TO COMBAT WASTE AND FRAUD IN FEDERAL PROGRAMS

HEARING

BEFORE THE

FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY SUBCOMMITTEE

OF THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

MARCH 28, 2012

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

Printed for the use of the
Committee on Homeland Security and Governmental Affairs

U.S. GOVERNMENT PRINTING OFFICE

73–679 PDF WASHINGTON : 2012

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

H605-41331-79W7 with DISTILLER

VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00001 Fmt 5011 Sfmt 5011 P:\DOCS\73679.TXT JOYCE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

JOSEPH I. LIEBERMAN, Connecticut, *Chairman*

CARL LEVIN, Michigan
DANIEL K. AKAKA, Hawaii
THOMAS R. CARPER, Delaware
MARK L. PRYOR, Arkansas
MARY L. LANDRIEU, Louisiana
CLAIRE McCASKILL, Missouri
JON TESTER, Montana
MARK BEGICH, Alaska

SUSAN M. COLLINS, Maine
TOM COBURN, Oklahoma
SCOTT P. BROWN, Massachusetts
JOHN McCAIN, Arizona
RON JOHNSON, Wisconsin
ROB PORTMAN, Ohio
RAND PAUL, Kentucky
JERRY MORAN, Kansas

MICHAEL L. ALEXANDER, *Staff Director*
NICHOLAS A. ROSSI, *Minority Staff Director*
TRINA DRIESSNACK TYRER, *Chief Clerk*
JOYCE WARD, *Publications Clerk and GPO Detailee*

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

THOMAS R. CARPER, Delaware, *Chairman*

CARL LEVIN, Michigan
DANIEL K. AKAKA, Hawaii
MARK L. PRYOR, Arkansas
CLAIRE McCASKILL, Missouri
MARK BEGICH, Alaska

SCOTT P. BROWN, Massachusetts
TOM COBURN, Oklahoma
JOHN McCAIN, Arizona
RON JOHNSON, Wisconsin
ROB PORTMAN, Ohio

JOHN KILVINGTON, *Staff Director*
WILLIAM WRIGHT, *Minority Staff Director*
DEIRDRE G. ARMSTRONG, *Chief Clerk*

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00002 Fmt 5904 Sfmt 5904 P:\DOCS\73679.TXT JOYCE

CONTENTS

	Page
Opening statements:	
Senator Carper	1
Senator Coburn	4
Senator Brown	5
Prepared statements:	
Senator Carper	41
Senator Brown	45

WITNESSES

WEDNESDAY MARCH 28, 2012

Hon. Daniel I. Werfel, Controller, Office of Federal Financial Management, Office of Management and Budget	8
Sheila O. Conley, Deputy Assistant Secretary for Finance and Deputy Chief Financial Officer, U.S. Department of Health and Human Services	10
Beryl H. Davis, Director, Financial Management and Assurance, U.S. Government Accountability Office	12
Hon. Todd Russell Platts, a Representative in Congress from the State of Pennsylvania	14
Hon. Edolphus Towns, a Representative in Congress from the State of New York	17

ALPHABETICAL LIST OF WITNESSES

Conley, Sheila O.:	
Testimony	10
Prepared statement	54
Davis, Beryl H.:	
Testimony	12
Prepared statement	61
Platts, Hon. Todd Russell:	
Testimony	14
Prepared statement	93
Towns, Hon. Edolphus:	
Testimony	17
Prepared statement	95
Werfel, Hon. Daniel I.:	
Testimony	8
Prepared statement	47

APPENDIX

Questions and responses for the Record from:	
Mr. Werfel	97
Ms. Conley	107
Ms. Davis	108
Chart referenced by Senator Carper	111
Chart referenced by Senator Brown	112
Chart referenced by Senator Carper	113

H605-41331-79W7 with DISTILLER

VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00003 Fmt 5904 Sfmt 5904 P:\DOCS\73679.TXT JOYCE

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00004 Fmt 5904 Sfmt 5904 P:\DOCS\73679.TXT JOYCE

ASSESSING EFFORTS TO COMBAT WASTE AND FRAUD IN FEDERAL PROGRAMS

WEDNESDAY, MARCH 28, 2012

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

The Subcommittee met, pursuant to notice, at 2:35 p.m., in Room 342, Dirksen Senate Office Building, Hon. Thomas R. Carper, Chairman of the Subcommittee, presiding.

Present: Senators Carper, Brown and Coburn.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. The hearing will come to order.

I understand that there are votes going on in the House, and they are about to wrap those up and Representatives Platts and Towns will be joining us shortly. I suggest Senator Coburn will go ahead and make some opening statements, and then we will yield to our witnesses once they have arrived.

Today's hearing will focus on the very high levels of improper payments that are made by Federal agencies as well on our efforts to curb these wasteful and sometimes fraudulent payments.

As everyone in the room knows, we have faced record budget deficits in recent years. Our national debt today stands at about $15.4 trillion, well over double what it was just 10 years ago. I do not think we have had a debt situation like this since World War II. It was not sustainable then, and we know it is not sustainable now.

In order to address the burden that this debt places on our country, I think we need a new kind of culture here in Washington, DC, Senator Coburn, God knows, he is for it, and I have tried to be a reasonably good partner with him, in trying to replace a culture of thrift with a culture of spendthrift. And we have a lot of folks, including some people in this room, that have been great partners with us in this.

We need to look in every nook and cranny in the Federal Government, find out what works, do more of that; find out what does not work and do less of that. One of the things that work in terms of reining in inappropriate spending is to do a better job with improper payments. We are pleased that we are making some progress, and we have a lot more to do.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00005 Fmt 6633 Sfmt 6633 P:\DOCS\73679.TXT JOYCE

Before I go any further, I think it is important to maybe explain what it means for a Federal agency to make improper payments. An improper payment, for those who are not familiar with it, occurs when an agency pays a vendor for something they did not receive or maybe even pays a vendor twice for something they do receive. It can occur when a recipient has died and is no longer eligible for payment or when a vendor owes the government money and should not be getting a payment until that is repaid. And of course, sometimes people or companies receive payments that are actually fraudulent.

According to the Government Accountability Office (GAO), the Federal Government made an estimated $121 billion in improper payments in fiscal year (FY) 2010. That was a record high. I was encouraged to learn recently that the early data for fiscal year 2011 shows a drop in the level of improper payments to about $115 billion. That is down from $121 billion, to about $115 billion, even though more agencies are now reporting their improper payments. For example, the 2011 estimate includes improper payments for the Medicare prescription drug program for the first time.

And this drop is welcome news and suggests that the years of collective efforts, bipartisan efforts here in the Legislative Branch and works of a couple of Administrations—the Bush Administration, the Obama Administration—and a bunch of other folks are beginning to bear some fruit.

I think we probably have a chart[1] right here. $115 billion—who would have ever thought that would be good news, but it is better than $125 or $130 or $135.

So we are heading in the right direction. We just have to keep going that way and try to get going that way even faster.

Despite some progress that has been made, error rates and the amount of money lost to avoidable errors still clearly remains at unacceptably high levels. What disturbs me most about this problem is that we seem to make these kinds of mistakes at a rate much higher than a business or the average family would tolerate, or could afford, and we keep making some of them over and over again.

As you recall in 2010, Congress passed, and President Obama signed into law, the *Improper Payments Elimination and Recovery Act* which Senator Coburn, Senator Lieberman and I and others had worked on. And this new law aims to make agencies and agency leadership far more accountable for the expensive mistakes that they sometimes make, and it represents a bipartisan and bicameral success in trying to prevent waste and fraud.

The 2010 law does essentially four things: First, it compels Federal agencies to make a more honest accounting of the errors that they do make. Second, it requires agencies to take steps to stop making errors. And, it requires agencies to try and recover improper payments when they are made. And finally, it directs that top managers be evaluated in part by how well their agencies comply with the new law.

I like to say there are four things that the law does. One, it says, we want you to not only report improper payments; we want you

[1] The chart referenced by Senator Carper appears in the appendix on page 111.

H605-41331-79W7 with DISTILLER

to stop making them. We want you to go out and recover the monies that have been improperly paid, and we want to make sure that the folks that are running those agencies, that somehow their evaluations, their performance is measured by their compliance with that legislation.

Today, I want us to focus on an important new measure that would help all Federal agencies prevent, detect and recover improper payments—bipartisan legislation that Senator Collins, Brown, Lieberman and I co-authored, S. 1409, the *Improper Payments Elimination and Recovery Improvement Act,* and it is now making its way through the Senate. This measure builds upon the 2010 improper payments law.

Our new bill recently passed by Unanimous Consent in the Homeland Security and Government Affairs Committee (HSGAC). Last month, the bill was introduced in the House, led by our first panel's witnesses who are going to arrive shortly—Representatives Todd Platts and Edolphus Towns. And let me just take a moment and talk about some of the provisions of our bill.

Too often, Federal agencies make improper payments to individuals who could easily be identified as ineligible. Some of these individuals are applying for benefits using a false address. Others may not meet the criteria for eligibility.

And to their credit, the Obama Administration represented here today, through executive action, is establishing a Do Not Pay Initiative, and this effort involves screening recipients of Federal funds against a list of those ineligible to receive those funds before we cut the check. For example, before an agency could award a contract to a company, the agency would have to cross-check against the Do Not Pay database which will include a central, comprehensive database of companies and entities that are no longer allowed to do work with the Federal Government because of a fraud conviction or for some other reason.

And S. 1409 would establish the Do Not Pay Initiative in the law throughout the Federal Government and make several important improvements to the initiative and add tools and procedures to help agencies access data.

Finally, the bill would establish a series of recovery audit contracts to ensure that agencies actually recover overpayments. Recovery Audit Contracting has proven very successful in the private sector as well as in several Federal agencies. It worked in the State of Delaware where we used it in concert with our State Division of Revenue to collect revenues that we were finding difficult to collect.

So it has worked in the private sector. It has worked in States, in the local governments and a number of Federal agencies, including with the Medicare program. There, we have witnessed recovery of improperly spent Federal taxpayer dollars approaching, I think, $2 billion in recent years, and we expect those recoveries to continue to grow. They need to.

There are additional initiatives that agencies are undertaking that the witnesses will describe. I am especially interested in initiatives that we will hear about today that address improper payments by Federal programs that are run by State agencies such as Medicaid and Unemployment Insurance.

H605-41331-79W7 with DISTILLER

Let me conclude by noting that we are here today in large part because we believe that we have a moral imperative to ensure that the scarce resources we put into Federal programs are well spent. We must use every tool available to put our fiscal house back in order and give the American people the government that they expect and that they deserve. It is the right thing to do on behalf of the taxpayers of this country, who entrust us with their hard-earned money. And by working together on this latest in a series of common sense initiatives, we can take another important step forward in earning their trust once again.

And with that having been said, let me turn to Senator Coburn with my special thanks for all that he has done and continues to do on these funds.

OPENING STATEMENT OF SENATOR COBURN

Senator COBURN. Well, thank you, Mr. Chairman. I appreciate your being here, and I am looking forward to our witnesses' testimony.

I note out of the $115 billion up there the vast majority of that is Medicare and Medicaid fraud, but it is still a significant amount of money.

We put out a report in October 2010 on the billion dollars that we pay to dead people from the Federal Government in the 10 years before that, and that is an underestimate.

The thing that frustrates me and should frustrate every American that pays taxes is it is not hard to compare to the Death Master File of the Social Security Administration (SSA). I mean, that is a computer program that says before we pay anything we are checking these Social Security numbers. It still does not happen. That is inexcusable that it is not happening.

And maybe it is $100 million a year. Maybe it is $500 million a year. But that is one of the easy things we could do to eliminate improper payments—is just mandate starting tomorrow that against the Death Master File every payment will be made.

The other thing is looking at the IRS, people who owe taxes. We are not doing anything.

We have a report coming out that is going to outline the number of contracts that have been paid and made to people who are in arrears, not under judgment, not under question but under arrears to payments that are duly owed the Federal Government. We continue to contract with them. We continue to pay money to people who have not fulfilled their obligations to pay their taxes.

So there are a lot of things we can do. I know that everybody is working on it. I know it is hard. But the point is we do not have $115 billion to make in improper payments.

And to be fair, all improper payments are not overpayments. They are underpayments, a portion of them. But the vast majority is overpayments.

So I am thankful that we are having the hearing. I appreciate your leadership, Senator Carper.

Nobody in America can figure out why we continue to pay dead people money—LIHEAP payments, Medicaid payments. We have dead doctors writing prescriptions that we are paying for. We have

H605-41331-79W7 with DISTILLER

medical supplies going to people who are dead, and it goes on and on again.

The last thing I would say, there is an act—bipartisan—I think 37 Senators now co-sponsoring, bipartisan, on the FAST Act which helps Centers for Medicare and Medicaid Services (CMS) eliminate this vast majority of improper payments and fraud, and yet, we cannot get it to the Senate floor. There is something wrong when 37 percent of the Senate would like to have a discussion about an issue and the Majority Leader will not bring it to the floor, and it is something that will actually save us billions and billions of dollars every year.

With that, I yield back.

Senator CARPER. Thanks, Senator Coburn.

And Scott Brown has joined us.

We welcome you and you are recognized.

OPENING STATEMENT OF SENATOR BROWN

Senator BROWN. Well, thank you, Mr. Chairman. Good to be back in the hearing status. I am actually at another hearing, then going to another one and then this one. So I will be bouncing back and forth, so please no disrespect to you or any of the panel members or any of our folks watching.

Senator Coburn sounded a little exasperated, and rightly so, with the fact that we are dealing with improper payments of approximately $115 billion.

When I got here, $11.95 trillion national debt. It is over 15, what, 3 and rising, no end in sight. It continues to grow at unsustainable levels never seen before, and as the government becomes bigger and bigger players in our lives.

Now I have concerns about if we are having all this fraud, waste and abuse now, what happens if the President's health care plan stays in effect and you have all these new people coming onto the program. What does that say to that effort in terms of the fraud that potentially could be perpetuated against the government in a lot of the plans and services that are available? So that deeply concerns me.

The government's role has increased, so has its inability to handle the basic functions such as making proper payments, as we have referenced—$104 billion.

And as I have many times before, I am concerned about, as I said, the health care bill and how that is going to exacerbate the problem.

And Washington is not paying its current bills, let alone paying future bills. I have to say that it is depressing sometimes that Washington is not getting on a fiscal path that would make sense for the average household or average business even though these improper payments are about $1.3 billion.

Well, in getting back—I am sorry. We are only getting back $1.3 billion out of the $104 billion recoverable. It does not make any sense to me.

And while the government's improper payment problem is depressing, I continue to be encouraged, quite frankly, and I speak often. You probably hear about it because you have so many tenta-

H605-41331-79W7 with DISTILLER

cles throughout the country about how I commend you for your efforts.

And me being on this Subcommittee has been enjoyable, that we have identified a lot of that fraud, waste and abuse and really brought some good panels in here to discuss those challenges. And I know for a fact that they have actually gotten their act together more, which has resulted in great savings to the people of this country.

And I am willing to continue to work with you not only as a friend but as a Senator, to try to get these things done. So I look forward to the panels getting here and moving on. Thank you.

Senator CARPER. Thanks for your kind words and for being part of, I think, a bipartisan team on these important issues.

While we are waiting for Congressman Platts and Congressman Towns to arrive, I do not know if there is anybody here from their staffs. Is there?

If someone could give us an idea what their estimated time of arrival (ETA) might be, that would be helpful, and while you are doing that I will tell a quick story.

I get up in the morning pretty early, work out at the Young Men's Christian Association (YMCA) in Wilmington, Delaware and head on to the train station where I catch the early train to come on down here and go to work. And a couple of months ago I was listening to the National Public Radio (NPR), and listening to the news. I catch the news right at 7 on my way to the train station.

One day back in the fall they were reporting on a news story, and it involved an international study that had been conducted. And the international study was focused on what is it about people's work or their jobs that they like, what is it that makes people say oh, I like this about my job or I like that about my job.

Some people said the thing they liked about their job was getting paid. They like the paycheck. Some people said, oh, they like vacation or they like having health care; they like having a pension. Some people said they like the people they work with or maybe the conditions and the environment in which they worked.

But you know what most people said? Most people said that the thing they like most about their job was the fact that the work that they were doing was important and they felt that they were making progress. That is what most people said.

As Senator Brown suggests, we do a whole series of hearings. We think they are important. And they all focus, for the most part, on how to get better results for less money.

In a day and age when our deficits are as large—even though they are coming down, they are still frightening large—we need to get, in almost everything we do, better results for less money.

So I think what we are doing is important. And even though $115 billion is a lot in improper payments, it is better than $121 billion, and it is especially better than $121 billion when you consider that we have added a number of new programs for parts of our Federal Government that are being reported on, including the Medicare Prescription Part D Program.

So a lot of betting people would have said that when we were at $121 billion a year or so ago, that maybe this year instead of seeing the number drop it would have actually gone up even higher, but

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00010 Fmt 6633 Sfmt 6633 P:\DOCS\73679.TXT JOYCE

it did not go up higher. It came down. So for that we are grateful, and for the efforts of everybody who is helping to make that possible, we are especially grateful.

So with that having been said, my inclination is to, rather than go to the second panel, is to ask Peter Tyler who is sitting over my left shoulder to let me know what is the ETA for Congressman Platts and Congressman Towns, and then we will decide. If we do not have a good answer here, or the right answer here, like right now, then we are going to recess. What do you think, Peter?

Peter suggested that we just adjourn and go the Dubliner. [Laughter.]

It is a nice afternoon. He says we are making progress here. Why do we need to have another hearing?

Senator Brown says, let's have some crabs.

No, I think, why do we not just go ahead and invite the second panel up?

What will happen when our members of the House are able to join us, we might just stop what we are doing and call on them to make whatever statements they want and then we will go back to our second panel. But we will just ask, Deirdre, if we could, just bring the second panel to the floor.

And we thank you all for rolling with the punches here. Thank you very much.

And I would just say to staff of either of the Congressmen, if you have a sighting or you have an update on an ETA, if you could give that to Peter, that would be just great.

All right, let me give a brief introduction if I can, of Panel 2.

Daniel Werfel, Controller, Office of Management and Budget (OMB), and he probably has testified before us more times than he wants to remember.

We are just delighted that you could be here today, and we welcome you. I am going to truncate the introductions—but we are grateful for you and for your service. From the Department of Health and Human Services (HHS), Sheila Conley.

Sheila, nice to see you. One of my favorite names, I may have told you this before—my sister, Sheila; a former legislative director, Sheila; a former cat named Sheila. It is a big name in our family, so we welcome the Sheilas.

Now serving as Deputy Assistant Secretary for Finance and Deputy Chief Financial Officer—that is a big job over there.

And finally, Beryl Davis of the GAO. Beryl, thank you. Director of Financial Management and Assurance, GAO. We love working with GAO and thank you all and your colleagues for the great work that you do for our country.

All right, Mr. Werfel, you are the lead-off hitter. Please proceed. Thank you for coming and for your efforts.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00011 Fmt 6633 Sfmt 6633 P:\DOCS\73679.TXT JOYCE

TESTIMONY OF HON. DANIEL I. WERFEL,[1] CONTROLLER, OFFICE OF FEDERAL FINANCIAL MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET

Mr. WERFEL. Thank you, Chairman Carper, Ranking Member Brown and distinguished Members of the Subcommittee, for inviting me to discuss the Federal Government's efforts in preventing, reducing and recapturing improper payments. I appreciate the opportunity to speak before the Subcommittee again about this important topic.

In 2011, the government made $115 billion in improper payments. We can all agree that improper payments degrade the integrity of programs and compromise taxpayers' trust in their government. That is why combating improper payments has been a leading priority of the Administration's Campaign to Cut Waste. Our intensive efforts to reduce improper payments are guided by the President's bold goals and by key ingredients such as transparency, accountability, collaboration, and innovation.

These efforts are producing real results. We are on track to meet or exceed the bold goals set by the President, having decreased the governmentwide error rate sharply, from 5.4 percent in 2009 to 4.7 percent in 2011.

Senator CARPER. When I read your testimony, the question of 5.4 percent of 4.7, that was of what? I think I know, but just go ahead and tell us.

Mr. WERFEL. So 5.4 percent of all the dollars out there. If there were $100, then a 5.4 percent error rate would mean that we have made $5.40.

Senator CARPER. No, it is not all the dollars out there.

Mr. WERFEL. It is not all the dollars out there. It is all the dollars that are under the law, under the Improper Payments Elimination and Recovery Act, have been identified as being a significant enough risk for error that the law requires that we measure them, so that there is a whole class of programs that we do not measure because under the framework in the law we have designated them as low risk. So our denominator in this case are the programs that we are actually measuring.

Senator CARPER. All right. Thanks.

Mr. WERFEL. So as I was mentioning, the error rate fell from 5.4 percent in 2009 to 4.7 percent in 2011. I used a base of $100, but when you use a base of what we are talking about in Federal outlays, that is a significant amount of money that makes up that reduction.

In fact, if we did not take the bold steps necessary to drive this decrease, if the error rate had remained at 5.4 percent, the government would have made tens of billions of dollars in additional payment errors that we did not make.

We have also nearly met the President's goal to recapture $2 billion in overpayments to contractors, and that is over a year ahead of time from our original plan.

Today, I would like to highlight three important initiatives that are driving our progress in this area.

[1] The prepared statement of Mr. Werfel appears in the appendix on page 47.

H605-41331-79W7 with DISTILLER

VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00012 Fmt 6633 Sfmt 6633 P:\DOCS\73679.TXT JOYCE

First, the 2009 Executive Order (EO) on Reducing Improper Payments, which we believe represents a fresh approach to addressing this issue. We have made great strides in implementing the Executive Order by identifying agencies with high error programs that account for the majority of improper payments, establishing supplemental measures to provide more frequent and current measurement for high error programs, and selecting accountable officials responsible for reducing erroneous payments. And all of this information is readily available to the public at PaymentAccuracy.gov, another required element of the Executive Order.

The second key initiative is the enactment and implementation of the Improper Payments Elimination and Recovery Act (IPERA) of 2010. Last year, OMB released guidance to agencies on implementing IPERA to ensure that they, the agencies, are properly assessing risk in their programs, measuring and reporting on improper payments, and establishing corrective action plans and reduction targets. IPERA also expands agencies' authorities and requirements for recapturing overpayments and creating sanctions for agencies that are found noncompliant with the law by their Inspector General (IG).

The third key initiative is our implementation of the President's Do Not Pay solution. In June 2010, the President issued a Memorandum on Enhancing Payment Accuracy through a "Do Not Pay List," directing the establishment of a single point of entry where agencies could access relevant data before determining the eligibility for a payment or an award, thereby avoiding paying ineligible recipients.

The Treasury Department is currently in the process of implementing the Do Not Pay solution for the rest of government, which will provide a robust tool that agencies can access to determine eligibility information prior to making an award or payment. I want to emphasize that recent congressional support of the Administration's proposal to fund this effort at Treasury is a significant contribution to our ability to prevent improper payments, and I want to thank this Subcommittee in particular for your leadership in this area.

Finally, I would like to highlight the important steps outlined in the President's Fiscal Year 2013 budget that will help reduce improper payments. The budget includes a suite of proposals that will increase program integrity across a number of agencies. If enacted, these policies would result in $102 billion in savings between 2012 and 2022.

When the President took office, improper payments were on the rise. But through decisive action by both the Administration and Congress, working together, we have successfully reversed this trend. This year, we saw error rate reductions in almost every major program with a history of significant errors, including Medicare, Medicaid, the Supplemental Nutrition Assistance Program (SNAP), rental housing, the Earned Income Tax Credit (EITC), Pell Grants and supplemental security income at SSA.

Yet, despite our successes, we still have a lot of work to do. We have to work diligently to reinforce our collective commitment to responsibility and accountability for all taxpayer dollars and make

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00013 Fmt 6633 Sfmt 6633 P:\DOCS\73679.TXT JOYCE

clear that no amount of waste in our Federal programs is acceptable.

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

Senator CARPER. Thank you so much, Mr. Werfel.

And Sheila Conley is next and please proceed.

Your whole statement will be made part of the record. Please summarize as you see fit. If you run much over 5 minutes, I may rein you in, but if it is not a lot we will just let you go.

TESTIMONY OF SHEILA O. CONLEY,[1] DEPUTY ASSISTANT SECRETARY FOR FINANCE AND DEPUTY CHIEF FINANCIAL OFFICER, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Ms. CONLEY. Good afternoon, Chairman Carper and Ranking Member Brown. Thank you for the opportunity to testify about the U.S. Department of Health and Human Services's continuing efforts to reduce improper payments, a responsibility we take very seriously and are committed to fulfilling.

I would like to begin my remarks by thanking the Subcommittee for its sustained leadership in this area. I understand the Subcommittee has had many hearings on improper payments, helping to shine a light on this very important financial accountability issue.

As the largest department in the Federal Government, with outlays approaching $900 billion, strengthening program integrity is a top priority for Secretary Sebelius, which extends to every member of HHS senior leadership and throughout all of our offices and programs. Given the size, complexity and diversity of the programs we operate, we must remain committed to the highest standards of program integrity and financial accountability to fulfill our mission. While we have made significant progress over time, we recognize that this is a continuous effort and more work remains to further prevent and reduce errors in our programs.

Today, I would like to provide information from a department-wide perspective about how we are fostering communication, and collaboration across our programs, and identifying solutions and best practices, to prevent and recover improper payments.

What are improper payments? Simply stated, improper payments can be payments made to the wrong person, in the wrong amount, or for the wrong benefit or purpose. They also include payments that lack documentation.

Improper payments provide a measure for assessing the adequacy of our internal controls and estimating the extent of improper payments in our program. They are not measures of fraud although the term is often used interchangeably.

As far as our progress and results, HHS has been focusing on improper payments since 1996 when our Office of Inspector General (OIG) established the first error rate for the Medicare Fee-for-Service Program. Since then, we have developed error rate measurements for our other programs and continue to strengthen those

[1] The prepared statement of Ms. Conley appears in the appendix on page 54.

H605-41331-79W7 with DISTILLER

programs by identifying root causes, implementing corrective actions and reducing improper payments.

For fiscal year 2011, the error rate declined for 5 of our 6 programs that reported rates in fiscal year 2010, including 2 of the government's largest programs—Medicare and Medicaid. While we have made substantial improvements since we first started measuring errors, we know that our efforts to prevent and reduce improper payments require continuous, ongoing vigilance.

As we implement program-specific corrective actions, HHS also continues to identify and share best practices in several promising areas that could have a significant positive impact on our programs.

First, we are leveraging technology. HHS, with the support of this Subcommittee and others in Congress, has been a leader in using technology to prevent, detect and reduce errors. For example, HHS leads the Public Assistance Reporting Information System (PARIS), a Federal-State partnership that provides data matching capabilities to all 50 States, Washington, DC, and Puerto Rico, to assist them in detecting errors in State-administered programs such as Medicaid, the Temporary Assistance for Needy Families (TANF) and child care.

The second focus is breaking down barriers between agencies and strengthening partnerships. One partnership in particular is an ongoing relationship with Federal and State agencies. Each year, we work with State officials to strengthen the relationship with them and the programs that they administer on our behalf.

The third area is exploring innovative ways to further improve our integrity efforts. Last fall, HHS announced three new demonstration projects in the Medicare Fee-for-Service Program that aim to reduce improper payments by focusing on error-prone areas.

What are our efforts to recover improper payments?

Well, our priority is to make payments correctly. HHS is also aggressively recovering improper payments when they do occur.

The Medicare Fee-for-Service Recovery Audit Program has been very successful to date. In fiscal year 2011, the program recovered close to $800 million in overpayments to providers and suppliers, with another $400 million recovered in the first quarter of fiscal year 2012.

Moreover, the Affordable Care Act expanded the Recovery Audit program to include Medicare Part C, D and Medicaid. When fully implemented, HHS Recovery Audit programs will cover more than 85 percent of the department's annual outlays.

As to our future efforts, HHS has demonstrated a longstanding commitment to measuring, reducing and preventing improper payments, and I want to assure you that this area is, and will continue to be, a priority for the department. We look forward to working with this Subcommittee, and our Federal and State partners, to ensure that we continue to be responsible stewards of taxpayer funds.

Thank you for the opportunity to testify today. I would be happy to answer any questions.

Senator CARPER. Great. Thanks so much for your testimony. Beryl Davis, please proceed.

H605-41331-79W7 with DISTILLER

TESTIMONY OF BERYL H. DAVIS,[1] DIRECTOR, FINANCIAL MANAGEMENT AND ASSURANCE, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Ms. DAVIS. Chairman Carper, Ranking Member Brown and Dr. Coburn, thank you for the opportunity to be here today to discuss the issue of improper payments in Federal programs. My testimony will address progress reported by agencies in estimating and reducing improper payments, challenges in meeting current requirements to estimate and evaluate improper payments, including the results from our review of the Department of Health and Human Services Foster Care Program, and possible strategies needed to enhance the government's efforts to reduce improper payments.

Progress is being reported by Federal agencies in estimating and reducing improper payments. In fiscal year 2011, Federal agencies reported estimated improper payments of $115.3 billion, a decrease of $5.3 billion from the previous year. This figure is about 4.7 percent of the total $2.5 trillion on related program outlays.

The estimate was attributable to 79 programs spread among 17 agencies. The 10 programs with the highest dollar amounts of improper payments counted for about $107 billion, or 93 percent, of the total outlays. The 10 programs with the highest improper payment rates had rates that ranged from 11 percent to 28 percent.

While progress is being reported, the Federal Government continues to face challenges in determining the full extent of improper payments. Some agencies have not yet reported estimates for all risk-susceptible programs. In addition, some estimating methodologies may need to be developed or further refined.

For example, GAO's recently completed study of Foster Care improper payments shows that the Administration for Children and Families had established a process to calculate a national improper payment estimate for the Foster Care Program which totaled about $73 million in fiscal year 2010, the year that was covered by GAO's review. We found, however, deficiencies in all three phases of the program's estimating methodology—planning, selection and evaluation.

In planning, the methodology was exclusively limited to maintenance payments. However, such payments represent only one-third of the total Federal share of Foster Care expenditures.

Regarding selection, a high percentage of replacement cases were used in the sample of cases selected due to inaccurate information in the population data.

And in evaluating results, procedures were lacking on how to identify payment errors related to underpayments and duplicate, or excessive, payments.

GAO determined that the improper payments estimate was not based on a statistically valid methodology and, consequently, did not provide a reasonably accurate estimate of the extent of Foster Care improper payments. Further, GAO found that the program could not reliably assess the extent to which corrective actions reduced Foster Care improper payments.

Given the amount of Federal dollars flowing into risk-susceptible programs, continuing activities are needed to move forward in the

[1] The prepared statement of Ms. Davis appears in the appendix on page 61.

H605-41331-79W7 with DISTILLER

following three improper payments reduction strategies: First, identifying and analyzing root causes of improper payments; second, implementing effective prevention controls to avoid improper payments in the first place; and third, implementing effective detective controls to identify and recover overpayments.

Regarding root causes, identifying and analyzing the root causes of improper payments is key to developing effective preventive and corrective action plans.

We found that only about half of the 79 programs with improper payment estimates in 2011 reported this information using the three root causes categories established by the Office of Management and Budget. Without detailed and specific information on root causes, agencies are hampered in their ability to take actions needed to prevent and reduce improper payments.

Regarding preventive controls, strong preventive controls serve as the front-line defense against improper payments, and many agencies are in the process of implementing such controls. Preventive controls involve a variety of activities such as up-front validation of eligibility through data sharing among agencies and predictive analytic tests to identify patterns of high risk for fraud.

Addressing program design issues is another preventive strategy. For instance, improper payments may actually be reduced by streamlining or changing complex and inconsistent program eligibility requirements.

Finally, regarding detective controls, agencies need effective detection activities to quickly identify and recover those improper payments that represent losses to the government. Recovery auditing, such as that used in the Medicare program, is a means of identifying contractor overpayments. Detection activities can also provide information as to why improper payments were made, thus highlighting areas that need better preventive controls.

Chairman Carper, Ranking Member Brown and Dr. Coburn, this completes my prepared statement. I would be happy to answer any questions you may have.

Senator CARPER. Well, that is perfect timing because as you were wrapping up, our two representatives just walked in. I am going to ask if you all just will retain your seats, and I am going to ask Chairman Platts to come up and Ranking Member Towns to come up and just to sit.

You all just stay in your seats.

And, Deirdre, if you will just put their name tags on.

And Congressman Todd, you could sit on the first seat here, right there, and I would ask Congressman Towns to come up and sit over here next to Beryl Davis from GAO, please.

I understand you guys have been voting, and we were told that you took up and passed the Senate's Transportation Bill by unanimous consent. Well, that is great news, and we applaud you for that. I am just kidding.

Mr. PLATTS. Mr. Chairman, I thought I made all the votes, but apparently, I missed that one.

Senator CARPER. Well, we are delighted that——

Mr. PLATTS. I wish you were accurate.

Senator CARPER. So do I.

H605-41331-79W7 with DISTILLER

VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00017 Fmt 6633 Sfmt 6633 P:\DOCS\73679.TXT JOYCE

I am not going to spend a whole lot of time on introduction. We have two good guys here, one of whom I have served with back starting in 1983 in the House of Representatives—Congressman Towns. My neighbor over in Pennsylvania is Todd Platts, and he is the kind of guy who likes to work across the aisle and just is very common sense, good ideas, just a very solid legislator, a good human being.

And I am going to ask you just to make whatever comments you want.

And thank you very much for letting me come over and testify before your committee about the works that Senator Coburn and I and others have done on improper payments, and if you are willing, you and Congressman Towns, to co-sponsor our updated version of improper payments legislation. We are on the right track. We are making some progress. We are going to make a lot more with your help.

So, please proceed. Thank you.

TESTIMONY OF HON. TODD RUSSELL PLATTS,[1] A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. PLATTS. Thank you, Mr. Chairman, Ranking Member Brown, Senator Coburn. Certainly an honor to be here with each of you and to be joined by my Ranking Member, Mr. Towns. I appreciate your holding this hearing on the very important issue of waste and fraud in Federal programs and especially allowing Edolphus and I to have the opportunity to come over. And apologize for our delay with the floor votes.

Senator CARPER. That worked out just fine. Thank you.

Mr. PLATTS. Thank you.

As Chairman, along with Ed as Ranking Member, of the House Committee on Oversight and the Subcommittee on Government Organization, Efficiency and Financial Management, we certainly share your commitment to improving financial management throughout the Federal Government and to reducing improper payments by all departments and agencies. Improper payments are the most observable result of poor financial management, and the costs associated with these improper payments are very clear and translatable to the American taxpayer.

In fiscal year 2011, as each of you I know well appreciate and understand this number, $115 billion in improper payments. As we struggle with fiscal sanity here in Washington, that number is staggering.

While this estimate gives us a general idea about the amount of improper payments made each year, it certainly does not take into account all those that go undetected. In fact, many departments and agencies, and especially the Department of Defense (DOD), are not able to accurately determine what their improper payments are.

The Department of Defense cannot pass an audit, and we certainly are hopeful that by 2017 they will be able to, and the interim goal of 2014 with the budget, their budgetary resources audit that Secretary Panetta is pushing. Both the Government Account-

[1] The prepared statement of Mr. Platts appears in the appendix on page 93.

H605-41331-79W7 with DISTILLER

ability Office and the DOD's Inspector General have said that the Department of Defense is at a high risk of making significant improper payments.

Thus far, in the 112th Congress, Ranking Member Towns and I have had several subcommittee hearings focused on improving financial management at the Department of Defense, and we are focusing especially on the DOD's statutory mandate to be audit-ready by 2017.

Our subcommittee is also focused on improper payments within Medicare and Medicaid programs. And this year, most recent year—2011—these two programs accounted for almost $65 billion in improper payments, over 56 percent of all identified improper payments in the Federal Government. While the Centers for Medicare and Medicaid Services have made steps to prevent and recover improper payments, there remains to be much additional work for us to do right by the American taxpayers, to ensure that their money is properly spent and these important social programs are implemented more efficiently and cost effectively.

During the 111th session of Congress, I was pleased to support your legislation, the Improper Payments Elimination and Recovery Act of 2010, Senate Bill 1508. This Act certainly is an important step in the right direction to strengthening agency financial management and incorporating more stringent risk and performance management tools. It also focused on recovering improper payments through business analytics and recovery audit contractors.

I am encouraged that as we now are in the 112th session and more than halfway through, that again, House and Senate members, Republicans and Democrats alike, are working together to enact legislation to further strengthen financial management and prevent improper payments.

The Improper Payments Elimination and Recovery Improvement Act of 2011, which you and Ranking Member Brown, along with my home State Senator, Senator Casey, have introduced, is another important step forward for improved financial management. I am pleased to be the Republican lead sponsor of the companion legislation in the House which, as you referenced, Ranking Member Towns introduced earlier this year.

This legislation seeks to focus on high priority programs and high dollar overpayments. Additionally, for the first time, agencies would have to identify the recipients of improper payments. Hopefully, these provisions will be even more effective in helping government to recover improper payments.

Maybe most importantly, in this new legislation, is that it proposes a Do Not Pay Initiative. And I know that is something, Mr. Chairman, that you have championed as a key part of our efforts if we are going to be successful here.

Under the proposed legislation, agencies will be responsible for checking Federal databases such as the Social Security Administration Death Master File, the General Service Administration's Excluded Parties List Systems and the Department of Health and Human Services' Office of Inspector General's List of Excluded Individuals and Entities prior to making any payments. This Do Not Pay Initiative would make it easier for agencies to identify fraudu-

H605-41331-79W7 with DISTILLER

lent recipients and prevent payments to deceased individuals, thereby stopping improper payments before they occur.

Prevention of improper payments is far more effective than a pay-and-chase approach which has been the approach up to now, and certainly, this will put much greater accountability in all Federal Government spending.

The American people deserve a government that is responsible and accountable. However, our Nation's citizens all too often see a trend of waste and mismanagement.

Over the past decade, the Bush Administration and the Obama Administration have made reducing improper payments a governmentwide priority. And as evidenced by today's hearing, this is a priority shared by Republicans and Democrats, Senators and Representatives alike, here in Congress.

Mr. Chairman, Ranking Member Brown and Senator Coburn, I certainly look forward to continuing to work with you and your Subcommittee, along with my Ranking Member as one year before us.

As I referenced today, I am the Chairman; Ed is the Ranking Member. In the past, he has been the Chairman; I have been the Ranking Member. I know I will not be the Chairman next year as I retire at the end of this year from Congress, and Mr. Towns, I am sure, would claim the chairmanship again when given the opportunity.

But we look forward to continued work with you and to have this bicameral, bipartisan approach to doing right by the American people.

One of the most important fiduciary responsibilities we have is how we handle the hard-earned tax dollars of every American citizen. We do that well in some departments and agencies. We do it poorly in others. And because of your efforts and legislation you sponsored in the past and again this session, working together, we can do better and we can make sure that every dollar that is sent to Washington is used in an efficient, effective manner and a responsible manner.

Certainly, honored to be here today and appreciate the opportunity to share my sentiments with you.

Senator CARPER. Thank you very much for testifying, for your kind words about really collective efforts. This is a team here, and we work that way as you know. And, so do you.

And it is just great to see my friend, Ed Towns and to welcome him back. Whether he is the Chairman or the Ranking Member, we are just delighted to see him.

Looking over his background and bio, I noted he and his wife have now been married over 50 years. That is, as Joe Biden likes to say in situations like this, for her, no purgatory, straight to heaven. And he says the same thing about my wife as well. But that is extraordinary in this day and age. We are delighted that you are still at it.

He and I started together in 1983 in the House of Representatives, Class of 1982. He was, I think, about 18 at the time, and now he is all grown up and just continues to do a great job.

It is great to see you, Ed. Please proceed.

H605-41331-79W7 with DISTILLER

TESTIMONY OF HON. EDOLPHUS TOWNS,[1] A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. TOWNS. Thank you very much, Mr. Chairman. If I had known you were going to say all those nice things, I would have brought my wife along. [Laughter.]

Chairman Carper and Ranking Member Brown and Dr. Coburn, this is a subject that is critical to all of us charged with the oversight of Federal financial management, especially in this time of economic uncertainty.

The Federal Government has been in a long struggle to cut out the wasteful spending that can occur when improper payments are made. In fiscal year 2009, the improper level stood at $125 billion. By fiscal year 2011, Federal agencies have reduced the improper payment level to $115 billion, and the trend appears to continue downward. Reversing the trend is a very significant achievement. Still, the level of improper payments remains unacceptably high.

On November 20, 2009, the President signed an Executive Order on Reducing Improper Payments. The Order resulted in the establishment of PaymentAccuracy.gov, a Web site which keeps the American public up to date on how government agencies are reporting on and addressing improper payments. The Order also resulted in the identification of those government programs with a high dollar value of improper payments as high priority programs, so we could focus on broad-based solutions to the issues.

In 2010, President Obama issued a Memorandum on *Enhancing Payment Accuracy through a "Do Not Pay List," and Finding and Recapturing Improper Payments.* As a result, the VerifyPayment.gov Web site was created to prevent ineligible recipients from being paid repeatedly.

Additionally, using payment recapture audits, the agencies have recovered nearly $1.9 billion in improper payments for the Treasury as called for in the President's memorandum. This puts the government well on track to achieve $2 billion recovered improper payments by the end of the fiscal year.

In July 2010, President Obama signed one of the most important recent pieces of legislation into law, the Improper Payments Elimination and Recovery Act of 2010 authored by you, Senator Carper. And, I want to salute you for that.

Senator CARPER. Just for the record, authored by the two T.C.'s over here—Senator Coburn and myself.

Mr. TOWNS. Oh, fantastic.

Senator CARPER. It is a very good partnership.

Mr. TOWNS. Fantastic. And that is why I have joined you, Senator Carper and Senator Coburn, and sponsored in the House chamber the Improper Payments Elimination and Recovery Improvement Act of 2012.

The legislation gives agencies tools to identify and report improper payments accurately.

It also makes agencies more accountable to the public by including the requirement that high dollar improper payments be reported to the agency Inspector General as well as on the PaymentAccuracy.gov Web site.

[1] The prepared statement of Mr. Towns appears in the appendix on page 95.

H605-41331-79W7 with DISTILLER

Another critical element of the legislation would be to require Federal agencies to verify payee eligibility before making payments and screen potential vendors before awarding government contracts by mandatorily checking off the Do Not Pay List, checking it.

Finally, the legislation would increase the number of payment recapture audit programs to more than 10 so that the government could maximize the recovery of improperly made overpayments.

The financial future of the United States requires sustained attention from more than one source. I firmly believe that the President's focus on the elimination of improper payments, coupled with the tools that have been included in the proposed legislation, will go a long way in reaching the goal of efficient financial management and a strong financial future for our country.

And I want to thank you again, Mr. Chairman. Working together, I really think that we can curtail this problem.

I regret that my colleague and partner over the years, that we have sort of ping-ponged back and forth in terms of being Chair and Ranking, he is not going to be with us in the next Congress, but I want to assure him that we will continue to work on this and that the work he has done in the past that is going to set us on the right path also will not be forgotten.

So I look forward to working with you and the Members of your Subcommittee to make certain that we put an end to this. I think that we can do a whole lot better, but it requires working as a team to be able to do it.

Senator CARPER. Great. Our thanks to both of you, not just for being here and testifying but for the sense of partnership that you bring to these issues.

Senator Coburn and I were talking earlier this week about whether or not we might want to package together some legislation like this, the Improper Payments Improvement Act (IPIA), our FAST Act that deals with trying to really go after a lot of the problems we have with waste in Medicaid and Medicare, and maybe package that together with some of the stuff that several of us worked on—Senator Brown as well, Senator Coburn—on surplus properties, what to do about surplus properties. And maybe about three or four bills like that, put them all together and try to move them as a package.

And we have problems with scoring from CBO, but we think we have a way maybe to deal with that and could maybe move something that would be offset and save in the long term, we are convinced, lots and lots of money, which is what we are interested in doing. And if we are able to move that, we will certainly want to work with you toward that end.

In the meantime, we are just delighted that you have taken this bull by the horn and are working it from your angle. Thank you.

Any questions for our witnesses.

Mr. BROWN. No. Thank them for coming over. Thank you.

Senator CARPER. OK. Again, so much for all you are doing over there and thank you so much for coming.

Mr. PLATTS. Mr. Chairman, if I may.

Senator CARPER. Please.

Mr. PLATTS. I certainly appreciate, as I said earlier, the bicameral and bipartisan approach here. In the American public

H605-41331-79W7 with DISTILLER

today, there is certainly a lack of confidence in the ability of Republicans and Democrats to work together in Washington. And I think this is an important message that probably from a fiscal standpoint, no more better example of a bipartisan, bicameral approach because it is about protecting their money, that we are willing and excited to work together across the aisle, across the Capitol Building, and get the job done on their behalf.

And again, honored to be with you today.

Senator CARPER. You bet. Thank you both so much.

Mr. TOWNS. Same here. I also want to thank these other witnesses who have been so valuable over the years in terms of giving us information and working with us. I want to thank them also for their testimony as well.

Senator CARPER. I second that.

All right, thank you, gentlemen. We look forward to seeing you soon. Senator Brown.

Senator BROWN. Thank you, Mr. Chairman.

Thank you, Congressmen—collectively, men. We are all focused on the witnesses here today.

First of all, thank you, Mr. Werfel. I appreciate your coming, obviously, other witnesses as well.

I just want to refer to the chart[1] here, if I could for a minute. You have $104 billion of improper payments, and yet, we are only recovering 1 percent. I would rather have it be the other way around, but we are recovering this and we are wasting this.

The problem is when we are talking about bold goals of recapturing 1 percent I have to tell you it does not quite make sense to me. It does not add up. And you even referenced—and let me just backtrack.

Whenever I am out speaking about this issue, which I do regularly at home, I think of you and your efforts. This is no reflection on you at all. So let's just start with that. I am very complimentary of you personally when I am out there talking about it.

But you did reference just now $2 billion in contractor recovery. You referenced that in your opening statement. Is that right?

Mr. WERFEL. That is the goal, $2 billion, and we are at about $1.9 billion.

Senator BROWN. OK that is over 3 years though.

Mr. WERFEL. That is correct.

Senator BROWN. And that is out of how much over that 3-year period that you would be collecting?

And if you are collecting, hopefully, $2 billion over 3 years, how much are we actually losing in 3 years?

Mr. WERFEL. That is the key question. If you would allow me, Senator, I would like to provide a little bit of an explanation of that metric and why we picked that goal.

Senator BROWN. Well, let me just start with a basic question so the people listening—so on 1 year of overpayments on contractors, how much is that per year, approximately, give or take a billion?

Mr. WERFEL. I am not exactly sure that we have the exact number. The way it works is we take all of the payments that go out to contractors, which is roughly half a trillion dollars a year.

[1] The chart referenced by Senator Brown appears in the appendix on page 112.

H605-41331-79W7 with DISTILLER

Senator BROWN. Well, this is $104 billion per year just in improper payments and inadequate recovery.

Senator CARPER. Over.

Senator BROWN. Yes, and overpayments.

Mr. WERFEL. Right.

Senator BROWN. Just in overpayments.

I was a little confused when you said we are getting $2 billion in contractor; we are hoping to get $2 billion. You did not reference that is over 3 years, first of all, because the average listener would have said, well, in a year, they are collecting $2 billion.

But is it $2 billion out of $4 billion? Is it $2 billion over 3 years out of $300 billion?

I think it is important to know because, first of all, I do not understand why we are paying out all this money. I understand the checks and balances and you say, we have a check list and we have to do this. It makes absolutely no sense to me.

It is like one of the things when I have people say to me we have to raise taxes. We have to take the money. We have the Buffett Rule coming up. We have all these things that we are working on. Yet, the first thing that I think we should do, quite frankly, is fix this stuff.

So I wanted to just see what actions are actually being taken to achieve real significant results, not just 1 percent of the $104 billion.

Mr. WERFEL. Absolutely. Senator Brown, I think it is important first for me to just make one statement about the way in which improper payments are measured and where that $104 billion comes from because there is a really important nuance here that dictates why we cannot recover the full $104 billion, and that is the statute that we are operating under does not have us taking a universe of every payment and assessing whether it is an error. We work on a statistical sample.

So let's say we take 100 payments and we audit them and figure out whether they were right or wrong, and then based on what we find out of that 100 payments we extrapolate that conclusion to the total.

So if I knock on John Smith's door and say, I am auditing your payment, I found an error, that tells me in the sample about a broader error rate. And I can go to John Smith, and I can pull that money back and recover it.

But I cannot go down the block, in many cases, to Jane Smith who was not part of the audit and say, because John Smith had an error and because I am expanding that to a universe, I am going to now think that your payment or a part of your payment is in error.

So we have limits.

Senator BROWN. Right.

Mr. WERFEL [continuing]. In the amount of recovery we can set because the estimate that the $104 billion is representing is the statistical amount.

Senator BROWN. Well, that may be. That is great. But certainly, it is billions.

Let's just say, OK, for what your argument, it is not $104 billion. Let's cut it in half and have it be $50 billion.

H605-41331-79W7 with DISTILLER

VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00024 Fmt 6633 Sfmt 6633 P:\DOCS\73679.TXT JOYCE

You look at, for example, the Earned Income Tax Credit, has the highest error rate, an estimate error rate of almost 25 percent, 1 in 4 payments being improper, and yet, the Treasury Department Inspector General's report pursuant to IPERA states that the Treasury has no targets to reduce these improper payments until 2014, and during that time, the Internal Revenue Service (IRS) estimates the government will make another $43 billion in improper payments for the EITC.

I just do not understand when we are giving away money, hard-earned taxpayer money, when we are cutting military by a half a trillion dollars potentially, we are cutting LIHEAP and other types of programs that people need, and yet, we are giving away money just through laziness sometimes. It just does not make sense.

Am I wrong, or what? Just tell me if I am right or wrong because it is just not computing.

Mr. WERFEL. There is a lot in your statement that you are right about. These are staggering problems and issues that we have not solved.

Senator BROWN. Then how do you solve it? I tell you when I miss my cable bill I get like bill after bill after bill. Pretty soon, they are chasing—

Senator COBURN. Causes you to do bad things.

Senator BROWN. Yes. First of all, just for the record because it will be on the front page, I am not behind on my cable bill. [Laughter.]

OK. I am not behind in any bills. I pay them the day I get them.

But that being said, I think you know what I am trying to say. With the average bill, we get them over and over and over and over. Yet, we are talking about billions, and we cannot seem to get our handle on it. I do not get it.

Mr. WERFEL. Well, these are tough questions. Let me start, and if I can have a minute, attack some of them from the perspective——

Senator BROWN. I am not trying to mess you up because I know you are working hard.

Mr. WERFEL. Oh, no.

Senator BROWN. I have enjoyed—what I would like you to say to me sometime is these are tough questions and this is what we have done.

We have recognized that, for example, in the EITC program. In 1975, it was started, and right from the beginning it had a problem. We passed 1994 legislation making it more difficult for prisoners to save EITC funds.

In 2005, they said that prisoners are getting $300 million in these funds, and in 2010, the OIG reported that $78.5 million of that money is still going. And we voted for enhanced penalties for tax preparers who do not exercise due diligence.

But I mean, how do we stop something as simple as that? You have a prisoner getting these funds—once again, simple things like that.

It would be great if someone could come before—and we have had a couple of these hearings. People could come and say well, we stopped that prisoner problem. They are getting zero. That is what I want to hear.

H605-41331-79W7 with DISTILLER

VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00025 Fmt 6633 Sfmt 6633 P:\DOCS\73679.TXT JOYCE

Mr. WERFEL. So let me make a few comments. First of all, as a general matter, most of our key indicators under improper payments are trending in the right direction.

Senator BROWN. Agree.

Mr. WERFEL. In major programs, the error rates are going down——

Senator BROWN. Agree.

Mr. WERFEL [continuing]. And our recoveries are increasing.

Can they increase more? Yes.

Can we identify a larger universe of improper payments to recover? We can, and that is really what IPERA was driving at.

If you go back just to fiscal year 2011, just on contracts, and there is about a half a trillion dollars out there in contracts. Agencies, as required by the law, reviewed every one of their contract dollars and came up with $408 million in improper payments—that is million, not billion—$408 million in 2011 and recovered $377 million of it. And we ran over the past 10 years about an 80 percent recovery rate for where we have identified.

I look at those numbers, and I think two things.

I think, one, is that $408 million the full amount of improper payments within the universe of a half a trillion? Probably not, and so the expansion of our efforts to detect errors within our contracting base has to be a focal point, and it is.

Then I look at the 80 percent recovery rate. I say, that is good. It is about a—B. But it is not good enough. And so how do we close the gap between 80 percent and 100 percent?

And the answer to both questions, in my opinion, really revolves around leveraging technology, cutting-edge technologies that are starting to come into the forefront.

If you look at agencies' corrective action plans on their errors over the last 10 years, what you will see is a very important, stable and foundational set of corrective actions—training, clarifying policies, starting to build some modest data matching.

What you do not see enough of, and this is where our emphasis point is on, is doing the types of things your cable company is doing—or your credit card company. So as soon as there is some type of anomaly in the data, as soon as something looks out of whack from their perspective, they have a broad network of information that triggers that error and feeds into a robust and cost effective risk management program that enables them to deploy resources smartly and effectively to go after the error and not deploy resources where this is not worth it from a business perspective.

Those are the types of things we are focusing on, but sure, within the numbers, you will absolutely be able to point out—and within these programs—areas where we have massive disconnects and issues to close.

And then, you will also be able to find areas where we are hitting home runs and really connecting. Just within EITC alone, I could recount for you, successes that would make you feel patriotic in terms of what we are doing to crack down on fraud, sir, and in the next breath I could talk to you about things that would get you very upset.

And so, it is about closing the gap on the things that are making us upset.

H605-41331-79W7 with DISTILLER

Senator BROWN. It is about consistency.

And I want to thank you for your efforts, and I want to thank you for your progress. These are just things that I do not have the answers for. It is just killing me, but thank you.

And I have to head to another hearing, Mr. Chairman.

Senator CARPER. All right. Thank you so much. Dr. Coburn.

Senator COBURN. Well, I want to try to answer Senator Brown's question.

Senator BROWN. I will be listening.

Senator COBURN. It is not a priority everywhere, and that is a matter of leadership.

I applaud what the GAO has done in terms of raising some of the questions, and Danny, I think you have done a wonderful job. I am hard on you at every one of these hearings.

But the real question is when is it going to become a priority for everybody in a leadership position in the Executive Branch at every agency, at every level, that we are not going to send money out.

We are going to be releasing a report here pretty soon that is going to show about 40 percent of the SDI payments are fraudulent. Now that is about $40 billion a year.

No, it is not. It is about $30 billion a year. And that is not even on your all's radar screen, nowhere close. GAO has seen it, but it is not even on your radar screen.

So the first question I would have to you is when we get an estimate, and that is what it is—it is a statistical estimate—it is really a far undershoot of what is really going on. Would you agree with that?

You do not have Defense Department significantly in there. You do not have Social Security Administration in there, significantly. Their numbers are way undershot. I can prove that their numbers are way undershot. So we are really probably closer to $200 billion, if you were just guessing, in terms of improper payments.

The question I would have to you is, in your opinion, how far under are we since nobody knows in the Defense Department because they do not even know what is going on. How far under are we?

Mr. WERFEL. I think your premise is correct, that we are under.

The first time you introduced legislation was back in 2002—Improper Payments Information Act—and we had no inventory. And at that time and probably from 2002 to 2010, we were chasing a lot of programs that GAO had pointed out you still do not have a measurement for. And we had a very long list, 20 plus programs that we were trying to push the agencies as hard as we could to get those measurements in place so we would know what that number is.

We are down to a few, and I think Ms. Davis, in her testimony, highlighted a few of them. So that list has shrunk immensely.

I have been a big advocate of making sure that we are duly tracking in terms of making sure we are measuring every program, but not just focus on measurement, that we have enough that we need to attack the problem at its core as well.

There are additional programs out there that we have not measured. DOD is an interesting one.

H605-41331-79W7 with DISTILLER

VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00027 Fmt 6633 Sfmt 6633 P:\DOCS\73679.TXT JOYCE

Prior to IPERA, the way the legislation was structured in our understanding was that you did not need a statistical estimate for contract payments. You just needed to go out and surgically and forensically find the errors and where you found them, recover them.

IPERA comes into play, and now it says you have to do more than that. I want to know the systemwide amount of error within DOD programs. And they have started down this process of measuring, but like the programs before them, it is taking them a year or two to get their sea legs under them and get that measurement.

But to give you a more direct answer, I do not know the total. I would only be guessing, and I do not want to do that. But you are right, the number is an underreporting. Within the frame of programs that we do know about and we have measured, the numbers are trending in the right direction, in particular, Medicare and Medicaid, which is where I would be really concerned.

As you mentioned in your opening, most of the dollars of that $115 billion, or half the balance sheet, are tied up in Medicare and Medicaid. And I am very thankful, and it is not just from praying—it is from a lot of hard work—that HHS has turned the tide on those numbers and every single major program in Medicare and Medicaid is trending downward.

Senator COBURN. But they still do not have the tools, all the tools, that they need.

Mr. WERFEL. Absolutely. There is still a corpus of improper payments there, that when you look at it, you have to be concerned. And we are, but there is progress.

Senator COBURN. Is there any directive from the OMB to force the agencies to compare to the IRS Master Death File?

Mr. WERFEL. I am glad you asked that question. There are a couple of issues there.

And again, when I explain the complexities, I never mean them as an excuse. It is just a question of making sure we understand the raw materials that we are given and figuring out how to drive solutions to them.

So there are two things with the Social Security Death Master File. There is a public file, and then there is a nonpublic file. And right now, we have seamless access to the public file, but it is incomplete because there is a timing issue and we do not always get the information from the States or whoever is required to report on the death information into our database.

Senator COBURN. Where is that problem? Is that at Social Security turning the information around and giving it to you?

Mr. WERFEL. It is. There are two elements to it.

We have about 30 or so States that have signed on to do automated death reporting; 20 have not. We need to get to a point where everyone is doing automated death reporting. And even where the States are on, they have to be held accountable to get us that information so our database is complete.

The other thing is that Social Security, because of legal issues surrounding the Privacy Act and other requirements, cannot give us the nonpublic file seamlessly. There is a lot of paperwork that needs to be done.

So we need to get a complete file and get it to the agencies.

H605-41331-79W7 with DISTILLER

Senator COBURN. Well, let me ask you; first of all, you do not have to have that. You can send numbers to Social Security, and they can say yea or nay without them ever exposing that list to you.

So there are ways technically to get around that bump if you want to get around the bump. The problem is you do not have cooperation from the agency. That is the problem.

Mr. WERFEL. I think that would be an operational solution that we have thought about it. I do not think we have considered it. We want to get all the information into the central Do Not Pay List and do it that way, but I think we are open to different suggestions.

But you are right; when we first issued the Do Not Pay Memorandum in 2010, our conclusion based on IG reports, GAO reports and discussions with the agencies is there were a lot of lapsed controls in place in terms of are you checking these basic databases, whether they be the Death Master File, whether they be the Excluded Parties List before you are going out and making these awards and payments.

And as a result of that, we issued the Do Not Pay Memorandum and two things happened. One, we called attention to every agency. We wanted to do know baseline, what are you doing. And if we heard back that they were not currently having robust matching, even with these disparate databases, we pushed them to move in that direction. The second piece is let's bring all the data together and make it even less of an excuse because it would be much easier to access this information.

Based on these steps and putting the Presidential signature to the policy, we do the very thing that you are calling for, which is creating an incented priority at senior levels because people care about this. If the President cares about it, the agencies will care about it. And there has been more attention to this type of data matching than before that memo came out, and we are making progress.

We are not where we need to be. You are going to still see payments to dead people, but less payments to dead people than you did before.

Senator COBURN. One final question if I may, is there any directive coming out of OMB for us to not be paying people who in arrears on their taxes?

Mr. WERFEL. Yes, there is actually legislation that was enacted, I think in the 2011 Appropriations Bill, which requires us to essentially trigger and accelerate suspension and debarment proceedings for those entities that are in arrears.

The big challenge we have here—again, I do not mean to push it back on Congress. The big challenge here we have is we do not have the ability to share the IRS data in terms of who is delinquent with the agencies so they know. We rely, believe it or not, on the contractors to tell us if they are tax-delinquent.

Senator COBURN. I know. Anybody in here think that is stupid? Yes, it is crazy.

So you do not have the ability, but you do have the ability to send a taxpayer identification number to the IRS and say, is this

H605-41331-79W7 with DISTILLER

taxpayer identification number in arrears? You do have that ability. There is nothing in the law that precludes you from doing that.

And if it is in arrears, why in the world would we be sending somebody a check that owes us money?

So the question—these are all just punching a button on a computer. I know it takes time to get that set up, but the IRS can handle that. I mean, that is just one punch over to the IRS and say, here is a taxpayer identification we need clearance to pay.

And if there is a problem, then it should go to a specialist within the agency and say, call the contractor and say, hey, by the way, you are past due on your taxes or you have a problem that is not in dispute.

I am not talking about stuff that is in dispute. I am talking about people who have had adjudication, that owe the money. We are not going to pay you until you pay that.

And I will guarantee you, you would increase our payments to the IRS really fast when we are spending $500 billion a year on contractors and we have billions owed to the IRS, in arrears, for the very people we are doing business with.

So is something like that possible to come out of OMB to direct that?

Mr. WERFEL. I think we would have to look into it. I am not exactly sure, Senator, actually, whether the fact of a delinquency might be protected under Section 6103 of the Tax Code. It might not just be the amount of the delinquency. It might be the identity.

So if we say here is ABC Corp. and they come back and they say they are delinquent, the very fact of them reporting to that I think may be protected by 6103.

Senator COBURN. Well, if it is, will you get back to us because that is something Tom Carper and I can write a piece of legislation on that surely would fly through Congress, even in spite of our dysfunction right now, because nobody would agree we should be paying people who are not paying their fair share of taxes in this country, when they owe money and then we are paying it and they are pocketing it and not making the payments.

Mr. WERFEL. I will do that.

I just want to add one more point, which is where there are legal gaps in our ability to do things we are trying to go to the places where there are not. So there is a database that is maintained by Treasury called Debt Check, and it has a lot for the nontax debt. So when people owe us money through fees or loans or whatever and it is in arrears, we do have access to that and it is a big part of the Do Not Pay solution.

This principle that people who owe money to the government should not be paid or not be paid their full amount or offset that payment in the amount they owe is central to our efforts. And where we can do it legally today, we are pushing as hard as we can. And when we cannot do it legally today, we have to partner, as you are saying, to surface that and get it out there so people know exactly what is going on with the law that is preventing these things from happening.

Senator COBURN. Thank you, Mr. Chairman.

Senator CARPER. We are going to followup in writing to go down the same path that Dr. Coburn is going, to find out what we need

H605-41331-79W7 with DISTILLER

VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00030 Fmt 6633 Sfmt 6633 P:\DOCS\73679.TXT JOYCE

to do, not just the two of us but the House and Senate, what we need to do to enable us to go after the money that is owed and stop sending money to folks that owe us money or owe the taxpayers money.

You said a couple of times in your response to him, we do not have the ability to do X or Y; we do not have the ability. Can we go back to that for just a moment and let's drill down on that?

In the legislation, the IPERA Improvement Act that we have introduced and reported out of Committee, do we address some of those "we do not have the abilities"? And if there are some that we still need to do, you need to let us know. Go ahead.

Mr. WERFEL. Yes, not as robustly the way it is—I think you have hit the right umbrella issue which is in order to do a better job in having agencies have real-time information on death, on delinquency, on all these issues, prisoner status, we need a better solution both legally and administratively.

And what I mean by that is in some cases there are just barriers to the data coming over, with legitimate reason. It is not like those barriers are set up and people are scratching their head as to why. It is almost always a privacy and a data security issue that prevent us from getting that information.

Our position is that you can balance that. You can find ways to protect privacy, protect data security, narrow the purpose for which the information is shared, and we think there is a high purpose in preventing error that should win the day in terms of that balance.

What I have said about administratively is there are places today where we can legally access the data, but it is a tremendous amount of paperwork and all types of Federal Register notices that have to be published. And it can take months, unfortunately, to establish these very intricate agreements that are required under the Privacy Act or other laws.

And again, we want to protect privacy. We want to protect data security. The question is, Is there a better way of functionally doing that so you do not have these months of delays as we work out all the paperwork?

So in those two areas, I think the legislation can be a huge help if we can find that right language that achieves that balance and has everyone nodding their head in the same direction. This is good. It opens up the data for this very specific purpose of program integrity but, in doing so, protects privacy, protects data security and does so in a way that limits the amount of paperwork involved.

I think that is the sweet spot. If we can get there, it will have a major impact.

Senator CARPER. Yes. If our IPERA Improvement Act does not scratch all these itches, before we bring it up for a vote on the floor, maybe as part of this package that we are talking about doing we just need to make sure we have got to as many of those itches as we can, and we need your help to do that.

Let me just ask Ms. Davis. You have heard this back and forth between Dr. Coburn and Mr. Werfel and myself. I would just welcome your thoughts, your advice, your counsel as our spokesperson from GAO on these issues.

Ms. DAVIS. Thank you.

H605-41331-79W7 with DISTILLER

Well, we do recognize that much progress is being reported by the agencies, and that is included in the testimony, and OMB has been a very key part of that process to enhance reduction in improper payments.

There is no silver bullet. There is no easy solution to this. And, it is really multiple solutions or multiple strategies that are needed to really be effective, as talked about in the testimony. We need preventive controls. We need detective controls. Recovery auditing is an excellent vehicle and can help us in many situations, in many programs, to identify and recover improper payments.

But we also need to look at preventive controls to prevent them from happening in the first place, and we need to look at the root causes of improper payments. Unless we know what the root causes are, we are going to continue to make those improper payments. So if we identify the root causes, we will be able to help in that regard.

One of the examples that we gave in our testimony has to do with the number of programs that are reporting root causes within those three categories that have been established by the Office of Management and Budget, and only about half of the 79 programs are actually using those categories to identify root causes.

But even those root causes may not be detailed enough or we need to drill down actually into some more specifics, again, to identify what the causes are in order to establish some preventive plans, internal controls and then also corrective action plans.

And so, one other point I would like to make too in our testimony is the difficulties that agencies are having in actually estimating improper payments. As Mr. Werfel said, it is a statistical sample and hopefully, in most cases, a valid statistical sample.

When we looked at the Foster Care Program, we found some issues there that were very challenging and needed to be corrected. For example, administrative costs, which are approximately 44 percent of the Foster Care Program, are not even included in the estimate of improper payments.

So we have made a lot of progress, but we also have a long way to go.

And a point too, of course, when you are working with programs that are a partnership with the Federal and the State governments your challenges become even more so. So Foster Care is an example; Medicaid is another example, of that.

But progress is being made, and it is going to be—it is going to take many different strategies and a lot of hard work on the part of many agencies and individuals within those agencies in order to actually come up with a good solution.

Senator CARPER. I will ask you this for the record too, but in terms of further changes that we should make in the legislation we are focusing on here today, we really need your input before we bring the bill to the floor, if we need to perfect it. I like to say if it is not perfect, make it better. If there are some ways that we can make this better and go after more of the money that is being lost to the Treasury, we need your help to do that, and we appreciate what you have done so far. OK? Thank you.

If I could, another followup question to you, Ms. Davis. Again, we appreciate your being here this afternoon and the work that you

H605-41331-79W7 with DISTILLER

and your folks—is there anybody there behind you that works on this? Who is here with you today?

Ms. DAVIS. It is number of staff members. Carla Lewis is the Assistant Director, and she is right behind me.

Senator CARPER. Carla, would you raise your hand?

All right. Anybody else?

Ms. DAVIS. We have Gabbi Fagan. We have a number of people. Do you want me to have them all stand?

Senator CARPER. Just raise your hands if you are a part of this team. OK. Good work. Thanks.

Your testimony, obviously, makes some key points, a number of key points, about improper payments. I think we agree that with the improper payments, we—we still have a big problem.

And one of the big problems—Dr. Coburn has referenced it—is the Department of Defense. Just help us figure this out.

Leon Panetta, the new Secretary over there, he said, to his credit, that they are going to get their financials in shape. They are going to be auditable not just by 2017; he wants to beat that date.

And when you have a guy who used to be Budget Committee Chairman in the House and OMB Director, Chief of Staff for the President—put somebody like that in as Secretary of Defense, and they care about these issues. And we have already seen a change of heart and attitude at the Department of Defense on other financial and auditing issues.

Help us drill down a little bit on the Department of Defense. What do we need to do to get them to report more completely and to be part of this game?

Ms. DAVIS. There were two very large programs, or one very large, but two programs under the commercial pay area in the Department of Defense that were not included in the governmentwide estimate this past year of the $115.3 billion, and one of them in particular is very significant.

The estimating methodology, again going back to that key area of making sure you have a good methodology for identifying a good estimate of improper payments, is really key.

One of the things that they are looking at is trying to develop a statistically valid methodology. To be specific, they have done prepayment reviews, they have done postpayment reviews, but they have not actually done a statistical sample that could be considered valid. And Mr. Werfel may be able to talk more specifically to that.

They do, as you mentioned, have issues with their financial management systems. Obviously, there are a combination of issues. In order to identify, though, the amount of improper payments in their risk-susceptible programs, they are going to need to better define and better refine their estimating methodologies.

Senator CARPER. What do we need to do—this would be for Mr. Werfel or for you, Ms. Davis. What do we need to be doing in the legislation that is out of Committee, that will come before the full Senate and, hopefully, the House later this year? What do we need to do to address the problems with the Department of Defense in underreporting improper payments?

H605-41331-79W7 with DISTILLER

Is there something that we can do in this legislation so we do not kick the can down the road or we do not just bemoan the fact that they are not fully reporting? What can we do?

And I am going to ask you to respond on the record as well, but if you have any initial thoughts, please share those with us.

Mr. WERFEL. I think, Senator, it is a similar question when I have sat before you and you have asked me this about their efforts to close their books and get us an audit opinion.

I think the issue is about setting interim accountable milestones for DOD that are helping driving us, driving them to success.

And it may be—and I think we need to sit down and look at this—that the original IPERA legislation did not get detailed enough with respect to that agency because, and to their credit, IPERA required each IG to evaluate compliance, as part of this framework of accountability. I think that is going to be a huge—and I can already see it being a huge—success in terms of making sure people are paying attention because now you have every IG evaluating agency compliance.

Well, for DOD, the first time those reports were due were March 15th. So they are hot off the presses, so March 15, 2012.

And DOD's IG came in with compliance. They found the Department of Defense to be compliant with the Improper Payments Elimination and Recovery Act, which is good. It demonstrates that DOD is taking these seriously. It demonstrates that they are taking on a more comprehensive approach.

We have talked about the fact that they do not have yet a bona fide, statistically significant estimate for their contract payments, but I think the IG basically found that they are on a path and they made a first attempt this year, which is the typical way in which agencies do this.

But the question then becomes—because I know this keeps coming up—there are pockets of areas within the Defense Department, and Senator Coburn was mentioning it, that there is a sense that they are not doing enough robust measurement, that they are not surfacing enough of these issues and studying them because the Congress believes that there is return on investment there, that there is efficiencies to be gained in doing so.

We have to figure that out, but right now, the footprint of requirements that are in place under IPERA—right now, the Defense Department, according to their IG, is on track.

And again, just like I mentioned to Senator Brown, there are examples within the Defense Department in which they are recovering improper payments and doing a good job that would make you feel good about where things are, and then there are issues and incidences and where there are frustrating areas of waste. We have to figure out where those frustrating areas are, highlight them and build a statutory framework that raises the profile of that as well.

Senator CARPER. OK, Ms. Davis, do you want to respond any further on this subject?

Ms. DAVIS. Just one point too, that we know that there have been a number of hearings on the DOD's financial management issues, and we would encourage those hearings continue. We think

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00034 Fmt 6633 Sfmt 6633 P:\DOCS\73679.TXT JOYCE

that is a good opportunity to get out on the table, some of these issues and how best to solve them.

Senator CARPER. Good. We plan to do that. Thank you.

Mr. Werfel no, I will tell you, Ms. Conley, if I could—let me just ask a general question about some Federal programs that are managed by State governments, a lot of which you, I think, have a whole lot of involvement in.

State agencies run many large and important programs. I know, as a recovering Governor—Medicaid, Unemployment Insurance (UI) Fund, Temporary Assistance for Needy Families. My staff added together the improper payments for these State-run programs, and then prepared a chart.[1] I do not know if we have it here today. I think the total was $40 billion, and this is out of a Federal-wide figure of 115, or so, billion dollars.

Just looking at the year, fiscal year just concluded, but together, that total of $40 billion in improper payments, we have $22 billion for Medicaid, about $14 billion for Unemployment Insurance, a couple billion from School Lunch and a couple billion from the Supplemental Nutrition Assistance Program.

I like saying that word. I do not know who came up with that. That is a good one.

But if you would, talk with us about how we are doing in each of these four categories. First of all, just take them one at a time, from Medicaid to Unemployment Insurance, School Lunch, Supplemental Nutrition Assistance Program. Are they going up? Are they coming down? How are we doing?

Ms. CONLEY. Senator, I would be happy to talk about Medicaid. We, at HHS, have many State-administered programs. Medicaid is among them.

Senator CARPER. Yes.

Senator COBURN. Also, there is the Children's Health Insurance Program (CHIP), TANF, Temporary Assistance for Needy Families, Foster Care and Child Care. And perhaps, Mr. Werfel might want to speak about the other agencies' programs.

But with regard to the State-administered programs, what is really coming to light—and I think is a very important recognition that your Subcommittee has helped to reinforce with both the IPIA in 2002 and IPERA in 2010—is that we have a shared responsibility for improper payments and that it is not just one organization that is responsible for them.

I think early on there was a sense that IPEA was a Federal law and Federal agencies were responsible for compliance. As we know, with the multitude of hundreds of programs that we administer at HHS, the real critical aspect about financial integrity, it may start at the Federal level, but the States are key partners as are many in the grantee community—nonprofit organizations, local governments, and the commercial sector. Many people, and many organizations from different perspectives are involved in carrying out these programs to the final point at which that Federal dollar is provided to the beneficiary it was intended to serve or provides a service that was intended.

[1] The chart referenced by Senator Carper appears in the appendix on page 113.

H605-41331-79W7 with DISTILLER

VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00035 Fmt 6633 Sfmt 6633 P:\DOCS\73679.TXT JOYCE

So I think this notion of shared responsibility is a key one that has been recognized over the course of the last decade.

I think the whole notion about interdependencies that we have is very critical because what we do at the Federal level affects what is going on at the State level and, again, all the way down through the entire apparatus that we deliver our services through.

We have seen a lot of progress in the States. We are working with them closely. They are partners of ours.

With regard to the many programs that we have, we see a common theme as we have gone into the error measurement process whereby once the rates are developed, and methodologies, we work with the States. They are a good indicator about how well the program is being carried out in that particular State. It is typically the 50 States, Washington, DC, and Puerto Rico.

And then, through education and outreach and conferences, better understanding about the payment processes, what is allowable under the programs, funding to assist with different eligibility determinations—that seems to be a key area for means-tested programs like Medicaid and Child Care, and you have SNAP up there.

So it is very important that we are looking at things like integrated eligibility that will assist in terms of looking at the applicants' eligibility. And typically, if they are eligible for one program, it is not too much different than the eligibility for one of the other State-administered programs that we have.

Senator CARPER. Mr. Werfel, did you want to jump in here?

Mr. WERFEL. Yes.

Senator CARPER. But before we move too far, I want to come back to Ms. Conley and ask you to describe, if you will, some of the challenges and the opportunities for helping State agencies to check with each for finding duplicate enrollees in some of these Federal programs. I want to especially hear about the so-called PARIS program. I do not know if this would be a good time to ask you that, and then we will move over to Mr. Werfel, or not.

But if we could, Mr. Werfel, let me just ask Ms. Conley to just give us some information about the PARIS program.

I understand it is a good tool. It is designed for this purpose and not yet fully utilized by the States. If you could take a few minutes on that, that would be great.

Ms. CONLEY. Sure. Yes, you referred to PARIS, and PARIS stands for the Public Assistance Reporting Information System, and that is run by one of HHS's operating divisions which is the Administration for Children and Families (ACF).

It is a data match system whereby information from five different programs are sent to—actually the Defense Department, serves as a provider of computer services for this purpose of running this data match, but it is overseen by ACF.

It assists with providing interstate data matches so that States can see. It is sorted by Social Security number of folks receiving benefits in five programs. Those are TANF, Medicaid, Child Care, Worker's Comp, and SNAP I believe is the fifth one.

And so, the States can then see—if they are paying benefits to individuals in their State, they can see if those same individuals are receiving benefits under the same programs in different States, thereby being able to make a determination about where is the ap-

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00036 Fmt 6633 Sfmt 6633 P:\DOCS\73679.TXT JOYCE

propriate State that should cover those costs. So it has been very promising there.

In addition, PARIS also matches up information that they receive from the Office of Personnel Management and the Defense Department about Federal employees and retirees and also folks in the military as well as files from the Veterans Administration (VA).

And so, this information, bumped against those same Social Security numbers, has proven to be very helpful to States to assist with figuring out that the beneficiaries are indeed receiving the right kind of benefits that they are entitled to. For instance, many folks in States, low income veterans, may be receiving Medicaid in States whereas they had served honorably and are entitled to health care benefits from the VA. So through this process, individuals have been discovered who should actually be receiving benefits through another provider and, in this case, the benefits that would be appropriate for a veteran.

So it is a tremendously useful tool to States. It is free. There is no charge. There is no charge for the data matches. However, the cost in terms of resources is that the States would then need to research the various matches. And if there are problems with data integrity, then that can increase the amount of workload on the States to try to run down and see if those hits were indeed indicators of someone that was being paid on their rolls inappropriately.

Senator CARPER. I hear from my Governor in Delaware and I hear from other Governors around the country that their budgets are being squeezed by the growth of Medicaid costs and they expect that to continue as the Affordable Care Act and some other provisions of the Affordable Care Act are implemented. It would seem to me if I were Governor I would be looking for every tool I can find to help me save money in the Medicaid program.

Just think out loud, any of you—Mr. Werfel, Ms. Davis—just think out loud about how we could—light a fire is the wrong word to say under some of the States, but to make sure they are fully aware of the opportunity here that is really been foregone. What would be your counsel, any of you?

Come and take advantage of this.

Mr. WERFEL. Yes, just going to this chart, just a quick reflection, all of these programs except for UI are trending downward in the data, but most State-administered, if you look at what is the governmentwide error rate? It is 4.69 percent. OK. So let's use that as the average.

Every State-administered program on that list except for SNAP is above the governmentwide average, and in some cases, significantly above. School Lunch, for example, 16 percent error rate which is obviously significant. I think Medicaid is at 8 percent, and Unemployment Insurance is above 10 percent.

So this is not just a blip. There is a trend, and the trend has to do with the fact that is very difficult to manage State-administered programs because you have 50 different approaches.

And just to use one example because Senator Coburn is not here anymore, but I think this is a pretty good example of how complex the issue with the Death Master File can be. Let's say—in some cases this is the case—that as part of determining eligibility it is household size. How many people are in your home or in your

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00037 Fmt 6633 Sfmt 6633 P:\DOCS\73679.TXT JOYCE

household dictates how much money you get from the government for this benefit.

Well, if someone in the household has died and that has impacted the size of the household, if we do not have that information and the applicant reports that same household size as they did the year before and we audit it, we are going to find an improper payment because the household size is actually smaller.

So the issue becomes why is the Federal agency not looking at that death information, why are they not linking up with the Social Security Death Master File, to validate that household size.

It is really the States' responsibility. They are administering the program. Many of these programs are not set up such that the Federal Government is doing these eligibility checks. It is the State.

So now you are working with 50 different States to figure out their game plan and their road map, to get more access into information.

I mention this because I think that is a good example of the challenge that is involved from the Federal level, of managing State-administered programs toward this issue.

How do we light a fire? I think that there are a bunch of different things we can do.

When I testified before Chairman Platts and Congressman Towns a month ago, I mentioned that one thing that could be done is that you could have another panel here of State representatives, State controllers, State finance directors and State auditors to talk about, from their perspective, what is it about these opportunities that we can leverage that can make it the right business decision for them to invest more resources and invest more attention.

There has never been a more important time to make sure that these dollars are going out smartly, given the tight budgets that we are in, and I think that we are trying to partner as much as possible.

The last point I will make is that in the Do Not Pay we have had interest from States in joining the Do Not Pay effort, and we have a couple of different State agencies that we are working with, California being one, D.C. being another, that are looking to leverage the Do Not Pay solution this fiscal year. And so, we are starting not just with getting Federal agencies on this thing; we are open to States too. And that is going to be part of a global framework where the Federal Government and the State governments are working together to use this information, to reduce error.

Senator CARPER. Good. Thank you.

Maybe one more and this one would be for you, Mr. Werfel, if I could. One of the key provisions of the 2010 improper payments legislation was the establishment of recovery audit contractors. Companies are hired by agencies to scour the financial books and payments, looking for errors. This is a tool that has proven very effective in the private sector. We have used this some, as I said earlier, in State government, in Delaware and also, apparently, with some real success in the Medicare Fee-for-Service programs.

Could you just comment for us on how agencies are doing as far as implementing recovery audit contracts?

And of course, Medicare and Medicaid have established their own programs. But how about other agencies and programs, please?

H605-41331-79W7 with DISTILLER

Mr. WERFEL. It has been a challenge. We are, I think, where we need to be. We have our sea legs under us and know how to do well in the contracting realm.

The reason that recovery auditing or payment recapture auditing works well there are a couple different reasons. First of all, we have privity; we have a relationship, direct relationship with these contractors. And, we have an established rhythm with our contractors in terms of showing up at their door, wanting to review their books. There is less of a push-back generally from contractors than from grantees in terms of having greater Federal presence to oversee and review transactions, which is really what these recovery auditors do.

And so, on that, I mean, there is more work to be done. We can do smarter recovery auditing. We can look at the dollars differently, and there are more efficiencies to be gained. But we are on a good path.

As we talk about expanding to grants—and IPERA for the first time did that—it has been much more challenging for a variety of different reasons. One, the agencies are still struggling to figure out exactly how to operationalize deploying recovery auditors into the field to grantees—the States, the local governments, the universities. Exactly how to look at the data and deploy these resources effectively is not something that we have a lot of experience with. So there is a learning curve there.

In addition, in the grantee community, this is not part of a deal that they have bargained for in terms of having this additional audit layer. That does not mean we cannot get it done and work in partnership to achieve these types of connections and have these reviews done, but it is something that is requiring some legwork and some calibration to figure out exactly how to do it.

I will say the good news here is that we have a lead blocker, so to speak, which is HHS and Medicaid. Because this provision—and I think you had something to do with this—was in the Affordable Care Act, expanding recovery auditing to——

Senator CARPER. I did have something to do with it.

Mr. WERFEL. Yes, I know. That gave us a head start because the Affordable Care Act was enacted prior to IPERA.

And so, HHS—and I am sure Sheila could talk more to this—has gone out and done some of that relationship building, that legwork and that logistics planning through regulation, notice of proposed rulemaking, working with the Medicaid community which obviously is State and more on the grantee side, figuring out how to expand recovery auditing in this way.

And we are going to be looking to the Medicaid program, which just started after all that outreach and all that regulatory work, just started in January of this year. They are just now doing recovery audits in that sphere, for us to figure out how they are doing, what their road map is.

And the good news, Senator, is that if you are going to start somewhere, start at Medicaid because that is where the big dollars are.

So if I were coming up and saying we are starting and we are starting small, in these tiny grant programs, and going to figure out and expand, that is good news but not really good news be-

H605-41331-79W7 with DISTILLER

cause you are not going to get those efficiencies early on. Here, we are saying our big starting point, our big opening is in Medicaid, and there are a lot of dollars there.

And so, the rest, I am hoping comes more fluidly. In particular, while we are getting early work done, we are doing something in the end of the spectrum where there is a lot of potential for return.

Senator CARPER. Thank you.

Sometimes, I like to conclude a hearing by offering the witnesses who have given an opening statement, who responded to our questions, just give you a minute or so to make a closing statement and to reflect back on what you heard, what you have been asked, the answers and the responses and the testimony of the other witnesses. And I would just ask if you would just take maybe a minute apiece and give us a closing statement, maybe with a good takeaway.

And Ms. Davis, if you would like to go first, please do.

Ms. DAVIS. Thank you, Senator Carper.

I would like to just state that we need to look at this in a very comprehensive manner, reducing improper payments. There are many opportunities and many different types of solutions that we need to consider.

And as mentioned in the testimony, we need to examine our root causes. We need to look at the preventive controls such as data matching, such as predictive analytic tests. We need to look at detective controls such as data mining, recovery auditing. And of course, the benefits of those detective controls can enable us to also determine where we have problems and why the problems exist and then go ahead and institute some preventive controls.

But we need to look at this from a multifaceted viewpoint in seeing how best to resolve the issues of improper payments, and remembering too that our estimating methodologies are very key to ensuring that the estimates that we produce and the public sees are really an accurate statement of what improper payments really exist.

Senator CARPER. All right. Thanks for those comments. Ms. Conley.

Ms. CONLEY. Thank you, Chairman.

I would just like to conclude by making just some very broad comments.

I think the work in this whole arena has been very helpful to underpin the need for accountability of public funds, and it has gone a long way in an era of declining resources and increased expectations for accountability. Measuring the extent of improper payments, identifying root causes and then focusing on corrective actions that make sense are critical.

There are many different stakeholders, many different folks involved in these areas, and so, the interdependency. Oftentimes, we will need legislative authorities to move out on things. But working thoughtfully and smartly moving forward I think we can continue to see the kind of progress that we have seen certainly at HHS with our programs.

The rates are going down. We have been at this for a long time. We have a long way to go still, and it is just going to be a continuous need but critically important because now, as we are learning,

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00040 Fmt 6633 Sfmt 6633 P:\DOCS\73679.TXT JOYCE

and I think everybody appreciates, this kind of accountability is not an afterthought or something accountants do or auditors do or statisticians do. This kind of work is really integral to how we carry out our programs.

And so, as we move forward, we appreciate the efforts of the Executive Branch, GAO, and this Subcommittee, to recognize that there is no one silver bullet. This does not get fixed overnight. But I think together we can continue to make the kinds of improvements that will improve all of our programs in the Executive Branch. Thank you.

Senator CARPER. I like to say no silver bullet but a lot of silver BBs, and some of them are pretty big.

Mr. Werfel, a closing thought.

Mr. WERFEL. Thank you. Let me just do something administrative first.

When I was speaking in response to Senator Brown, I looked down at my notes and I accidentally cited the DOD numbers for contracts reviewed and contract errors recovered when I meant to cite the governmentwide numbers, and you can see how I could make that mistake because DOD is such a big portion of the total. What I would like to do is just say for the record that I will get both information to you so we can have those numbers clarified.

Senator CARPER. Thank you.

Mr. WERFEL. My reflection—I have a few reflections to close with.

First of all, I think it is important to recognize what a priority this is for the Administration. The President has issued three separate directives, signed legislation, appointed, all around improper payments. He asked the Vice President to lead a campaign to cut waste, which has enabled remarkable things to happen for me in my lifelong battle on improper payments, such as calling together Cabinet meetings where improper payments are discussed.

I have been able to talk with Secretary Sebelius directly, Secretary Solis directly, on these issues. In fact, when the Unemployment Insurance numbers came out and they were an uptick they were one of the few programs that were higher—we were able to meet directly with Secretary Solis on the issue and get her directly involved.

There is definitely senior level attention to this issue in ways that I have not seen in my career, and I think that is correlational with some of the results we are seeing across the board.

I know I often talk about the Federal CFO community burning the midnight oil, there the late hours, trying to solve and tackle our problems. Ms. Conley is the classic example of that. I think we have the exact right team at HHS—Sheila, Ellen Murray, her boss, the CFO and the entire leadership at HHS.

When you call over there and it is almost time for the improper payment numbers to be reported, there is an enormous amount of stress and activity and excitement. Believe me, these numbers come out, and they do not just kind of wash over. There is an enormous amount of attention to them, and people really do care passionately about what is happening with these programs and what is happening with the dollars. And I think that is a really good sign.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00041 Fmt 6633 Sfmt 6633 P:\DOCS\73679.TXT JOYCE

I would say that I will reflect that Sheila and I used to work together at OMB and were both in OMB when the Improper Payments Information Act was first enacted. I think there is a possibility that someone could get dulled to all of these big numbers, or desensitized, but we are not.

I think we continue together—Sheila looking at the Medicare and Medicaid numbers, me and my team at OMB looking at the governmentwide numbers. And we never are desensitized to the enormity of this challenge and how important it is, and we are not in any way desensitized to the notion of how it gains importance as our budget climate becomes more challenging and as the economic climate becomes more challenging. And so, I do not think there is any risk that we are going to stop fighting on this issue.

And I actually think because of the President's leadership on this, because the Vice President cares about this and is bringing senior Cabinet officials together to talk about this and drive accountability toward it and because technology is at a place right now where we can do some game-changing things and change the way government does business, I think we stand and are very well positioned to continue these trends in improper payments.

Senator CARPER. OK. I began this hearing by sharing with folks in the room the results report on NPR several months ago about this international study about what made people like their job. As it turned out, most people, what they liked about their job was they felt like they were doing something important and they felt that they were making progress.

Well, I am encouraged. I think everybody in the room and everybody who has followed these issues at all knows this is important. A country that is running deficits of over a trillion dollars can ill afford improper payments or fraud losses that are this large.

But having said that, we are making progress, and we are making progress by virtue of the efforts of a lot of people—people at this table, folks who are seated behind you and a lot of people who are not in this room.

And I applaud the efforts of the President and the Vice President on this, giving it the kind of attention that it deserves. And frankly, the previous administration.

It is a little bit like in the Navy. We used to say when we were trying to do something really hard, it is like turning an aircraft carrier, kind of like trying to change the culture of our government to an extent. And it does not happen overnight.

Having said that, we have to be just dogged in our pursuit of effecting the kind of changes that are needed. And for as long as I have the privilege of sitting here—and I think the same is true for the two fellows who are sitting to my right and other colleagues as well—we are on these issues and we are going to continue to be on these issues, not just to criticize or, as we like to say in Delaware, to carp, but to try to be constructive in our carping and to be constructive in making sure we are bringing the resources in a positive way to this battle.

It is an important battle. It is one we need to win, and I think we are making some progress. I know you feel that way as well.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00042 Fmt 6633 Sfmt 6633 P:\DOCS\73679.TXT JOYCE

With that being said, we look forward to providing some questions in writing, and we will appreciate very much your responding to those in a timely way.

You have 2 weeks to submit questions. If you could respond promptly, we would appreciate it.

Again, thank you all.

And with that, this hearing is adjourned. Thanks so much.

[Whereupon, at 4:32 p.m., the Subcommittee was adjourned.]

H605-41331-79W7 with DISTILLER

VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00043 Fmt 6633 Sfmt 6633 P:\DOCS\73679.TXT JOYCE

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00044 Fmt 6633 Sfmt 6633 P:\DOCS\73679.TXT JOYCE

APPENDIX

FOR RELEASE: March 28, 2012
CONTACT: Emily Spain (202) 224-2441 or emily_spain@carper.senate.gov

U.S. SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

HEARING: "Assessing Efforts to Combat Waste and Fraud in Federal Programs"

Opening Statement of Senator Tom Carper, Chairman

Today's hearing will focus on the very high levels of improper payments made by federal agencies, as well as our efforts to curb these very wasteful and sometimes fraudulent payments. As everyone in this room knows, we've faced record budget deficits in recent years. Our national debt stands at about $15.4 trillion, well over double what it was just ten years ago. The last time the debt was this high was at the end of World War II. That level of debt was not sustainable then, and it is not sustainable today.

In order to address the burden this debt places on our country, we need to establish a different kind of culture in Washington when it comes to spending. As I've said repeatedly at hearings like this one, we need to establish a culture of thrift to replace what some would call a culture of spendthrift.

This culture change must involve a willingness to look in every nook and cranny of federal spending and ask this question, "Is it possible to get better results for less money?" We need to examine every federal program closely, focus on what works, and stop putting scarce resources into initiatives that have outlived their usefulness or that can't show results. We also need to get smarter in how we manage the money taxpayers entrust to federal programs.

Across the federal government, programs managers need to sharpen their pencils and stop making the kind of expensive, avoidable mistakes that lead to improper payments. Before going any further, I think it is important first to explain what it means for a federal agency to make improper payments. An improper payment occurs when an agency pays a vendor for something it didn't receive or, maybe even pays them twice. It can occur when a recipient has died and is no longer eligible for payment, or when a vendor owes the government money and legally should not be getting a payment until this debt is repaid. And, of course, sometimes people or companies receive payments that are actually fraudulent.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00045 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.001

According to the Government Accountability Office, the federal government made an estimated $121 billion in improper payments in fiscal year 2010. This was a record high. I was encouraged to learn that the early data for fiscal year 2011 shows a slight drop in the level of improper payments to approximately $115 billion, even though more agencies have begun reporting their improper payments. For example, the 2011 estimate includes improper payments for the Medicare prescription drug program for the first time.

Federal agencies have estimated improper payments of more than $100 billion for three years running now. These payments come from over 70 programs at more than 20 agencies and include programs like Medicare and Medicaid, civilian and military pay at the Department of Defense; and the Federal Emergency Management Agency, to name just a few.

Despite some progress that has been made, error rates – and the amount of money lost to avoidable errors – still clearly remain at unacceptably high levels. And what disturbs me most about this problem is that we seem to make these kinds of mistakes at a rate much higher than a business or the average family would tolerate or could afford. And we keep making them over and over again.

Very often, we know what we need to do to fix this problem. The testimony we'll hear today shows that we're making important progress. But more needs to be done. Fortunately, there are several very real and effective tools available to curb wasteful and fraudulent payments that agencies have yet to make full use of.

In 2010, Congress passed and President Obama signed into law the *Improper Payments Elimination and Recovery Act*, which I co-authored with Senators Coburn, Senator Lieberman, and others. This new law aims to make agencies and agency leadership far more accountable for the expensive mistakes they make and represents a bipartisan and bicameral success in preventing waste and fraud. It does four things:

It forces federal agencies to make a more honest accounting of the errors they make; requires agencies to take steps to stop making errors; requires agencies to try and recover improper payments they do make; and finally, it directs that top managers be evaluated in part by how well their agency complies with the new law.

A wide variety of ideas have been put forward since the enactment and implementation of this new law on how to further curb improper payments, and in the process, reduce our budget deficit and begin whittling down our debt, as well. For example, recognizing that more than half of all federal improper payments estimates are from the Medicare and Medicaid program, last year Senator Coburn and I teamed up to introduce legislation to curb waste and fraud in both programs. The bipartisan legislation – S. 1251, the *Medicare and Medicaid Fighting Fraud and Abuse to Save Taxpayer Dollars Act* - would take a series of common sense steps to identify and prevent waste and fraud. It drills down into specific waste and fraud challenges within health care, such as physician

identify theft, the need for improved fraud data sharing between the federal government and state agencies, and quicker identification of improper payments to medical providers.

Our bipartisan legislation has attracted 35 sponsors and cosponsors in the Senate. There is now a companion bill in the House led by Congressmen Peter Roskam and John Carney. Our legislation has garnered the support of a wide range of organizations, including the National Taxpayer's Union, Citizens Against Government Waste, and AARP. Most of the provisions of these bills are based on Government Accountability Office and inspector general recommendations.

Today, I would like to focus on an important new measure that would help all federal agencies prevent, detect and recover improper payments. Bipartisan legislation that I co-authored with Senators Collins, Brown and Lieberman, S. 1409, the *Improper Payments Elimination and Recovery Improvement Act*, is now making its way through the Senate. This measure builds upon the 2010 improper payments law.

Our new bill recently passed by Unanimous Consent in the Homeland Security and Government Affairs Committee. And last month, the bill was introduced in the House, led by the witnesses of our first panel, the Honorable Mr. Platts and Mr. Towns. Let me now talk about just a few of the provisions in the bill:

Too often, federal agencies make improper payments to individuals who could easily be identified as ineligible. Some of these individuals are applying for benefits using a false address. Others may not meet the criteria for eligibility. Let's take, for example, a person with a job applying for unemployment benefits using the name of someone who may actually be deceased. Of course, those watching this hearing may ask the obvious question of why a federal agency would ever pay unemployment benefits to an individual who has died or to someone who is trying to commit fraud?

Unfortunately, the answer is that, all too often, agencies simply don't do a very good job of coordinating their efforts to prevent improper payments or communicating about best practices. Many also have antiquated databases and computer systems for tracking basic payment information. And all too often, we simply don't allow agencies to access the information they need to avoid giving scarce taxpayer dollars to the wrong people.

To their credit, the Obama Administration, through executive action, is establishing a "Do Not Pay Initiative." This effort involves screening recipients of federal funds against a list of those ineligible to receive those funds *before* we cut a check. For example, before an agency could award a contract to a company, the agency would have to cross check against the "Do Not Pay" database, which will include a central, comprehensive database of companies and entities that are no longer allowed to do work with the Federal government because of a fraud conviction or for some other reason. S. 1409 would

establish the Do Not Pay Initiative in law throughout the federal government, make several important improvements to the initiative, and add some tools and procedures to help agencies access data.

The legislation would also address what is called "death fraud" and other improper payments to deceased individuals. In too many instances, agencies pay benefits to individuals who are deceased and are, therefore, no longer eligible for payments under program rules. For example, the Office of Personnel Management Inspector General reported that $601 million in improper payments were made to federal retirees found to have already died during the past five years. However, such payments to dead people were not unique to this one program. Last year, one of my home state newspapers reported that, 28 years after a Delaware woman had died one of her relative was still fraudulently collecting and cashing her Social Security checks. Improving the collection, verification, and use by federal agencies of data on individuals who have died will help curb hundreds of millions, if not billions of dollars, in improper payments.

Our legislation would require that the office of Management and Budget, in consultation with other agencies and stakeholders, identify specific solutions and report back to Congress 180 days after passage. The legislation also includes provisions that would strengthen and make more consistent the methods used by agencies to estimate improper payments. This has been an issue identified by both the Government Accountability Office and the inspector general community.

Finally, the bill would establish a series of recovery audit contracts to ensure that agencies actually recover overpayments. Recovery Audit Contracting has proven very successful in the private sector as well as in several federal agencies, including within the Medicare program. There, we have witnessed recoveries of improperly spent taxpayer dollars approaching $2 billion in recent years, and we expect those recoveries to continue to grow. I anticipate that the both the Senate and House will look as favorably on S. 1409 just as they did on the original *Improper Payments Elimination and Recovery Act.*

There are additional initiatives that agencies are undertaking, and that the witnesses will describe. I am especially interested in initiatives that we will hear about today that address improper payments by federal program that are run by state agencies, such as Medicaid and Unemployment Insurance.

Let me conclude by noting that we are here today in large part because we believe that we have a moral imperative to ensure that the scarce resources we put into federal programs are well spent. We must use every tool available to put our fiscal house back in order and give the American people the government they expect and deserve. It is the right thing to do on behalf of the taxpayers of this country who entrust us with their hard-earned money. By working together on this latest in a series of common sense initiatives, we can take another important step forward in earning their trust once again.

###

Opening Statement by Senator Scott P. Brown

March 28th, 2012

Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security

U.S. Senate Homeland Security & Governmental Affairs Committee

"Assessing Efforts to Combat Waste and Fraud in Federal Programs"

Our nation is facing a fiscal emergency with over $15 trillion in debt and another trillion dollar deficit expected this year. Yet, the size and scope of government continues to grow unabated to levels not seen since World War II. As the government becomes a bigger and bigger player in people's lives the least we can expect is that it operates as a competent steward over the disbursement of taxpayer's funds.

Unfortunately, as the government's role has increased so has its inability to even handle basic functions such as making proper payments. In Fiscal Year 2011 the federal government is estimated to have ***overpaid*** $104 billion. As I have stated numerous times before, I am very concerned that the implementation of ObamaCare will expand the size of federal programs like Medicaid and exacerbate the the improper payment problem in the process. Washington isn't paying its current bills right and here's another huge area of spending that's going to start up.

The inability of the government to pay the right people the right amount is a failure of government at its most basic level. What is perhaps more depressing is that Washington is equally hopeless at getting back these improper payments with only around $1.3 billion out of the $104 billion recovered.

While the government's improper payment problem is depressing I continue to be encouraged by Chairman Carper's leadership on this issue and his Improper Payments Elimination and Recovery Act (IPERA) which focused needed attention on this issue and pushed the government into the actions we are going to hear about today.

Instead of continuing to grow the government and raising taxes on Americans to pay for a government living more and more beyond its means every day, I believe most Americans want us to at least pause and ensure that government can competently perform its most basic functions such as paying the right people the right amount. Otherwise, more taxpayer dollars will be wasted instead of going to those beneficiaries who truly need support.

I thank the witnesses for being here today and look forward to a productive discussion on how the government can do better.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
www.whitehouse.gov/omb

Testimony of Daniel I. Werfel
Controller, Office of Management and Budget
before the
Senate Committee on Homeland Security and Government Affairs
Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security

March 28, 2012

Introduction and Overview

Thank you Chairman Carper, Ranking Member Brown, and distinguished members of the Subcommittee, for inviting me to discuss the Federal Government's efforts in preventing, reducing, and recapturing improper payments. This Subcommittee has been at the forefront of moving us forward with addressing improper payments and I look forward to continuing to work together on this problem. Last year, I spoke before the Subcommittee about improper payments, and I appreciate the opportunity to be back here to provide an update on this very important topic. Combating improper payments is a leading priority in the Administration's Campaign to Cut Waste. Building upon a number of discrete steps that have been taken in conjunction with Congress since 2009, our results demonstrate critical and significant progress in this area. Most notably, the government-wide error rate declined from over 5.4 percent[1] in 2009 to 4.7 percent last year. Without this decline, the Government would have made over $20 billion in additional improper payments.

Improper payments occur when funds go to the wrong recipient, an ineligible recipient receives a payment, a recipient receives the incorrect amount of funds (including overpayments and underpayments), documentation is not available to support a payment, or a recipient uses funds in an improper manner. Not all improper payments are fraud, and not all improper payments represent a loss to the government, but we can all agree that improper payments degrade the integrity of government programs and compromise taxpayers' trust in their government.

As a result, the Administration has launched an intensive effort to reduce improper payments, containing the following five key elements:

(1) *Bold goals*—two years ago, the President set two aggressive goals: to cut $50 billion in improper payments and to recapture at least $2 billion in overpayments to contractors between fiscal year (FY) 2010 and FY 2012;

[1] In previous testimony to this Subcommittee, this error rate was stated as 5.65 percent. However, the rate was adjusted to 5.42 percent in November 2011 because HHS refined the error rate estimation methodology for Medicare Fee-for-Service, which had an impact on the government-wide rate. More information can be found in the FY 2011 HHS Agency Financial Report (www.hhs.gov/afr/2011afr.pdf).

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00051 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.007

(2) *Transparency*—we launched the improper payments dashboard, *PaymentAccuracy.gov*, to increase transparency by providing taxpayers with useful information and data on improper payments;
(3) *Accountability*—the President signed an Executive Order in 2009 requiring agencies with high-error programs to designate Accountable Officials who are responsible for coordinating efforts to reduce improper payments;
(4) *Partnership and collaboration with stakeholders*—the President worked with both parties in Congress to pass the Improper Payments Elimination and Recovery Act of 2010, and we continue to work closely with Federal agencies and states to address improper payments; and
(5) *Innovation*—we have challenged agencies to get outside of their comfort zones and develop game-changing corrective actions to tackle improper payments, rather than continuing to accept the status quo and modest results. We have also been promoting the use of cutting-edge technology to prevent improper payments and identify fraud—such as the "Recovery Operations Center" developed by the Recovery Accountability and Transparency Board, and the tool being developed by the Department of the Treasury (Treasury) as part of the Do Not Pay effort.

As I noted at the outset of my remarks, our efforts are producing real results. We are on track to meet or exceed the bold goals set by the President, having decreased the government-wide error rate sharply to 4.7 percent, and having avoided making more than $20 billion in improper payments over the last two years. We have also, a year ahead of schedule, nearly met the President's goal to recapture $2 billion in overpayments to contractors. The remainder of my testimony today will provide more details on our recent results, and will elaborate on current Administration activities to address improper payments.

Administration Efforts

This Administration has worked hard to bring down the payment-error rate, recapture misspent funds, and meet the bold goals set by the President two years ago. Our partnership with Congress, especially this Subcommittee, has been vital to advancing these goals. The enactment of the bipartisan Improper Payments Elimination and Recovery Act of 2010 (IPERA) was an important milestone in this partnership, providing Federal agencies with new tools to address payment errors. We are thankful for the leadership provided by this Subcommittee, as well as your colleagues in the House of Representatives, and we look forward to working with Congress on any legislative efforts that will help to advance our work on improper payments, including the legislation introduced by Chairman Carper, which would update IPERA.

Another critical step in addressing improper payments is the President's FY 2013 Budget, which includes a suite of program integrity proposals (including improper payments) that, if enacted, would result in $102 billion in savings between 2012 and 2022. Included in the President's Budget is a request for $5 million to support continued expansion of the Do Not Pay solution through Treasury's GOVerify Business Center—this request is in addition to the $10 million that was requested in the FY 2012 Budget and enacted through the Consolidated Appropriations Act of 2012. Ongoing congressional support of the Administration's proposal to fund the Do Not

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00052 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.008

Pay efforts at Treasury is a critical factor in the Government's ability to prevent improper payments.

Today, I would also like to highlight and provide a brief description of three important initiatives that anchor our efforts: (1) implementation of Executive Order 13520 on Reducing Improper Payments; (2) implementation of IPERA; and (3) implementation of the Do Not Pay solution.

Executive Order 13520 on Reducing Improper Payments

In response to the large increase in improper payments between FY 2008 and FY 2009, on November 20, 2009, the President issued Executive Order 13520, *Reducing Improper Payments*.[2] The Executive Order aimed to reduce and prevent improper payments by enhancing transparency, increasing agency accountability, and exploring incentives for State and local government efforts to reduce improper payments in State-administered programs, such as Unemployment Insurance, Medicaid, and the Supplemental Nutrition Assistance Program.

Agencies have made great strides in implementing the Executive Order to date. We have identified agencies with high-error programs that account for the majority of the amount of improper payments, established supplemental measures to provide more frequent and current measurements for the majority of these high-error programs, and selected accountable officials who are responsible for coordinating efforts to reduce improper payments. All of this information is readily available to the public on an improper payments dashboard at *PaymentAccuracy.gov,* as well as through *Performance.gov*. Specifically, the dashboard, which was required by the Executive Order, includes: (1) government-wide and program-specific data on improper payment rates, amounts, and reduction targets for high-error programs; (2) data on the amount of contract payment errors that have been recaptured; (3) the identity of each agency's accountable official; (4) Administration strategies to address improper payments; (5) agency success stories; and (6) answers to commonly-asked questions about improper payments.

Stakeholder outreach and engagement was also a theme of the Executive Order. For example, the Executive Order charged the Office of Management and Budget (OMB) to work with Federal, State and local officials to make recommendations to improve "the effectiveness of single audits in identifying improper payments and opportunities to streamline or eliminate single audit requirements where their value is minimal." Subsequently, in a 2011 Presidential Memorandum aimed at reducing administrative burden for States, localities, and tribes, the President further directed OMB to "review and where appropriate revise guidance concerning cost principles, burden minimizations, and audits for State, local, and tribal governments in order to eliminate, to the extent permitted by law, unnecessary, unduly burdensome, duplicative, or low-priority recordkeeping requirements and effectively tie such requirements to achievement of outcomes."[3]

---

[2] Executive Order 13520 can be viewed on the White House's website at: http://www.whitehouse.gov/sites/default/files/omb/assets/financial_improper/11202009_improper_payments.pdf.
[3] The Presidential Memorandum can be found at: http://www.whitehouse.gov/the-press-office/2011/02/28/presidential-memorandum-administrative-flexibility

In response to these directives, OMB convened multiple working groups with both Federal and non-Federal stakeholders to provide recommendations that would meet these goals. OMB is evaluating these recommendations and considering the appropriate means to initiate reforms that will strengthen the Single Audit Act and make it a more powerful tool in combating improper payments. On February 28, 2012, OMB issued an advance Federal Register notice to seek comments on grant reform ideas that would strengthen the oversight of Federal grant dollars by aligning existing administrative requirements to better address ongoing and emerging risks to program outcomes and integrity.[4]

Implementing IPERA

In July 2010, the President signed IPERA into law. We continue to work actively with agencies to implement this law, and believe that it provides agencies with more tools and incentives to prevent, reduce, and recapture improper payments. In addition to requiring agency corrective-action plans and reduction targets, IPERA requires agencies to establish mechanisms to hold managers, programs, and, where appropriate, States and localities, accountable for addressing improper payments.

To help guide this process, last year, OMB released guidance to agencies on implementing IPERA.[5] This guidance ensures that agencies are properly assessing risk in their programs, measuring and reporting improper payments for required programs, and establishing corrective-action plans and reduction targets to drive agency performance. In addition, when improper payments are made, IPERA and the implementing guidance expand the agencies' authorities and requirements for recapturing overpayments. IPERA also expands the types of payments and activities that should be reviewed through payment-recapture audits and changes what agencies can do with those recaptured funds. In addition, IPERA creates sanctions for agencies that are found non-compliant with the law by their Inspector General. Armed with these and other tools, we believe that IPERA is having a direct impact in preventing improper payments and recovering funds where payment errors do occur.

Implementing the Do Not Pay Solution

To provide agencies with further tools to combat improper payments, on June 18, 2010, the President issued a Memorandum—*Enhancing Payment Accuracy Through a "Do Not Pay List"*—directing agencies to "review current pre-payment and pre-award procedures and ensure that a thorough review of available databases with relevant information on eligibility occurs before the release of any Federal funds."[6] The Memorandum also directed the establishment of a single point of entry where agencies could access relevant data before determining eligibility for a benefit, grant or contract award, or other federal funding mechanisms, thereby helping to avoid making payments to ineligible recipients. This approach draws heavily on the model established

---

[4] The Federal Register notice can be found at: http://www.whitehouse.gov/sites/default/files/omb/fedreg/2012/2012-4521.pdf.
[5] The guidance is available at: http://www.whitehouse.gov/sites/default/files/omb/memoranda/2011/m11-16.pdf.
[6] The Presidential Memorandum can be found at: http://www.whitehouse.gov/sites/default/files/omb/assets/financial_improper/06232010_donotpaylist.pdf.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00054 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.010

by the Recovery Accountability and Transparency Board (RATB)'s Recovery Operations Center (also known as the "ROC"). The ROC has been instrumental in keeping fraudulent actors from exploiting programs funded under the American Recovery and Reinvestment Act of 2009 (ARRA, Pub. L. 111-5) by using cutting-edge forensic technology to protect taxpayer interests.

This experience made clear that a new approach to preventing and detecting fraud and other forms of improper payments government-wide could have a profound impact on the integrity of Federal programs and the accuracy of Federal payments. This recognition is one of the central reasons the President established the Government Accountability and Transparency Board (GATB) through Executive Order 13576 in June 2011.[7] A few months ago, the GATB reported back to the President with a recommendation that OMB work with the RATB and agencies to create a centralized accountability framework across the Government that all agencies can access and leverage to prevent and detect waste, fraud, and abuse. The vision of the GATB is in lock-step with what the President outlined with the "Do Not Pay List," as this centralized approach to accountability and payment oversight will result in significant savings, and promote rapid innovation and collaboration on best practices and data sharing to advance efforts to reduce improper payments in a variety of Federal programs.

In response to these directives, the Federal Government is working aggressively to develop tools that will enable the centralized, detailed review of relevant databases envisioned as part of the "Do Not Pay List." As a first step, agencies reviewed internal controls and processes surrounding existing pre-payment and pre-award procedures and databases monitored pursuant to those procedures. We are currently building upon these reviews to work towards a comprehensive solution that could assist all agencies with access to and review of these data sources through Treasury's implementation of the Do No Pay initiative.

As we move forward with Treasury on this effort, we are discovering that increasing agency access to relevant data sources and driving efficiencies in the current process for inter-agency data sharing is likely to improve improper payment outcomes. However, as I have discussed in previous testimony, such steps must be carefully weighed against the need to protect privacy and ensure data security. We welcome the opportunity to work with this Subcommittee and others in Congress to carefully examine these issues and determine whether reforms can be identified that successfully balance these various objectives. In the meantime, Treasury is proceeding in a manner that complies with all applicable laws, regulations, and policies regarding the Federal Government's use and sharing of personally identifiable information.

Furthermore, I am committed to continuing to work closely with the RATB and the GATB to implement these initiatives in a coordinated manner, and to continue to find synergies between the planned Do Not Pay solution and the Recovery Board's efforts, which include both the ROC and *FederalAccountability.gov*.

Achieving Real Results

[7] The Executive Order can be found at: http://www.whitehouse.gov/the-press-office/2011/06/13/executive-order-delivering-efficient-effective-and-accountable-governmen.

Barely two years after the President's Executive Order on improper payments, the evidence is clear that our efforts are translating into tangible, positive outcomes. When the President took office in 2009, payment error rates were on the rise. Today, through the confluence of the efforts I described above and the diligent work of our partners in Congress, we are on track to meet or exceed the President's goals to cut improper payments by $50 billion and recapture $2 billion in overpayments to contractors by the end of this fiscal year.

As evidence of this progress, in FY 2011, the government-wide improper payment rate decreased to 4.7 percent, a sharp decrease from the FY 2009 error rate of 5.4 percent.[8] We saw error rate reductions in almost every major program with a history of significant errors—Medicare, Medicaid, the Supplemental Nutrition Assistance Program, Rental Housing, Earned Income Tax Credit, Pell Grants, and Supplemental Security Income. Also, for the first time in six years, the total amount of improper payments that were reported declined from the previous year to a new total of $115 billion, despite the fact that Federal outlays as a whole increased.

By reducing the government-wide improper payment rate since FY 2009, Federal agencies avoided making a significant amount of erroneous payments. If the error rate had not declined as much as it did, the Government would have made an additional $18 billion in improper payments in FY 2011. Combined with the roughly $3 billion in payment errors avoided in FY 2010, agencies have already avoided making over $20 billion in improper payments.

We also have made significant progress on the President's goal of recapturing $2 billion in improper payments by the end of FY 2012. In FY 2011, Federal agencies recaptured more than $1.2 billion in overpayments to contractors, an increase of over 80 percent compared to FY 2010. This amount includes approximately $460 million recaptured through agency payment recapture audits and approximately $800 million in overpayments collected through the Medicare Fee-For Service Recovery Audit Contractor program. In total, we have recaptured $1.9 billion in two years combined, putting us less than $100 million away from meeting the President's goal.

Despite these successes, it is clear that we still have a long way to go in addressing improper payments across the Government. This is evidenced by the fact that not all programs reported error-rate decreases in FY 2011. For example, Unemployment Insurance (UI), one of the high-error programs, reported an error rate increase from 11.2 percent to 12 percent. This increase is due in large part to the unprecedented strain on the UI system during the recession. Many state workforce agencies struggled to keep up with increased workloads and were compelled to utilize integrity staff to process claims instead of focusing on improper payments. Nonetheless, States bear the responsibility of operating an efficient and effective benefits program, and the Federal Government must hold the States accountable to ensure the integrity of the UI system and to significantly reduce the improper payment rate. That is why, in September 2011 as part of the Administration's Campaign to Cut Waste, the Vice President and Secretary Solis unveiled a series of new Department of Labor efforts to reduce improper payments in the UI program and hold States accountable for progress.

[8] See footnote 1.

Moreover, despite the fact that Medicare and Medicaid error rates went down between FYs 2010 and 2011, we are not letting up on our determination to substantially address improper payments in these programs as well. That is why in September 2011, HHS announced its final rule on a new initiative to fight waste in Medicaid, the Medicaid Recovery Audit Contractor Program. This program, created by the Affordable Care Act, is projected to save taxpayers $2.1 billion over the next five years, of which $910 million will be returned to States. The new program is based on the successful Medicare Fee-For-Service Recovery Audit Contractor program, which recaptured $870 million in FYs 2010 and 2011. Innovative approaches such as these are essential as we continue to address those programs with high-error rates, both in the prevention and recapture of improper payments.

Conclusion

I would like to close by emphasizing that this Administration has made combating improper payments within the Federal Government a top priority and we will continue to explore new and innovative ways to reduce, prevent, and recapture improper payments. Improper payments will continue to be a challenge for Federal agencies, but we are proud of the progress we have made so far, and will continue to seek additional ways to address improper payments.

Hopefully, I have given the members of this Subcommittee an understanding of where we are, and where we are headed, to reduce payment errors across the Federal Government. However, our efforts can only go so far. The Congress, the Government Accountability Office, and the agencies' Offices of Inspector General play a critical role in holding agencies accountable for reducing improper payments. By continuing to shed a light on this issue and keeping agencies focused on fixing this problem, I believe we will continue to see real progress. And for our part, the Administration will continue to work through the Campaign to Cut Waste to reinforce a sense of responsibility and accountability for taxpayer dollars and make clear that no amount of waste in our Federal programs is acceptable.

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

H605-41331-79W7 with DISTILLER

VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00057 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE

73-079.013

Testimony of
Sheila O. Conley
Deputy Assistant Secretary for Finance and Deputy Chief Financial Officer
U.S. Department of Health and Human Services
before the
Subcommittee on Federal Financial Management, Government Information, Federal Services and International Security
U.S. Senate Committee on Homeland Security and Governmental Affairs
March 28, 2012

Chairman Carper, Ranking Member Brown, and distinguished Members of the Subcommittee, thank you for the opportunity to testify before you this afternoon about the U.S. Department of Health and Human Services' (HHS or the Department) efforts to reduce improper payments. As Deputy Assistant Secretary for Finance at HHS, as well as its Deputy Chief Financial Officer, one of my responsibilities is leading the Department's efforts to curb, reduce, and recover improper payments in some of the Federal government's largest programs. As you may know, strengthening program integrity is a top priority of Secretary Sebelius, extending to each of our divisions and programs.

In addition, thank you for your leadership in this important financial management area of preventing, identifying, and recovering improper payments. As I will discuss later in my testimony, improper payment estimates help us monitor the programs and take actions to address the root causes of error, and the authority to carry out recovery audits is also helpful as we seek to recover any improper payments that do occur.

As you may know, HHS is the largest department in the Federal government, with Fiscal Year (FY) 2011 outlays of approximately $900 billion, accounting for almost a quarter of all Federal outlays and we are the largest grant-making agency in the Federal Government.

As you might expect, given the overall size of our agency, we have a variety of programs by type and size – from Federal entitlement programs, to block and formula grants to states and other grantees, to funding for disease research and prevention. Among these programs are some of the largest programs in terms of outlays and beneficiaries served across the Federal government, including Medicare and Medicaid. Given our size, as well as the diversity of our portfolio, it is critical that we are committed to the highest standards of program integrity and financial management.

Today, I will describe our commitment and progress in reducing and recovering improper payments to ensure that we are achieving and maintaining the highest standards of financial management, as well as some of our major initiatives to prevent, identify, and recover improper payments moving forward.

Background on Improper Payments

Estimates of improper payment rates are determined annually in an open and transparent process as required by the Improper Payments Information Act (IPIA) of 2002, and amended by the Improper Payments Elimination and Recovery Act (IPERA) of 2010. While improper payments represent a small fraction of total program spending, any amount of improper payment is unacceptable and HHS is aggressively working to reduce these errors. An improper payment can be a payment made to an

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00058 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.014

ineligible recipient, a payment made in the wrong amount, a payment made without proper documentation, duplicate payments, or payments for services not rendered. It is important to note that improper payments are not necessarily fraudulent. While fraud may be one cause, improper payments are not always the result of fraud or necessarily payments for inappropriate claims. Rather, they tend to be an indication of errors made from a variety of circumstances that give us a tool for measuring how effective our internal controls are working in certain programs.

Improper Payment Results

In the FY 2011 Agency Financial Report (AFR), which we released on November 15, 2011, and can be found at http://www.hhs.gov/afr/, HHS reported improper payment estimates for seven risk-susceptible programs (Medicare Fee-For-Service (FFS), Medicare Advantage (Part C), Medicare Prescription Drug Benefit (Part D), Medicaid, Head Start, Child Care Development Fund, and Foster Care). Of the six programs that reported improper payment error rates in the previous year, five improved their performance and reported lower error rates in FY 2011 (the five programs were Medicare FFS, Medicare Part C, Medicaid, Head Start, and the Child Care Development Fund programs). In particular, two of our largest programs decreased their improper payment estimates between FY 2010 and FY 2011:

- Medicare FFS decreased its improper payment rate from 9.1 percent to 8.6 percent, and
- Medicaid lowered its error rate from 9.4 percent to 8.1 percent.

Additionally, in FY 2011 we also reported a composite error rate for the Medicare Part D program for the first time. Due to the size and complexity of this program, it took several years to develop and implement an improper payment measurement. In FY 2011, we reported a baseline error rate of 3.2 percent for the Medicare Part D program, which will allow us to identify root causes of error and formulate corrective actions to address these root causes.

In FY 2012, we expect to report improper payment estimates for the seven programs listed above. In addition, HHS is also on track to report improper payment estimates for an eighth program, the Children's Health Insurance Program (CHIP). As you may know, section 601 of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) required HHS to revise the improper payment methodology used to estimate improper payments in CHIP. Further, CHIPRA prohibited HHS from calculating or publishing any error rates for CHIP until six months after the new final measurement rule is effective, which is why we did not calculate or report estimates for CHIP in recent years. These eight programs collectively account for approximately 88 percent of HHS estimated outlays for FY 2012.

Once we report an error estimate for CHIP, we will have only one risk-susceptible program remaining without an improper payment estimate – the Temporary Assistance for Needy Families (TANF) program. The TANF program has not reported an error rate because statutory limitations prohibit HHS from requiring states to participate in a TANF improper payment measurement. However, we are committed to working with Congress to identify a legislative solution that will allow for a TANF error rate measurement. Until the law can be changed, HHS will continue to work with states to reduce improper payments in the TANF program.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00059 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.015

We recognize that much more work remains to be done to obtain measurements and to prevent, reduce, and recover improper payments, but HHS continues to make progress in addressing improper payments in our programs.

Efforts to Prevent and Reduce Improper Payments

At this point, let me take a step back and describe generally our overall process for driving down our error rates. It's a continuous quality improvement program that starts with measuring and reporting payment error rates for our largest programs based on samples taken of payment information for those programs.

Establishing error rates for a program allows HHS to examine those errors, classify them into error types, and establish corrective action plans that address the root causes of the errors. As we receive new and updated error rates and error type breakdowns, HHS reviews and modifies these corrective action plans, to the extent necessary. These modifications to the corrective action plans can include everything from speeding up the timeline for implementing a corrective action to devising new corrective actions to better address root causes of errors in our programs.

HHS is employing a variety of approaches across our programs to better prevent improper payments before they occur. For example, within our Federal health care programs, HHS is increasing prepayment medical reviews, enhancing analytics, and expanding education and outreach to the provider and supplier communities. Similarly, for many of our human services programs - like Head Start, the Child Care Development Fund, and the Low Income Home Energy Assistance Program – HHS is expanding training and technical assistance for grantees, and issuing guidance on how programs can better determine and verify program eligibility. While HHS has many other corrective actions underway to prevent and reduce improper payments, we believe that the corrective actions that could have the biggest impact on preventing and reducing erroneous payments fall under three distinct areas: leveraging technology, strengthening partnerships, and exploring innovative solutions.

Leveraging Technology

With technology continuing to advance, its expanded use could help us greatly improve our stewardship of Federal resources. While more work remains to be done to identify and implement technological solutions to address improper payments in a financially prudent manner, I believe HHS – with the support of this Subcommittee and others in Congress - has been a government-wide leader in efforts to leverage technology to prevent, detect, and reduce improper payments.

- One technology initiative that you may be familiar with is the Public Assistance Reporting Information System (or PARIS), a Federal-state partnership that provides all fifty states, Washington, D.C., and Puerto Rico detailed information and data to assist them in maintaining program integrity and detecting improper payments in state-administered programs like TANF, Medicaid, the Supplemental Nutrition Assistance Program (formerly known as Food Stamps), Child Care, and Worker's Compensation. Under PARIS, states submit information on beneficiaries to the Federal government, which then matches the records against Federal databases and other states' submissions, and reports back to states on any individuals that may warrant further investigation to determine their continued eligibility for the program. For example, PARIS will flag individuals that are receiving benefits in multiple states, leading to improper payments since a beneficiary cannot receive benefits from multiple

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00060 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.016

states. PARIS is an initiative that has been underway for more than a decade, and provides real value to both taxpayers and Federal and state agencies alike.

- Another, more recent initiative is our use of "predictive modeling" technology – similar to technology used by credit card companies to identify fraudulent charges. While predictive modeling is still relatively new technology at HHS and has not yet reached its full potential, it is already making a difference in our efforts to identify and prevent fraudulent and improper payments in Medicare.

Strengthening Partnerships

Like many other agencies, we recognize that HHS alone cannot prevent and reduce every improper payment. Accordingly, we are placing an increasing emphasis on breaking down barriers between agencies and strengthening partnerships with our Federal, State, and local government colleagues to prevent, reduce, and recapture improper payments.

- One partnership that I would like to highlight is the ongoing relationship that exists between Federal and State or local agencies, and which is a key component of HHS efforts to reduce improper payments. As you know, not every program is directly administered by the Federal government. In fact, many of our programs at HHS – from Foster Care, to TANF, to the Child Care Development Fund – are jointly funded by the Federal government and States, and administered by States or local governments. Accordingly, to address improper payments in these programs, the Federal government must work with State agencies to identify root causes and implement corrective actions. This type of intra-governmental coordination is occurring across HHS programs and each year HHS further strengthens its relationships with the States in an effort to reduce improper payments in State-administered programs. I believe we are starting to see these efforts pay off, as evidenced by the improved improper payment performance during FY 2011 in programs like Medicaid and the Child Care Development Fund that are administered by State or local governments.
- A second partnership that I would like to highlight is one with our Office of Inspector General (OIG). We are working with the OIG to identify opportunities and leverage their experiences to help strengthen program integrity across HHS.
- Finally, the third partnership that I would like to mention, even though it focuses more on fraud than improper payments, is the Medicare Fraud Strike Force initiative, which is part of the Health Care Fraud Prevention & Enforcement Action Team (HEAT) in which the Secretary has been personally involved. HEAT is a joint initiative announced in May 2009 between the Department of Justice and HHS to focus their efforts to prevent and deter fraud and enforce anti-fraud laws around the country. This initiative has been very successful in helping to identify and prevent fraud, stop and charge wrong-doers, and recover important Federal resources, all of which are important components of reducing and recouping improper payments.

Exploring Innovative Solutions

While I believe that our efforts to leverage technology and to strengthen partnerships are helping to address improper payments, it's also important that we continue to explore innovative new ways to further improve our efforts.

- Last fall, the Department announced that it is implementing three new Medicare FFS demonstrations that aim to further reduce Medicare FFS improper payments by focusing on error prone areas. The first

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00061 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.017

allows hospitals to rebill for 90 percent of the outpatient payment when an inpatient claim is denied because the services were provided in the wrong setting. The second demonstration will implement prior authorization for power wheelchairs for beneficiaries residing in certain states. The third demonstration will allow the Medicare FFS recovery auditors to review certain hospital claims prior to payment, rather than after payment as they do in their traditional recovery auditing efforts. One demonstration is already underway, while the other two will begin later this year.

- A second example of our efforts to identify innovative solutions is the Department's work with the Partnership Fund for Program Integrity Innovation (Partnership Fund) that is administered by the Office of Management and Budget. The Partnership Fund seeks innovative ideas for improving the stewardship of Federal dollars – including reducing improper payments – among programs that are Federally- and State-administered. After identifying proposals to improve the stewardship of Federal funds, the Partnership Fund will then fund pilot projects and evaluations that test ideas for improving Federal programs. The Partnership Fund has recently selected two pilots related to the prevention of improper payments in Medicaid.

Efforts to Recover Improper Payments

Recovery Audit Programs

While our highest priority is to make correct payments on the front end, HHS is also aggressively working to recover improper payments when they do occur. One of the ways that we recapture improper payments is through the use of recovery audit contractors. These are specialized auditors, paid on a contingency fee basis, that review payments made to providers and suppliers that bill Medicare. The recovery audit contractors identify and correct improper payments, both overpayments and underpayments. The Medicare FFS recovery audit program has been very successful in this effort. As you know, the Medicare FFS recovery audit program began as a demonstration project required by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. Congress subsequently expanded the FFS recovery audit program in the Tax Relief and Health Care Act of 2006, directing HHS to implement a national recovery audit program in Medicare FFS by January 1, 2010. FY 2010 was the first year of the national FFS recovery audit program, and HHS and the four regional contractors spent much of the year implementing the new national program and positioning it for future success. In FY 2011, the recovery auditors focused their reviews on short hospital stays and claims for durable medical equipment, which were identified through error measurements and auditor reviews as more prone to improper payments than other services and claim types and recovered $797.4 million in overpayments to providers and suppliers. FY 2011 recoveries were many times greater than the recoveries in the implementation year of FY 2010, when $75.4 million in over-payments were recovered.

In addition to identifying improper payments, the recovery auditors also help identify areas where policy changes, systems changes, and provider education and outreach can help prevent future improper payments. HHS continues to monitor the FFS recovery audit program and makes continuous improvements to activities, such as the appeal process, feedback to providers, and systems. HHS expects that implementation of certain corrective actions will lower collections for some types of claims; however, collections will remain stable or increase slightly as recovery auditors continue to expand their reviews to other claim types.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00062 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.018

In addition to the Medicare FFS recovery audit program, the Affordable Care Act expanded the recovery audit program to Medicare Parts C and D and required states to establish Medicaid recovery audit programs. We are currently establishing and implementing these new recovery audit programs, and are drawing from the lessons learned during the Medicare FFS recovery audit pilot and national program as we do so. In December 2010, HHS sought public comment on innovative strategies for the review of Medicare Part C data as part of the recovery audit implementation strategy. Taking these comments into consideration, HHS is currently developing its strategy to efficiently and effectively implement the Part C recovery audit program. In addition, in January 2011, HHS awarded its first Medicare Part D recovery audit contract, and is currently working with the contractor to determine priority areas.

As mentioned earlier, the Affordable Care Act also expanded the recovery audit program to Medicaid, and states were required to have their recovery audit programs in place by January 1, 2012. HHS' website provides basic information to the public and interested stakeholders about each state's recovery audit program. Over the next five years, we project that the Medicaid recovery audit contractor effort will save the Medicaid program $2.1 billion, of which $910 million will be returned to the states. As we stand up these new recovery audit programs in Medicare and Medicaid, we will report information on the results and lessons learned from these recovery audit programs in our annual AFR and other documents.

Just as the Medicare FFS recovery audit program helped inform the expansion of our recovery audit programs to Medicare Part C, Medicare Part D, and Medicaid under the Affordable Care Act, we also expect the lessons learned from this expansion of recovery audits to provide insight on how to most effectively implement the expanded recovery audits authorized under IPERA in other HHS programs. Many HHS programs are administered by states and other grantees. The work that states will undertake in establishing and operating Medicaid recovery audit programs will help inform efforts in other joint Federal-state and grant programs. While HHS continues to develop the best approach to expanding recovery audits under IPERA, we believe we will be able to draw upon the lessons learned from our ongoing recovery audit programs.

Other Payment Recovery Efforts

In addition to the recovery audit programs, HHS also undertakes other recovery activities, including recoveries from single audits, post-payment reviews, Office of Inspector General reviews, Medicare contractors and recoveries from improper payment sampling activities. These recoveries cumulatively amounted to more than $10 billion in FY 2011, which was reported in HHS' FY 2011 AFR. While it is imperative to prevent improper payments from occurring, HHS will continue to focus on aggressively recovering improper payments – through recovery audits, single audits, and other activities - whenever they do occur.

Future Efforts

HHS has demonstrated a longstanding commitment to measuring, reducing, and preventing improper payments. We have published an error rate for Medicare FFS since FY 1996, which was one of the first error rates published across government. HHS has also reported Foster Care and Head Start error rates since FY 2004, and has developed improper payment measurements for other programs like Child Care and Medicare Part D. This commitment is taken seriously and shared throughout the Department. For example, HHS management performance plan objectives hold agency managers, beginning with

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00063 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.019

leadership and cascading down through HHS Senior Executives (including component heads) to the lowest accountable program official, responsible for achieving progress on this important area. As part of the semi-annual and annual performance evaluation, HHS Senior Executives and program officials are evaluated on the progress the agency achieves toward this and other goals.

While HHS has made progress in reducing improper payments, we acknowledge that more work remains. Reducing waste and errors across our Departmental programs will allow us to target taxpayer funds to provide important health care and human services for our beneficiaries and the individuals that benefit from our programs. I am confident that the systems controls and ongoing corrective actions that HHS is undertaking across our programs will result in continued reductions in improper payments.

We look forward to working with this Subcommittee, our Federal and state partners – including the Office of Management and Budget, the HHS Office of Inspector General, and the Government Accountability Office - on these important issues as we work together to bring value to taxpayer dollars as they are used to operate these important programs.

Thank you for the opportunity to testify and I would be happy to answer any questions you may have.

H605-41331-79W7 with DISTILLER

VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00064 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE

73-079.020

United States Government Accountability Office

GAO

Testimony

Before the Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, Committee on Homeland Security and Governmental Affairs, U.S. Senate

For Release on Delivery
Expected at 2:30 p.m. EDT
Wednesday, March 28, 2012

IMPROPER PAYMENTS

Remaining Challenges and Strategies for Governmentwide Reduction Efforts

Statement of Beryl H. Davis, Director
Financial Management and Assurance

GAO-12-573T

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00065 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.021

GAO
Accountability * Integrity * Reliability

Highlights

Highlights of GAO-12-573T, a testimony before the Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, Committee on Homeland Security and Governmental Affairs, U.S. Senate

March 28, 2012

IMPROPER PAYMENTS

Remaining Challenges and Strategies for Governmentwide Reduction Efforts

Why GAO Did This Study

Over the past decade, GAO has issued numerous reports and testimonies highlighting improper payment issues across the federal government as well as at specific agencies. Fiscal year 2011 marked the eighth year of implementation of the Improper Payments Information Act of 2002 (IPIA), as well as the first year of implementation for the Improper Payments Elimination and Recovery Act of 2010 (IPERA). IPIA requires executive branch agencies to annually identify programs and activities susceptible to significant improper payments, estimate the amount of improper payments for such programs and activities, and report these estimates along with actions taken to reduce them. IPERA amended IPIA and expanded requirements for recovering overpayments across a broad range of federal programs.

This testimony addresses (1) federal agencies' reported progress in estimating and reducing improper payments; (2) challenges in meeting current requirements to estimate and evaluate improper payments, including the results of GAO's case study of the estimation methodology and corrective actions for the Foster Care program; and (3) possible strategies that can be taken to move forward in reducing improper payments. This testimony is primarily based on prior GAO reports, including the report released today on improper payment estimates in the Foster Care program. It also includes unaudited improper payment information recently presented in federal entities' fiscal year 2011 performance and accountability reports and agency financial reports.

View GAO-12-573T. For more information, contact Beryl H. Davis at (202) 512-2623 or davisbh@gao.gov.

What GAO Found

Federal agencies reported an estimated $115.3 billion in improper payments in fiscal year 2011, a decrease of $5.3 billion from the prior year reported estimate of $120.6 billion. According to the Office of Management and Budget (OMB), the $115.3 billion estimate was attributable to 79 programs spread among 17 agencies. Ten programs accounted for about $107 billion or 93 percent of the total estimated improper payments agencies reported. The reported decrease in fiscal year 2011 was primarily related to 3 programs—decreases in program outlays for the Unemployment Insurance program, and decreases in reported error rates for the Earned Income Tax Credit program and the Medicare Advantage program. Further, OMB reported that agencies recaptured $1.25 billion in improper payments to contractors and vendors.

The federal government continues to face challenges in determining the full extent of improper payments. Some agencies have not reported estimates for all risk-susceptible programs, while other agencies' estimation methodologies were found to be not statistically valid. For example, GAO's recently completed study of Foster Care improper payments found that the Administration for Children and Families (ACF) had established a process to calculate a national improper payment estimate for the Foster Care program, which totaled about $73 million for fiscal year 2010, the year covered by GAO's review. However, the estimate was not based on a statistically valid methodology and consequently did not provide a reasonably accurate estimate of the extent of Foster Care improper payments. Further, GAO found that ACF could not reliably assess the extent to which corrective actions reduced Foster Care improper payments.

A number of strategies are under way across government to help advance improper payment reduction goals. For example,

- Additional information and analysis on the root causes of improper payment estimates will assist agencies in targeting effective corrective actions and implementing preventive measures. Although agencies were required to report the root causes of improper payments in three categories beginning in fiscal year 2011, of the 79 programs with improper payment estimates that year, 42 programs reported the root cause information using the required categories.
- Implementing strong preventive controls can help defend against improper payments, increasing public confidence and avoiding the difficult "pay and chase" aspects of recovering improper payments. Preventive controls involve activities such as up-front validation of eligibility using data sharing, predictive analytic technologies, and training programs. Further, addressing program design issues, such as complex eligibility requirements, may also warrant further consideration.
- Effective detection techniques to quickly identify and recover improper payments are also important to a successful reduction strategy. Detection activities include data mining and recovery auditing. Another area for further exploration is the broader use of incentives to encourage states in efforts to implement effective detective controls.

Continuing work to implement and enhance these strategies will be needed to effectively reduce federal government improper payments.

United States Government Accountability Office

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00066 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.022

Chairman Carper, Ranking Member Brown, and Members of the Subcommittee:

Thank you for the opportunity to be here today to discuss the issue of improper payments in federal programs and activities, including efforts by federal agencies to identify and reduce improper payments.[1] As the steward of taxpayer dollars, the federal government is accountable for how its agencies and grantees spend hundreds of billions of taxpayer dollars annually, including safeguarding those expenditures against improper payments, and establishing mechanisms to recover any overpayments. It is important to note that not all of the reported improper payment estimates represent a loss to the government. For example, such estimates include payments where there is insufficient documentation or a lack of documentation. Over the past decade, we have issued numerous reports and testimonies highlighting improper payment issues across the federal government as well as at specific agencies.[2] As requested by the Subcommittee, we recently completed our study of the improper payment estimation methodology and related corrective actions for the Department of Health and Human Services' (HHS) Foster Care program administered by the Administration for Children and Families (ACF).[3]

[1]It is important to recognize that improper payment estimates reported by federal agencies in fiscal year 2011 are not intended to be an estimate of fraud in federal agencies' programs and activities. An improper payment is defined as any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. It includes any payment to an ineligible recipient, any payment for an ineligible good or service, any duplicate payment, payment for a good or service not received (except for such payments where authorized by law), and any payment that does not account for credit for applicable discounts. Office of Management and Budget guidance also instructs agencies to report as improper payments any payments for which insufficient or no documentation was found.

[2]See the Related GAO Products list at the end of this statement for a selection of the products related to these issues.

[3]GAO, *Foster Care Program: Improved Processes Needed to Estimate Improper Payments and Evaluate Related Corrective Actions*, GAO-12-312 (Washington, D.C.: Mar. 7, 2012).

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00067 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.023

Today, my testimony will focus on

- federal agencies' reported progress in estimating and reducing improper payments;
- challenges in meeting current requirements to estimate and evaluate improper payments, including those identified through our case study of the estimation methodology used by HHS's Foster Care program;[4] and
- possible improper payment reduction strategies.

In preparing this statement, we drew primarily upon previously issued work related to (1) our fiscal year 2011 audit of the *Financial Report of the United States Government*,[5] (2) our report released today on improper payment estimates at HHS's Foster Care program,[6] and (3) our other previously issued products dealing with improper payments. Our previous products are listed at the end of this statement. That work was conducted in accordance with generally accepted government auditing standards. We are also including unaudited improper payment information that federal entities reported in their fiscal year 2011 performance and accountability reports (PAR), agency financial reports (AFR), or other annual reporting.

Background

Improper Payments Information Act of 2002

Fiscal year 2011 marked the eighth year of implementation of the Improper Payments Information Act of 2002 (IPIA),[7] as well as the first year of implementation for the Improper Payments Elimination and Recovery Act of 2010 (IPERA).[8] IPIA requires executive branch agencies

[4]GAO-12-312.

[5]Department of the Treasury, *2011 Financial Report of the United States Government* (Washington, D.C.: Dec. 23, 2011), 211-231.

[6]GAO-12-312.

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

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

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00068 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.024

to annually review all programs and activities to identify those that are susceptible to significant improper payments, estimate the annual amount of improper payments for such programs and activities, and report these estimates along with actions taken to reduce improper payments for programs with estimates that exceed $10 million. IPERA, enacted July 22, 2010, amended IPIA by expanding on the previous requirements for identifying, estimating, and reporting on programs and activities susceptible to significant improper payments and expanding requirements for recovering overpayments across a broad range of federal programs.[9] IPERA included a new, broader requirement for agencies to conduct recovery audits, where cost effective, for each program and activity with at least $1 million in annual program outlays. This IPERA provision significantly lowers the threshold for required recovery audits from $500 million[10] to $1 million and expands the scope for recovery audits to all programs and activities. Another IPERA provision calls for federal agencies' inspectors general to annually determine whether their respective agencies are in compliance with key IPERA requirements and to report on their determinations. Under Office of Management and Budget (OMB) implementing guidance, federal agencies are required to complete these reports within 120 days of the publication of their annual PARs or AFRs, with the fiscal year 2011 reports for most agencies due on March 15, 2012.

OMB continues to play a key role in the oversight of the governmentwide improper payments issue. OMB has established guidance for federal

[9]IPERA defines "significant improper payments" as gross annual improper payments in the program exceeding (1) both 2.5 percent of program outlays and $10 million of all program or activity payments during the fiscal year reported or (2) $100 million (regardless of the improper payment error rate). Further, the threshold for "significant improper payments" will be reduced for fiscal year 2014 and each year thereafter to gross annual improper payments in the program exceeding (1) both 1.5 percent of program outlays and $10 million of all program or activity payments during the fiscal year reported or (2) $100 million (regardless of the improper payment error rate).

[10]Section 831 of the National Defense Authorization Act for Fiscal Year 2002, Pub. L. No. 107-107, div. A, 115 Stat. 1012, 1186 (Dec. 28, 2001), required that agencies that enter into contracts with a total value in excess of $500 million in a fiscal year carry out a cost-effective program for identifying and recovering amounts erroneously paid to contractors. IPERA repealed these requirements.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00069 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.025

agencies on reporting, reducing, and recovering improper payments[11] and has established various work groups responsible for developing recommendations aimed at improving federal financial management activities related to reducing improper payments.

HHS's Foster Care Program

Each year, hundreds of thousands of our nation's most vulnerable children are removed from their homes and placed in foster care, often because of abuse or neglect. While states are primarily responsible for providing safe and stable out-of-home care for these children until they are returned safely home, placed with adoptive families, or placed in other arrangements, Title IV-E of the Social Security Act provides states some federal financial support in this area.[12] ACF under HHS is responsible for administering this program and overseeing Title IV-E funds. HHS's reported fiscal year 2010 outlays to states for their Foster Care programs under Title IV-E totaled more than $4.5 billion, serving over 408,000 children, as of September 30, 2010, the most recent data available at the time of our study.

Past work by the HHS Office of Inspector General (OIG), GAO, and others have identified numerous deficiencies in state claims associated with the Title IV-E Foster Care program. In particular, the HHS OIG found hundreds of millions of dollars in unallowable claims associated with Title IV-E funding.[13] A 2006 GAO report also found variations in costs states claimed under the Title IV-E program and recommended a number of

[11]OMB Circular No. A-136 Revised, *Financial Reporting Requirements* (Oct. 27, 2011); OMB Memorandum M-11-16, *Issuance of Revised Parts I and II to Appendix C of OMB Circular A-123* (Apr. 14, 2011); OMB Memorandum M-11-04, *Increasing Efforts to Recapture Improper Payments by Intensifying and Expanding Payment Recapture Audits* (Nov. 16, 2010); and OMB Memorandum M-10-13, *Issuance of Part III to OMB Circular A-123, Appendix. C* (Mar. 22, 2010).

[12]Codified, as amended, at 42 U.S.C. §§ 670-679c.

[13]Examples of HHS OIG reports include the following: HHS OIG, *Audit of Allegheny County Title IV-E Foster Care Claims From October 1997 Through September 2002*, A-03-08-00554 (Jan. 4, 2011); *Review of Title IV-E Foster Care Costs Claimed on Behalf of Delinquent Children in Georgia*, A-04-07-03519 (June 17, 2010); *Review of California's Title IV-E Claims for Payments Made by Los Angeles County to Foster Homes of Relative Caregivers*, A-09-06-00023 (Oct. 2, 2009); and *Philadelphia County's Title IV-E Claims Based on Contractual Per Diem Rates of $300 or Less for Foster Care Services from October 1997 Through September 2002*, A-03-07-00560 (May 19, 2008).

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00070 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.026

actions HHS should take to better safeguard federal resources.[14] In addition, annual state-level audits have identified weaknesses in states' use of federal funds, such as spending on unallowed activities or costs and inadequate state monitoring of federal funding.[15]

As required under IPIA, as amended, HHS has identified the Foster Care program as susceptible to significant improper payments, and has reported annually on estimated improper payment amounts for the program since 2005.[16] For fiscal year 2010, HHS reported estimated improper payments for Foster Care of about $73 million. The reported estimate slightly decreased to about $72 million for fiscal year 2011.

OMB and Agencies Reported Progress in Estimating and Reducing Improper Payments

Federal agencies reported improper payment estimates totaling $115.3 billion in fiscal year 2011, a decrease of $5.3 billion from the revised prior year reported estimate of $120.6 billion.[17] Based on the agencies' estimates, OMB estimated that improper payments comprised about 4.7 percent of the $2.5 trillion in fiscal year 2011 total spending for the agencies' related programs (i.e., a 4.7 percent error rate). The decrease in the fiscal year 2011 estimate—when compared to fiscal year 2010—is attributed primarily to decreases in program outlays for the Department of Labor's (Labor) Unemployment Insurance program, and decreases in

[14]GAO, *Foster Care and Adoption Assistance: Federal Oversight Needed to Safeguard Funds and Ensure Consistent Support for States' Administrative Costs*, GAO-06-649 (Washington, D.C.: June 15, 2006).

[15]Examples of state-level audit reports include the following: California State Auditor, *State of California Internal Control and State and Federal Compliance Audit Report for the Fiscal Year Ended June 30, 2010* (Sacramento, Calif.: Mar. 29, 2011); KPMG, *Government of the District of Columbia Schedule of Expenditures of Federal Awards and Reports Required by Government Auditing Standards and OMB Circular A-133, Year Ended September 30, 2010* (Washington, D.C.: Jan. 27, 2011); and State of Indiana, State Board of Accounts, *State of Indiana Single Audit Report July 1, 2009 to June 30, 2010* (Indianapolis, Ind.: Feb. 25, 2011).

[16]In its fiscal year 2005 PAR, HHS reported an improper payment estimate for the Foster Care program for fiscal years 2004 and 2005. According to HHS, the fiscal year 2004 error rate had not been finalized prior to the issuance of its fiscal year 2004 PAR, and thus was not reported in that publication.

[17]In their fiscal year 2011 PARs and AFRs, select federal entities updated their fiscal year 2010 improper payment estimates to reflect changes since issuance of their fiscal year 2010 reports. These updates decreased the governmentwide improper payment estimate for fiscal year 2010 from $125.4 billion to $120.6 billion. Estimated improper payment amounts for fiscal years 2011 and 2010 may include estimates based on prior years' data, if current reporting year data were not available, as allowed by OMB guidance.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00071 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.027

reported error rates for fiscal year 2011 for the Department of the Treasury's (Treasury) Earned Income Tax Credit program, and HHS's Medicare Advantage program.

According to OMB, the $115.3 billion in estimated federal improper payments reported for fiscal year 2011 was attributable to 79 programs spread among 17 agencies. Ten of these 79 programs account for most of the $115.3 billion of reported improper payments. Specifically, these 10 programs accounted for about $107 billion or 93 percent of the total estimated improper payments agencies reported for fiscal year 2011. Table 1 shows the reported improper payment estimates and the reported primary cause(s) for the estimated improper payments for these 10 programs.

Table 1: Improper Payment Dollar Estimates: 10 Programs with the Highest Reported Amounts in Fiscal Year 2011

		Reported improper payment estimates		
Program	**Agency**	**Dollars (in billions)**	**Error rate (percentages)**	**Reported primary cause(s)**
Medicare Fee-for-Service	Department of Health and Human Services	$28.8	8.6	Medically unnecessary services and insufficient documentation
Medicaid	Department of Health and Human Services	21.9	8.1	Ineligible or indeterminable eligibility status for Medicaid beneficiaries
Earned Income Tax Credit	Department of the Treasury	15.2	23.5	Complexity of the tax law, structure of the program, confusion among eligible claimants, high turnover of eligible claimants, and unscrupulous return preparers
Unemployment Insurance	Department of Labor	13.7	12.0	Overpayment to claimants who continue to claim benefits after they return to work, ineligibility, and claimants who failed to meet active work search requirements
Medicare Advantage	Department of Health and Human Services	12.4	11.0	Insufficient documentation, errors in the transfer and interpretation of data, and payment calculations
Supplemental Security Income	Social Security Administration	4.6	9.1	Recipients failed to provide accurate and timely reports of new or increased wages

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00072 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.028

Program	Agency	Reported improper payment estimates		Reported primary cause(s)
		Dollars (in billions)	Error rate (percentages)	
Old Age Survivors' and Disability Insurance	Social Security Administration	4.5	0.6	Computation errors, eligibility errors, non-verification of earnings, and incorrect processing of applications or payments
Supplemental Nutrition Assistance	Department of Agriculture	2.5	3.8	Incomplete or inaccurate reporting of income by participant and incorrect eligibility determination by caseworkers
National School Lunch	Department of Agriculture	1.7	16.0	Verification errors related to benefit calculation error, duplicate payments, insufficient documentation, and fraud or misrepresentation by program participants or others
Medicare Prescription Drug Benefit	Department of Health and Human Services	1.7	3.2	Payment errors, payment adjustment errors, and complexity of program

Source: GAO analysis of agencies' PARs and AFRs for fiscal year 2011.

While the programs identified in the table above represented the largest dollar amounts of improper payments, 4 of these programs also had some of the highest program improper payment error rates.[18] As shown in table 2, the 10 programs with the highest error rates accounted for $45 billion, or 39 percent of the total estimated improper payments, and had rates ranging from 11.0 percent to 28.4 percent for fiscal year 2011.

[18]The four programs with both the highest dollar estimates and highest error rates were the Earned Income Tax Credit, Unemployment Insurance, Medicare Advantage, and National School Lunch programs.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00073 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.029

Table 2: Improper Payment Error Rates: 10 Programs with the Highest Reported Rates in Fiscal Year 2011

Program	Agency	Reported improper payment estimates		Reported primary cause(s)
		Error rate (percentages)	Dollars (in millions)	
Disaster Assistance Loans	Small Business Administration	28.4%	$96.3	Loan documentation errors
School Breakfast	Department of Agriculture	25.0%	$705.0	Authentication and administrative errors, including authenticating the accuracy of qualifying for program specific requirements, criteria, or conditions
Earned Income Tax Credit	Department of the Treasury	23.5%	$15,200.0	Complexity of the tax law, structure of the program, confusion among eligible claimants, high turnover of eligible claimants, and unscrupulous return preparers
National School Lunch	Department of Agriculture	16.0%	$1,716.0	Verification errors related to benefit calculation error, duplicate payments, insufficient documentation, and fraud or misrepresentation by program participants or others
State Home Per Diem Grants	Department of Veterans Affairs	13.7%	$97.6	Documentation and administrative errors related to ineligible recipients, noncompliance with policies and procedures, incorrect amounts, ineligible goods, and lack of documentation
Supplies and Materials	Department of Veterans Affairs	13.6%	$221.1	Documentation and administrative errors related to noncompliance with policies and procedures, lack of documentation, ineligible goods, incorrect amounts, and discounts not taken
Non-VA Care Fee	Department of Veterans Affairs	12.4%	$522.9	Verification and documentation and administrative errors related to incorrect application of payment methodologies, lack of documentation, lack of authorization, and data entry errors
Unemployment Insurance	Department of Labor	12.0%	$13,697.0	Overpayment to claimants who continue to claim benefits after they return to work, ineligibility, and claimants who failed to meet active work search requirements
Child Care and Development Fund	Department of Health and Human Services	11.2%	$638.0	Documentation and administrative errors caused by missing or insufficient documentation

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00074 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.030

Program	Agency	Reported improper payment estimates		Reported primary cause(s)
		Error rate (percentages)	Dollars (in millions)	
Medicare Advantage	Department of Health and Human Services	11.0%	$12,390.0	Insufficient documentation, errors in the transfer and interpretation of data, and payment calculation errors

Source: GAO analysis of agencies' PARs and AFRs for fiscal year 2011.

Since the implementation of IPIA in 2004, federal agencies have worked to identify new programs or activities as risk-susceptible and report estimated improper payment amounts. The fiscal year 2011 governmentwide estimate of $115.3 billion included improper payment estimates for nine additional programs that did not report an estimate in fiscal year 2010, with the HHS Medicare Prescription Drug Benefit (Part D) program having the highest dollar estimate of the newly included programs. We view these agencies' efforts as a positive step toward increasing the transparency of the magnitude of improper payments across the federal government. However, OMB did not include three additional programs providing estimates in fiscal year 2011 in the governmentwide totals because their estimation methodologies were still under development. The three excluded programs were the Department of Education's (Education) Direct Loan, Department of Defense's (DOD) Defense Finance and Accounting Service Commercial Pay, and DOD's U.S. Army Corps of Engineers Commercial Pay.

A number of federal agencies have reported progress in reducing improper payment error rates in some of their programs and activities. For example, we identified 40 federal agency programs, or about 50 percent of the total programs reporting improper payment estimates in fiscal year 2011, that reported a reduction in the error rate of estimated improper payments in fiscal year 2011 when compared to fiscal year 2010 error rates. However, these rates have not been independently verified or audited. The following are examples of agencies that reported reductions in program error rates and estimated improper payment amounts (along with corrective actions to reduce improper payments) in their fiscal year 2011 PARs, AFRs, or annual reports.

- Treasury reported that the fiscal year 2011 Earned Income Tax Credit (EITC) program's estimated improper payment amount decreased from the fiscal year 2010 amount of $16.9 billion to $15.2 billion, which represented a decrease in the error rate from 26.3 percent to 23.5 percent. Treasury reported that corrective actions taken to reduce improper payments primarily focused on completing examinations of tax returns that claimed the EITC before issuing the

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00075 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.031

EITC portion of the refund, identifying math or other statistical irregularities in taxpayer returns, and comparing income information provided by the taxpayer with matching information from employers to identify discrepancies.

- HHS reported that the fiscal year 2011 estimated improper payment amount for the Medicare Advantage (Part C) program decreased from the fiscal year 2010 reported amount of $13.6 billion to $12.4 billion, which represented a decrease in the error rate from 14.1 percent to 11.0 percent. HHS reported that it reduced payment errors by continuing to routinely implement controls in its payment system to ensure accurate and timely payments, and implementing three key initiatives—contract-level audits, physician outreach, and Medicare Advantage organization guidance and training.

In addition, agencies have further developed the use of recovery audits to recapture improper payments. In 2010, the President set goals, as part of the Accountable Government Initiative, for federal agencies to reduce overall improper payments by $50 billion, and recapture at least $2 billion in improper contract payments and overpayments to healthcare providers, by the end of fiscal year 2012. For fiscal year 2011, OMB reported that governmentwide agencies recaptured $1.25 billion in improper payments to contractors and vendors. Over half of this amount, $797 million, can be attributed to the Medicare recovery audit contractor program, which identifies improper Medicare payments—both overpayments and underpayments—in all 50 states. Cumulatively, OMB reported $1.9 billion recaptured from improper payments to contractors, vendors, and healthcare providers for fiscal years 2010 and 2011 towards the President's goal of recapturing at least $2 billion by the end of fiscal year 2012.

Governmentwide Challenges to Estimating and Evaluating Improper Payments

Despite reported progress in reducing estimated improper payment amounts and error rates for some programs and activities during fiscal year 2011, the federal government continues to face challenges in determining the full extent of improper payments. Specifically, some agencies have not yet reported estimates for all risk-susceptible programs, and some agencies' estimating methodologies need to be refined. Until federal agencies are able to implement effective processes to completely and accurately identify the full extent of improper payments and implement appropriate corrective actions to effectively reduce improper payments, the federal government will not have reasonable assurance that the use of taxpayer funds is adequately safeguarded. In this regard, at the request of this Subcommittee, we recently completed

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00076 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.032

our review of the improper payment estimation methodology used by HHS's Foster Care program. As discussed in our report released today,[19] we found that the Foster Care program's improper payment estimation methodology was deficient in all three key areas—planning, selection, and evaluation—and consequently did not result in a reasonably accurate estimate of the extent of Foster Care improper payments. Further, the validity of the reporting of reduced Foster Care program error rates was questionable, and we found that several weaknesses impaired ACF's ability to assess the effectiveness of corrective actions to reduce improper payments.

Challenges in Developing Improper Payment Estimates

We found that not all agencies have developed improper payment estimates for all of the programs and activities they identified as susceptible to significant improper payments. Specifically, three federal entities did not report fiscal year 2011 estimated improper payment amounts for four risk-susceptible programs.[20] In one example, HHS's fiscal year 2011 reporting cited statutory limitations for its state-administered Temporary Assistance for Needy Families (TANF) program,[21] that prohibited it from requiring states to participate in developing an improper payment estimate for the TANF program. Despite these limitations, HHS officials stated that they will continue to work with states and explore options to allow for future estimates for the program. For fiscal year 2011, the TANF program reported outlays of about $17 billion. For another program, HHS cited the Children's Health Insurance Program Reauthorization Act of 2009[22] as prohibiting HHS from calculating or publishing any national or state-specific payment error rates for the Children's Health Insurance Program (CHIP) until 6 months after the new payment error rate measurement rule became effective on September 10, 2010. According to its fiscal year 2011 agency financial

[19] GAO-12-312.

[20] The four risk-susceptible programs that did not report a required improper payments estimate for fiscal year 2011 were the Department of Education's Federal Family Education Loan, Federal Communications Commission's Interstate Telecommunications Relay Services Fund, and HHS's Children's Health Insurance Program and Temporary Assistance for Needy Families programs.

[21] The term state-administered refers to federal programs that are managed on a day-to-day basis at the state level to carry out program objectives.

[22] Pub. L. No. 111-3, 123 Stat. 8 (Feb. 4, 2009).

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00077 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.033

report, HHS plans to report estimated improper payment amounts for CHIP in fiscal year 2012. For fiscal year 2011, HHS reported federal outlays of about $9 billion for CHIP.

As previously mentioned, OMB excluded estimated improper payment amounts for two DOD programs from the governmentwide total because those programs were still developing their estimating methodologies—Defense Finance and Accounting Service (DFAS) Commercial Pay,[23] with fiscal year 2011 outlays of $368.5 billion, and U.S. Army Corps of Engineers Commercial Pay, with fiscal year 2011 outlays of $30.5 billion. In DOD's fiscal year 2011 agency financial report, DOD reported that improper payment estimates for these programs were based on improper payments detected through various pre-payment and post-payment review processes rather than using methodologies similar to those used for DOD's other programs, including statistically valid random sampling or reviewing 100 percent of payments.

Both GAO[24] and the DOD Inspector General (IG)[25] have previously reported on weaknesses in DOD's payment controls, including weaknesses in its process for assessing the risk of improper payments and reporting estimated amounts. DOD's payment controls are hindered by inadequate payment processing controls, poor financial systems, and inadequate supporting documentation. The DOD IG reported in March 2011 that deficiencies in a key component of this process could lead to erroneously categorizing a high percentage of potential improper payments as proper.[26] Further, the DOD IG reported that DOD's risk of making improper payments was high and identified deficiencies in DOD's estimate of high-dollar overpayments that caused it to underreport its

[23]DOD refers to payments to contractors and vendors collectively as commercial payments.

[24]GAO, *DOD Financial Management: Weaknesses in Controls over the Use of Public Funds and Related Improper Payments*, GAO-11-950T (Washington, D.C.: Sept. 22, 2011), and *Improper Payments: Significant Improvements Needed in DOD's Efforts to Address Improper Payment and Recovery Auditing Requirements*, GAO-09-442 (Washington, D.C.: July 29, 2009).

[25]DOD Inspector General, *DOD Needs to Improve High Dollar Overpayment Review and Reporting*, D-2011-050 (Arlington, Va.: Mar. 16, 2011).

[26]DOD Inspector General, *DOD Needs to Improve High Dollar Overpayment Review and Reporting*.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00078 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.034

improper payments.[27] Until DOD fully and effectively implements a statistically valid estimating process for its commercial payments and addresses the known control deficiencies in its commercial payment processes, the governmentwide improper payment estimates will continue to be incomplete. We are currently working on an engagement related to improper payment reporting at DOD.

For fiscal year 2011, two agency auditors reported on compliance issues with IPIA and IPERA as part of their 2011 financial statement audits. Specifically, the Department of Agriculture (USDA) auditors identified noncompliance with the requirements of IPERA regarding the design of program internal controls related to improper payments. In the other noncompliance issue, while for fiscal year 2011 HHS estimated an annual amount of improper payments for some of its risk-susceptible programs, a key requirement of IPIA, it did not report an improper payment estimate for its TANF program and CHIP. Fiscal year 2011 marked the eighth consecutive year that auditors for HHS reported noncompliance issues with IPIA.

We recognize that measuring improper payments for federal programs and designing and implementing actions to reduce or eliminate them are not simple tasks, particularly for grant programs that rely on administration efforts at the state level. The estimation methodologies for these types of programs may vary considerably because of differences in program designs across the states. For example, as I will discuss in more detail later in this statement, the Foster Care program leveraged an existing process to estimate improper payments that included a review of a child's eligibility for Title IV-E federal funding as claimed by the states administering the program. In another example, the improper payment estimate for HHS's Medicaid program is based on the results of three different reviews—eligibility, fee-for-service, and managed care—of claims payments made by states to health care providers. The fee-for-service and managed care reviews both include a data processing review to validate that claims were processed correctly. The fee-for-service review also includes a medical necessity determination. The eligibility

[27]DOD Inspector General, *DOD Needs to Improve High Dollar Overpayment Review and Reporting*. The IG report stated that DFAS and the Army Corps of Engineers did not review all payment systems for high-dollar overpayments. DFAS did not review approximately $2.2 billion in payments from five entitlement systems and the Corps of Engineers did not complete a timely review of $7.3 billion of commercial payments.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00079 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.035

review identifies payments made for services to beneficiaries that were improperly paid because of erroneous eligibility decisions. We are currently working on an engagement related to improper payment reporting for the Medicaid program. Because of these state differences and complexities within programs, as we previously reported,[28] communication, coordination, and cooperation among federal agencies and the states will be critical to effectively estimate national improper payment rates and meet IPIA reporting requirements for state-administered programs.

Case Study: Foster Care Program Faces Challenges in Estimating Improper Payments and Evaluating Corrective Actions

The results of our recently completed study of the improper payment estimation methodology used by HHS's Foster Care program serve to provide a more detailed perspective on the challenges one federal agency faced in attempting to develop a complete and accurate nationwide estimate for a program largely administered at the state level. Further, this case study provides an example of the types of problems that may exist but go undetected because of the lack of independent assessments of the reported information. As we previously testified before this Subcommittee,[29] separate assessments conducted by agency auditors provide a valuable independent validation of agencies' efforts to report reliable information under IPIA. Independent assessments can also enhance an agency's ability to identify sound performance measures, monitor progress against those measures, and help establish performance and results expectations. Without this type of validation or other types of reviews performed by GAO or agency OIGs, it is difficult to reliably determine the full magnitude of deficiencies that may exist governmentwide in agencies' IPIA implementation efforts. For example, our case study of the Foster Care program found that although ACF had established a process to calculate a national improper payment estimate, the estimate was not based on a statistically valid methodology and consequently did not reflect a reasonably accurate estimate of the extent of Foster Care improper payments. Further, without accurate data, the

[28]GAO, *Improper Payments: Federal and State Coordination Needed to Report National Improper Payment Estimates on Federal Programs*, GAO-06-347 (Washington, D.C.: Apr. 14, 2006).

[29]GAO, *Improper Payments: Progress Made but Challenges Remain in Estimating and Reducing Improper Payments*, GAO-09-628T (Washington, D.C.: Apr. 22, 2009), and *Improper Payments: Status of Agencies' Efforts to Address Improper Payment and Recovery Auditing Requirements*, GAO-08-438T (Washington, D.C.: Jan. 31, 2008).

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00080 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.036

validity of the Foster Care program's reported reductions in improper payments was questionable, and ACF's ability to reliably assess the effectiveness of its corrective actions was impaired.

Deficiencies in Foster Care's Estimation Methodology

For programs administered at the state level such as Foster Care, OMB guidance provides that statistically valid annual estimates of improper payments may be based on either data for all states or on statistical data from a sample to generate a national dollar estimate and improper payment rate. In this case, ACF took its existing Title IV-E Foster Care program eligibility review process, already in place under the Social Security Act, and also used it for IPIA estimation. ACF provides a national estimated error rate based on a rolling average of error rates identified in states examined on a 3-year cycle. As a result, ACF's IPIA reporting for each year is based on new data for about one-third of the states and previous years' data for the remaining two-thirds of the states. To calculate a national estimate of improper payments, ACF uses error rates that span a 3-year period of Title IV-E eligibility reviews in the 50 states, the District of Columbia, and Puerto Rico. ACF applies the percentage dollar error rate from the sample to the total payments for the period under review for each state.

ACF's methodology for estimating Foster Care improper payments was approved by OMB in 2004 with the understanding that continuing efforts would be taken to improve the accuracy of ACF's estimates of improper payments in the ensuing years. ACF, however, has since continued to generally follow its initial 2004 methodology. When compared to federal statistical guidance and internal control standards, we found it to be deficient in all three phases of its fiscal year 2010 estimation methodology—planning, selection, and evaluation—as summarized in table 3. These deficiencies impaired the accuracy and completeness of the Foster Care program improper payment estimate of $73 million reported for fiscal year 2010.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00081 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.037

Table 3: Deficiencies in ACF's Methodology to Estimate Foster Care Improper Payments

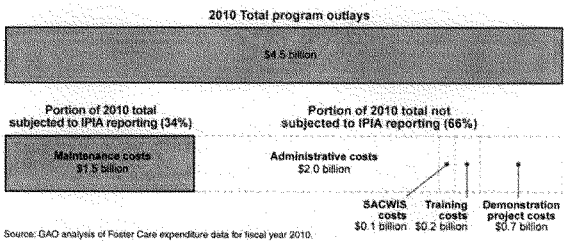
Estimation methodology phase	Deficiencies by phase
Planning	• Methodology is limited to identifying improper payments for only one-third of the total federal share of foster care expenditures—maintenance payments. • The case-level population data used to derive the foster care improper payment estimate does not contain the associated payment data needed for a direct estimate of the payment error rate and the total amount of dollars that were improperly paid.
Selection	• ACF has not established up-front data quality procedures over the case-level population data, self-reported by states, prior to sample selection. • Sample selection process includes a high percentage of replacement cases due to inaccurate information contained in the case-level population data.
Evaluation	• Methodology does not include procedures on how to identify payment errors related to underpayments and duplicate payments during the review of sampled cases across states. • Methodology used to aggregate state-level improper payment data does not take into account each state's margin of error, which is needed to calculate an overall program improper payment estimate with a 90 percent confidence level generally required by OMB guidance.

Source: GAO analysis of ACF's methodology to estimate Foster Care improper payments.

Planning. ACF's annual IPIA reporting for the Foster Care program did not include about two-thirds of program expenditures, as shown in figure 1. Specifically, the estimate included improper payments for only one type of program payment activity—maintenance payments—which, for fiscal year 2010, represented 34 percent of the total federal share of expenditures for the Foster Care program. Administrative and other payments, such as those related to the operation and development of the Statewide Automated Child Welfare Information System (SACWIS), were not considered in ACF's IPIA estimation process and thus were not included in the Foster Care program improper payment estimate. OMB's December 2004 approval of ACF's proposed methodology included an expectation that ACF would develop a plan and timetable to test administrative expenses by April 2005. ACF has conducted various pilots in this area since 2007 with the goal of ensuring that improper payment data for administrative costs are sufficiently reliable and valid without imposing undue burden on states. Although ACF expects to estimate for administrative improper payments and recognizes the importance of doing so, it has not yet taken action to augment its existing methodology.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00082 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.038

Figure 1: Foster Care Program Outlays for Fiscal Year 2010 Covered under IPIA Reporting



Source: GAO analysis of Foster Care expenditure data for fiscal year 2010.

Selection. The population of data from which ACF selected its sample—the Adoption and Foster Care Analysis and Reporting System (AFCARS)[30]—were not reliable because ACF's sampling methodology did not provide for up-front data quality control procedures to (1) ensure that the population of cases was complete prior to its sample selection and (2) identify inaccuracies in the data field used for sample selection. Specifically, ACF had to replace a high percentage of cases sampled from the database of Foster Care cases for the fiscal year 2010 reporting period because of inaccurate information in AFCARS.

- Of the original 4,570 sample cases ACF selected for testing in its primary and secondary reviews for fiscal year 2010, 298 cases (almost 7 percent) had to be replaced with substitutes because the selected cases had not received Title IV-E Foster Care maintenance payments during the period under review.

[30]AFCARS is the federal information system that collects and processes data on children in foster care and those who have been adopted under the auspices of state child welfare agencies. AFCARS serves as the central depository of various nationwide data on the foster care program, as required by the Title IV-E legislation. ACF uses this system for, among other purposes, determining and assessing outcomes for children and families, budget planning and projections, and targeting areas for greater or potential technical assistance efforts. The data in AFCARS are self-reported and maintained by the states, and are subject to information system assessment reviews and federally mandated edit checks by ACF.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00083 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.039

- Of the 298 over-sampled cases used to replace the cases initially selected, 63 cases (more than 21 percent) then had to be replaced again because those cases had also not received Title IV-E Foster Care maintenance payments during the period under review.
- Further, although we were able to determine how many sampled (or over-sampled) cases had to be replaced because available records showed no Title IV-E payment was received during the reporting period, neither GAO nor ACF were able to determine the extent to which the opposite occurred—cases that had received a payment (and therefore should have been included in the sample population) had not been coded as receiving Title IV-E payments.

Without developing a statistically valid sampling methodology that incorporates up-front data quality controls to ensure complete and accurate information on the population, including payment data, ACF cannot provide assurance that its reported improper payment estimate accurately and completely represents the extent of improper maintenance payments in the Foster Care program.

Evaluation. Although ACF's methodology identified some errors related to underpayments and duplicate or excessive payments, it did not include procedures to reliably determine the full extent of such errors. In its fiscal year 2010 agency financial report, ACF reported that underpayments and duplicate or excessive payments represented 19 percent and 6 percent, respectively, or 25 percent of the errors that caused improper payments.[31] However, the extent of underpayments and duplicate or excessive payment errors identified varied widely by state, and in some instances were not identified at all. For example, ACF did not identify underpayments in 31 of 51 state eligibility reviews and did not identify duplicate or excessive payments in 36 of 51 state eligibility reviews.[32] We did not assess the validity of the reported data. However, the absence of such errors for some states seems inconsistent with the general distribution of errors reported elsewhere. Further, the lack of detailed

[31]The other types of errors identified related to eligibility. These included providers not licensed or approved, ineligible payments (e.g., therapy), a child not being eligible under the Aid to Families with Dependent Children program at the time of removal, criminal records check not completed, judicial determination regarding reasonable efforts to finalize permanency plan not timely, and no judicial determination of reasonable efforts to prevent removal.

[32]This analysis was based on the Title IV-E eligibility reviews that comprised the fiscal year 2010 Foster Care program improper payment estimate.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00084 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.040

procedures for identifying any such payment errors may have contributed to the variation or to whether the teams found any errors. The purpose of the eligibility reviews is to validate the accuracy of a state's claim for reimbursement of payments made on behalf of eligible children or the accuracy of federal financial assistance provided to states. Without detailed procedures to guide review teams in the identification of underpayments and duplicate or excessive payments, ACF cannot provide assurance that it has identified the full extent of any such errors in its Foster Care program.

Validity of Reported Foster Care Program Improper Payment Reductions Is Questionable

The weaknesses we identified in ACF's methodology to estimate improper payments in the Foster Care program also impaired its ability to reliably assess the extent to which its corrective actions reduced Foster Care program improper payments. For example, although ACF has reported significantly reduced estimated improper maintenance payments, from a baseline error rate of 10.33 percent for 2004 to a 4.9 percent error rate for 2010, the validity of ACF's reporting of reduced improper payment error rates is questionable because the previously discussed weaknesses in its estimation methodology impaired the accuracy and completeness of the reported estimate and error rate. In addition, we found that ACF's ability to reliably assess the extent to which its corrective actions reduced improper payments was impaired by weaknesses in its requirements for state-level corrective actions. For example, ACF used the number of cases found in error rather than the dollar amount of improper payments identified to determine whether a state was required to implement corrective actions. ACF required states to implement corrective actions through a program improvement plan, if during the Title IV-E primary eligibility review, a state was found to have an error rate exceeding 5 percent of the number of cases reviewed. We identified six states that were found substantially compliant in their primary eligibility reviews as their case error rates were below the established 5 percent threshold. However, the dollar-based improper payment rates for those six states ranged from 5.1 percent to 19.8 percent—based on the percentage of improper payment dollars found in the sample. Because dollar-based improper payment rates are not used in applying the corrective action strategy, ACF's method cannot effectively measure states' progress over time in reducing improper payments. It also cannot effectively help determine whether further action is needed to minimize future improper payments. This limits the extent to which states are held accountable for the reduction of improper payments in the Foster Care program.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00085 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.041

Our report released today includes seven recommendations to help improve ACF's methodology for estimating improper payments for the Foster Care program and its corrective action process.[33] In commenting on our draft report, HHS agreed that its improper payment estimation efforts can and should be improved, generally concurred with four of our recommendations, and agreed to continue to study the remaining three recommendations. We reaffirm the need for all seven recommendations.

Current and Possible Strategies to Move Forward in Reducing Improper Payments

A number of actions are under way across the federal government to help advance improper payment reduction goals. Completing these initiatives, as well as designing and implementing enhanced strategies in the future, will be needed to effectively reduce the federal government's improper payments. Identifying and analyzing the root causes of improper payments is key to developing effective corrective actions and implementing the controls needed to reduce and prevent improper payments. In this regard, implementing strong preventive controls are particularly important as these controls can serve as the front-line defense against improper payments. Proactively preventing improper payments increases public confidence in the administration of benefit programs and avoids the difficulties associated with the "pay and chase"[34] aspects of recovering improper payments. For example, addressing program design issues that are a factor in causing improper payments may be an effective preventive strategy. Effective monitoring and reporting will also be important to help detect any emerging improper payment issues. In addition, agencies' actions to enhance detective controls to identify and recover overpayments could help increase the attention to preventing, identifying, and recovering improper payments. For instance, agency strategies to enhance incentives for grantees, such as state and local governments, will be important.

Identifying and Analyzing Root Causes of Improper Payments

Agencies cited a number of causes for the estimated $115.3 billion in reported improper payments, including insufficient documentation; incorrect computations; changes in program requirements; and, in some

[33]GAO-12-312.

[34]"Pay and chase" refers to the labor-intensive and time-consuming practice of trying to recover overpayments once they have already been made rather than preventing improper payments in the first place.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00086 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.042

cases, fraud. Beginning in fiscal year 2011, according to OMB's guidance,[35] agencies were required to classify the root causes of estimated improper payments into three general categories for reporting purposes: (1) documentation and administrative errors, (2) authentication and medical necessity errors, and (3) verification errors.[36] Reliable information on the root causes of the current improper payment estimates is necessary for agencies to target effective corrective actions and implement preventive measures.

While agencies generally reported some description of the causes of improper payments for their respective programs in their fiscal year 2011 reports, many agencies did not use the three categories prescribed by OMB to classify the types of errors and quantify how many errors can be attributed to that category. Of the 79 programs with improper payment estimates in fiscal year 2011, we found that agencies reported the root cause information using the required categories for 42 programs in their fiscal year 2011 PARs and AFRs. Together, these programs represented about $46 billion, or 40 percent of the total reported $115.3 billion in improper payment estimates for fiscal year 2011. Of the $46 billion, the estimated improper payments amounts were spread across the three categories, with documentation and administrative errors being cited most often. We could not calculate the dollar amounts associated with each category because the narratives included in some of the agencies' reporting of identified causes were not sufficiently detailed or documented. Thorough and properly documented analysis regarding the root causes is critical if federal agencies are to effectively identify and

[35]OMB Circular No. A-136 Revised, *Financial Reporting Requirements*, and OMB Memorandum M-10-13, *Issuance of Part III to OMB Circular A-123, Appendix C.*

[36]OMB defines these error types as: *Documentation and Administrative Errors* - Errors caused by the absence of supporting documentation necessary to verify the accuracy of a payment or errors caused by incorrect inputting, classifying, or processing of applications or payments by a relevant Federal agency, State agency, or third party who is not the beneficiary; *Authentication and Medical Necessity Errors* - Errors caused by an inability to authenticate eligibility criteria through third-party databases or other resources because no databases or other resources exist, or providing a service that was not medically necessary given the patient's condition; and *Verification Errors* - Errors caused by the failure or inability to verify recipient information, including earnings, income, assets, or work status, even though verifying information does exist in third-party databases or other resources (in this situation, as contrasted with "authentication" errors, the "inability" to verify may arise due to legal or other restrictions that effectively deny access to an existing database or resource), or errors due to beneficiaries failing to report correct information to an agency.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00087 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.043

implement corrective and preventive actions across their various programs.

Implementing Effective Preventive Controls to Avoid Improper Payments

Many agencies and programs are in the process of implementing preventive controls to avoid improper payments, including overpayments and underpayments. Preventive controls may involve a variety of activities, such as up-front validation of eligibility, predictive analytic tests, training programs, and timely resolution of audit findings, as described below. Further, addressing program design deficiencies that have caused improper payments may be considered as part of an effective preventive strategy.

- **Up-front eligibility validation through data sharing.** Data sharing allows entities that make payments—to contractors, vendors, participants in benefit programs, and others—to compare information from different sources to help ensure that payments are appropriate. When effectively implemented, data sharing can be particularly useful in confirming initial or continuing eligibility of participants in benefit programs and in identifying any improper payments that have already been made. Also, in June 2010, the President issued a presidential memorandum, titled *Enhancing Payment Accuracy Through a "Do Not Pay List"*, to help prevent improper payments to ineligible recipients.[37] This memorandum also directs agencies to review prepayment and reward procedures and ensure that a thorough review of available databases with relevant information on eligibility occurs before the release of any federal funds. Analyses and reporting on the extent to which agencies are participating in data sharing activities, and additional data sharing efforts that agencies are currently pursuing or would like to pursue, are other important elements that merit consideration as part of future strategies to advance the federal government's efforts to reduce improper payments.

  For example, Labor reported that its Unemployment Insurance program utilizes HHS's National Directory of New Hires database[38] to improve the ability to detect overpayments caused by individuals who

[37] 75 Fed. Reg. 35953 (June 23, 2010).

[38] The National Directory of New Hires database, maintained by HHS, contains information on all newly hired employees, quarterly wage reports for all employees, and unemployment insurance claims nationwide.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00088 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.044

claim benefits after returning to work—the largest single cause of overpayments reported in the program. In June 2011, Labor established the mandatory use of the database for state benefit payment control no later than December 2011. Labor also recommended operating procedures for cross-matching activity for national and state directories of new hires.

In another case, to address the issue of inaccuracy of self-reported financial income on applications for student aid, Education, in conjunction with the Internal Revenue Service (IRS), implemented a 6-month pilot version of an IRS data retrieval tool in January 2010 for its Pell Grant Program. The tool allows student aid applicants or their parents to transfer certain tax return information from IRS directly to Education's online application. Education reported that nearly 3.5 million students used the data exchange tool, representing approximately 21 percent of the applications submitted for the 2011-2012 academic year.

- **Predictive analytic technologies.** In ongoing work, GAO is assessing HHS's Centers for Medicare and Medicaid Services' (CMS) use of technologies that are intended to support the agency's efforts to prevent payment of fraudulent claims. The Small Business Jobs Act of 2010 requires CMS to use predictive modeling and other analytic techniques—known as predictive analytic technologies—both to identify and to prevent improper payments under the Medicare Fee-for-Service program.[39] These predictive analytic technologies are to be used to analyze and identify Medicare provider networks, billing patterns, and beneficiary utilization patterns and detect those that represent a high risk of fraudulent activity. Through such analysis, CMS expects to more effectively identify unusual or suspicious patterns or abnormalities that may provide information that could be useful in prioritizing additional review of suspicious transactions before payment is made. The 2010 act required that CMS's program integrity analysts and contractors begin using these technologies on July 1, 2011, in the 10 states identified by CMS as having the highest risk of fraud, waste, or abuse in Medicare Fee-for-Service payments. CMS began using these technologies, available through CMS's new Fraud Prevention System, to screen all Fee-for-Service claims nationwide prior to payment as of June 30, 2011.

[39]Pub. L. No. 111-240, § 4241, 124 Stat. 2504, 2599 (Sept. 27, 2010).

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00089 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.045

- **Training programs for providers, staff, and beneficiaries.** Training can be a key element in any effort to prevent improper payments from occurring. This can include both training staff on how to prevent and detect improper payments and training providers or beneficiaries on program requirements. For example, the Medicaid Integrity Institute, an initiative of CMS's Medicaid Integrity Group (MIG), trains state-level staff and facilitates networking by sponsoring free workshops for states. In addition, the MIG sponsors education programs for beneficiaries and providers, such as pharmacy providers, to promote best prescribing practices and appropriate prescribing guidelines based on Food and Drug Administration labeling, potentially reducing improper payments.[40]
- **Timely resolution of audit findings.** *Standards for Internal Control in the Federal Government*[41] requires that the findings of audits and other reviews be promptly resolved. Managers are to (1) evaluate findings from audits and other reviews promptly, including those showing deficiencies and recommendations reported by auditors and others who evaluate agencies' operations; (2) determine proper actions in response to findings and recommendations from audits and reviews; and (3) complete, within established time frames, all actions that correct or otherwise resolve the matters brought to management's attention.
- **Program design review and refinement.** To the extent that provider enrollment and eligibility verification problems are identified as a significant root cause in a specific program, agencies may look to establish enhanced controls in this area. For example, CMS has taken steps to strengthen standards and procedures for Medicare provider enrollment to help reduce the risk of providers intent on defrauding or abusing the program.[42] Further, exploring whether certain complex program requirements, inconsistent program requirements, or both, such as eligibility criteria and requirements for provider enrollment, contribute to improper payments could be used to lend insight to developing effective strategies for enhancing compliance and in

[40]GAO, *Medicaid Program Integrity: Expanded Federal Role Presents Challenges to and Opportunities for Assisting States*, GAO-12-288T (Washington D.C.: Dec. 7, 2011).

[41]GAO, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C: November 1999).

[42]GAO, *Improper Payments: Reported Medicare Estimates and Key Remediation Strategies*, GAO-11-842T (Washington, D.C.: July 28, 2011).

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00090 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.046

identifying opportunities for streamlining or changing the eligibility or other program control requirements.

Implementing Effective Detective Controls to Identify and Recover Overpayments

Although strong preventive controls remain the frontline defense against improper payments, agencies' improper payment reduction strategies could also consider actions to establish additional effective detection techniques to quickly identify and recover those improper payments that do occur. Detection activities play a significant role not only in identifying improper payments, but also in providing data on why these payments were made and, in turn, highlighting areas that could benefit from strengthened prevention controls. The following are examples of key detection activities to be considered.

- **Data mining.** Data mining is a computer-based control activity that analyzes diverse data for relationships that have not previously been discovered. The central repository of data commonly used to perform data mining is called a data warehouse. Data warehouses store tables of historical and current information that are logically grouped. As a tool in detecting improper payments, data mining of a data warehouse can enable an organization to efficiently identify potential improper payments, such as multiple payments for an individual invoice to an individual recipient on the same date, or to the same address. For example, in the Medicare and Medicaid program, data on claims are stored in geographically disbursed systems and databases that are not readily available to CMS's program integrity analysts. Over the past decade, CMS has been working to consolidate program integrity data and analytical tools for detecting fraud, waste, and abuse. The agency's efforts led to the initiation of the Integrated Data Repository (IDR) program, which is intended to provide CMS and its program integrity contractors with a centralized source that contains Medicaid and Medicare data from the many disparate and dispersed legacy systems and databases. CMS subsequently developed the One Program Integrity (One PI) program,[43] a web-based portal and set of analytical tools by which these data can be accessed and analyzed to

[43]The One PI program portal is a web-based user interface that enables a single log-in through centralized, role-based access to the system.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00091 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.047

help identify any cases of fraudulent, wasteful, and abusive payments based on patterns of paid claims.[44]

- **Recovery auditing.** While internal control should be maintained to help prevent improper payments, recovery auditing could be included as a part of agencies' strategy for identifying and recovering contractor overpayments. The Tax Relief and Health Care Act of 2006 required CMS to implement a national Medicare recovery audit contractor (RAC) program by January 1, 2010.[45] In fiscal year 2011, HHS reported that the Medicare Fee-for-Service recovery audit program identified $961 million in overpayments and recovered $797 million nationwide. Further, the Medicaid RAC program was established by the Patient Protection and Affordable Care Act.[46] Under this program, each state is to contract with a RAC to identify and recover Medicaid overpayments and identify any underpayments. The final regulations provided that state Medicaid RACs were to be implemented by January 1, 2012. Similar to the Medicare RACs, Medicaid RACs will be paid on a contingency fee basis—a percentage of any recovered overpayments plus incentive payments for the detection of underpayments.

  It is important to note that some agencies have reported statutory or regulatory barriers that affect their ability to pursue recovery auditing. For example, in fiscal year 2011, the Office of Personnel Management (OPM) reported that it faces regulatory barriers that restrict its ability to recover improper payments for its Retirement Program. OPM reported that based on current law and Treasury's regulations, financial institutions are barred from providing OPM with the information necessary to recover various improper payments. Only the Social Security Administration, Railroad Retirement Board, and the Department of Veterans Affairs have been authorized to receive the information necessary to identify the withdrawer to attempt to recover any improper payments. According to OPM, Treasury has

[44]We reported in June 2011 that IDR includes most types of Medicare claims data, but not the Medicaid data needed to help analysts detect improper payments of Medicaid claims. See GAO, *Fraud Detection Systems: Centers for Medicare and Medicaid Services Needs to Ensure More Widespread Use*, GAO-11-475 (Washington D.C.: June 30, 2011).

[45]Pub. L. No. 109-432, div. B., title III, § 302, 120 Stat. 2922, 2991-92 (Dec. 20, 2006), *codified* at 42 U.S.C. § 1395ddd(h).

[46]Pub. L. No. 111-148, § 6411, 124 Stat. 119, 773 (Mar. 23, 2010).

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00092 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.048

drafted language to address the issue and is working to publish a notice of proposed rule making to amend its regulation.

In another instance, USDA reported that Section 281 of the Department of Agriculture Reorganization Act of 1994[47] precluded the use of recovery auditing techniques because Section 281 provides that 90 days after the decision of a state, county, or an area committee is final, no action may be taken to recover the amounts found to have been erroneously disbursed as a result of the decision unless the participant had reason to believe that the decision was erroneous. This statute is commonly referred to as the Finality Rule. As part of its annual improper payments reporting, USDA did not cite an alternative approach for implementing a recovery auditing strategy.

- **Federal-state incentives.** Another area for further exploration for agencies' improper payment reduction strategies is the broader use of incentives for states to implement effective detective controls.[48] Agencies have applied limited incentives and penalties for encouraging improved state administration to reduce improper payments. Incentives and penalties can be helpful to create management reform and to ensure adherence to performance standards.

Chairman Carper, Ranking Member Brown, and Members of the Subcommittee, this completes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

[47]Pub. L. No. 103-354, § 281, 108 Stat. 3178, 3233 (Oct. 13, 1994), *codified, as amended, at* 7 U.S.C. § 7001.

[48]OMB's implementing guidance for IPERA allows agencies to use up to 25 percent of funds recovered under a payment recapture audit program for a financial management improvement program, including providing a portion of funding to state and local governments.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00093 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.049

GAO Contacts and Staff Acknowledgments

If you or your staff have any questions about this testimony, please contact me at (202) 512-2623 or DavisBH@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 Carla Lewis, Assistant Director; Sophie Brown; Francine DelVecchio; Gabrielle Fagan; and Kerry Porter.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00094 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.050

Related GAO Products

Foster Care Program: Improved Processes Needed to Estimate Improper Payments and Evaluate Related Corrective Actions. GAO-12-312. Washington, D.C.: March 7, 2012.

Improper Payments: Moving Forward with Governmentwide Reduction Strategies. GAO-12-405T. Washington, D.C.: February 7, 2012.

For our report on the U.S. government's consolidated financial statements for fiscal year 2011, see Department of the Treasury. *2011 Financial Report of the United States Government.* Washington, D.C.: December 23, 2011, pp. 211-231.

Medicaid Program Integrity: Expanded Federal Role Presents Challenges to and Opportunities for Assisting States. GAO-12-288T. Washington, D.C.: December 7, 2011.

DOD Financial Management: Weaknesses in Controls over the Use of Public Funds and Related Improper Payments. GAO-11-950T. Washington, D.C.: September 22, 2011.

Improper Payments: Reported Medicare Estimates and Key Remediation Strategies. GAO-11-842T. Washington, D.C.: July 28, 2011.

Fraud Detection Systems: Centers for Medicare and Medicaid Services Needs to Ensure More Widespread Use. GAO-11-475. Washington, D.C.: June 30, 2011.

Improper Payments: Recent Efforts to Address Improper Payments and Remaining Challenges. GAO-11-575T. Washington, D.C.: April 15, 2011.

Status of Fiscal Year 2010 Federal Improper Payments Reporting. GAO-11-443R. Washington, D.C.: March 25, 2011.

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

High-Risk Series: An Update. GAO-11-278. Washington, D.C.: February 2011.

Improper Payments: Significant Improvements Needed in DOD's Efforts to Address Improper Payment and Recovery Auditing Requirements. GAO-09-442. Washington, D.C.: July 29, 2009.

H605-41331-79W7 with DISTILLER

VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00095 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE

73-079.051

Improper Payments: Progress Made but Challenges Remain in Estimating and Reducing Improper Payments. GAO-09-628T. Washington, D.C.: April 22, 2009.

Improper Payments: Status of Agencies' Efforts to Address Improper Payment and Recovery Auditing Requirements. GAO-08-438T. Washington, D.C.: January 31, 2008.

Improper Payments: Federal Executive Branch Agencies' Fiscal Year 2007 Improper Payment Estimate Reporting. GAO-08-377R. Washington, D.C.: January 23, 2008.

Improper Payments: Weaknesses in USAID's and NASA's Implementation of the Improper Payments Information Act and Recovery Auditing. GAO-08-77. Washington, D.C.: November 9, 2007.

Improper Payments: Agencies' Efforts to Address Improper Payment and Recovery Auditing Requirements Continue. GAO-07-635T. Washington, D.C.: March 29, 2007.

Improper Payments: Incomplete Reporting under the Improper Payments Information Act Masks the Extent of the Problem. GAO-07-254T. Washington, D.C.: December 5, 2006.

Improper Payments: Agencies' Fiscal Year 2005 Reporting under the Improper Payments Information Act Remains Incomplete. GAO-07-92. Washington, D.C.: November 14, 2006.

Improper Payments: Federal and State Coordination Needed to Report National Improper Payment Estimates on Federal Programs. GAO-06-347. Washington, D.C.: April 14, 2006.

H605-41331-79W7 with DISTILLER

VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00096 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE

73-079.052

Testimony of Rep. Todd Russell Platts, Chairman
Subcommittee on Government Organization, Efficiency, and Financial Management
Committee on Oversight and Government Reform
United States House of Representatives

Before the Committee on Homeland Security and Governmental Affairs
Subcommittee on Federal Financial Management, Government Information,
Federal Services and International Security
United States Senate
March 28, 2012

Chairman Carper, Ranking Member Brown, and Members of the Subcommittee, thank you for holding this hearing on the important issue of waste and fraud in federal programs. Thank you also for providing me, along with my good friend and Subcommittee Ranking Member, Congressman Ed Towns, the opportunity to testify before you today. As Chairman of the House Committee on Oversight and Government Reform Subcommittee on Government Organization, Efficiency, and Financial Management, I share your commitment to improving federal financial management in general and to reducing improper payments by federal government departments and agencies in specific.

Improper payments are the most observable result of poor financial management, and the costs of improper payments are clear and translatable to any taxpayer. In Fiscal Year 2011, federal agencies identified $115 billion in improper payments. While this estimate gives us a general idea of the amount of improper payments made each year, it does not take into account many more improper payments that may go undetected. In fact, many departments and agencies, including the Department of Defense, are not able to accurately calculate improper payment estimates.

The Department of Defense cannot pass an audit or verify that its payments are accurate. We therefore do not know the amount of improper payments it makes each year. However, both the Government Accountability Office and the department's Inspector General have said that the Department of Defense is at a high risk for making improper payments. Thus far in the 112th Congress, my Ranking Member, Congressman Ed Towns, and I have led several subcommittee hearings focused on improving financial management at the Department of Defense. We are especially focusing our oversight on the Department's statutory mandate to be audit ready by Fiscal Year 2017.

My subcommittee has also focused on improper payments within the Medicare and Medicaid programs. In Fiscal Year 2011, these two programs identified $64.8 billion in improper payments. This accounts for over 56 percent of all improper payments identified in Fiscal Year 2011. While the Centers for Medicare and Medicaid Services have made steps to prevent and recover improper payments, there remains far more work to be done to ensure that taxpayer money is properly spent and that these important social programs are implemented more efficiently and cost effectively.

Mr. Chairman, during the 111th Session of Congress, I was pleased to support passage of your legislation, the Improper Payments Elimination and Recovery Act of 2010 (IPERA), Senate Bill 1508.

This Act is an important effort to strengthen agency financial management and incorporating more stringent risk and performance management. It also focused on recovering improper payments through business analytics and recovery audit contractors.

I am encouraged that, during the current Session of Congress, House and Senate Members are again working together to enact legislation seeking to strengthen financial management and prevent improper payments. The Improper Payments Elimination and Recovery Improvement Act of 2011, which you, Chairman Carper and Ranking Member Brown, along with my home state Senator, Bob Casey, have introduced, is another important step forward for improved federal financial management. I am pleased to be the lead Republican cosponsor of the House companion to this legislation, which Ranking Member Towns introduced earlier this year. This legislation, Senate Bill 1409 and House Bill 4053 respectively, seeks to focus on high-priority programs and high-dollar overpayments. Additionally, for the first time, agencies would have to identify the recipients of improper payments. These provisions could be very effective in helping the government to recover improper payments.

Perhaps most importantly, the Improper Payments Elimination and Recovery Improvement Act proposes to strengthen improper payment prevention efforts by creating a Do Not Pay initiative. Under the proposed legislation, agencies would be responsible for checking federal databases, such as the Social Security Administration Death Master File, the General Services Administration's Excluded Parties Lists Systems, and the Department of Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities, prior to making payments. This Do Not Pay initiative would make it easier for agencies to identify fraudulent recipients and prevent payments to deceased individuals, thereby stopping improper payments before they occur. Prevention of improper payments is far more effective than a pay-and-chase approach, and promotes greater accountability in federal spending.

The American people deserve a government that is responsible and accountable. However, our nation's citizens all too often see a trend of waste and mismanagement. Over the past decade, the Bush Administration and the Obama Administration have made reducing improper payments a government-wide priority. And, as evidenced by today's hearing, this is a priority shared by Democrats and Republicans, Senators and Representatives, here in Congress.

Mr. Chairman, Ranking Member Brown, I look forward to continuing to work with you, along with Congressman Towns, to bring heightened attention and solutions to the issue of waste and fraud in federal programs. It is clear that we need better solutions to protect taxpayer dollars and to ensure greater accountability regarding federal spending. Hearings such as this one and legislation such as the Improper Payments Elimination and Recovery Improvement Act are important parts of this effort. Thank you again for the invitation to testify here today. I look forward to continued cooperation between our subcommittees on this important matter.

Hearing Testimony—Rep. Edolphus Towns
before the
Senate Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, Committee on Homeland Security and Governmental Affairs

March 28, 2012

Chairman Carper, Ranking Member Scott, members of the Committee, thank you for your invitation to testify on the issue improper payments. It is a subject that is critical to all of us charged with the oversight of federal financial management, especially in this time of economic uncertainty.

The federal government has been in a long struggle to cut out the wasteful spending that can occur when improper payments are made. In fiscal year 2009, the improper level stood at $125 billion. By fiscal year 2011, Federal agencies have reduced the improper payments level to $115 billion and the trend appears to continue downward. Reversing the trend is a very significant achievement. Still, the level of improper payments remains unacceptably high.

The Obama Administration has made the elimination of improper payments one of the cornerstones in the President's effort to eliminate waste in government. From the time he took office, the President has introduced a series of initiatives which have now been responsible for not only the decrease in the rate of improper payments, but also in the recovery of improper overpayments.

On November 20, 2009, the President signed Executive Order 13520 on Reducing Improper Payments. The Order resulted in the establishment of "payment-accuracy-dot-gov", a website which keeps the American public up-to-date on how government agencies are reporting on and addressing improper payments. The Order also resulted in the identification of those government programs with a high dollar value of improper payments as "high-priority programs" so we could focus on broad-based solutions to the issueToday's hearing will highlight the successes of how the "high priority program" Medicare is finding workable solutions to the problem of improper payments.

In 2010, President Obama issued Memoranda on "*Enhancing Payment Accuracy through the Do Not Pay List*" and "*Finding and Recapturing Improper Payments.*" As a result, the "verify-payment-dot-gov" website was created to prevent ineligible recipients from being paid repeatedly. Additionally, using payment recapture audits, the agencies have recovered nearly $1.9 billion in improper payments for the Treasury as called for in the President's memorandum. This puts the government well on track to achieve $2 billion in recovered improper payments by the end of this fiscal year.

In July 2010, President Obama signed one of the most important recent pieces of legislation into law, the Improper Payments Elimination and Recovery Act of 2010,

authored by Senator Carper, a determined champion of good government. IPERA mandated that federal agencies produce statistically accurate assessments of their rates of improper payments and include those in their annual financial statements. The law also required the OMB to report on agencies' efforts to detail and recapture improper payments. This level of focus on improper payments has given agencies the impetus to forge new solutions for reducing and recovering improper payments. The results of IPERA are encouraging, but we need to go further.

That is why I have joined Senator Carper, and sponsored in the House chamber, the Improper Payments Elimination and Recovery Improvement Act of 2012. The legislation gives agencies tools to identify and report improper payments accurately. It also makes agencies more accountable to the public by including the requirement that high dollar improper payments be reported to the agency's Inspector General as well as on the payment-accuracy-dot-gov website. Another critical element of the legislation would be to require federal agencies to verify payee eligibility before making payments and screen potential vendors before awarding government contracts, by mandatory checking of the "Do Not Pay List."

Finally, the legislation would increase the number of payment recapture audit programs to more than ten, so that the government could maximize the recover of improperly made overpayments.

The financial future of the United States requires sustained attention from more than one source. I firmly believe that the President's focus on the elimination of improper payments, coupled with the tools that have been included in the proposed legislation will go a long way in reaching the goal of efficient financial management and a strong financial future for our country. Thank you again Mr. Chairman for the opportunity to work with this chamber on such an important endeavor for the future of our country.

H605-41331-79W7 with DISTILLER

VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00100 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE

73-079.056

PASSBACK
Post-Hearing Questions for the Record
Submitted to the Honorable Mr. Daniel Werfel
Controller, Office of Management and Budget

From Senator Thomas Carper

"Assessing Efforts to Combat Waste and Fraud in Federal Programs"
March 28, 2012

Questions for Mr. Werfel of OMB

1) Full Compliance By the Department of Defense with Improper Payments Law

I understand that the Department of Defense (DOD) has not yet fully complied with the current federal laws regarding improper payments. Specifically, the DOD did not provide improper payment estimates for all of the required parts of the budget for fiscal year 2011.

- **Mr. Werfel, when will we see the full estimate of the Department of Defense budget in order to comply with the Improper Payments Elimination and Recovery Act of 2010? Will we see a full estimate as required under law this year?**

Response:

According to DOD, estimates for all programs required to report improper payment rates will be reported for Fiscal Year 2012.

Prior to the passage of the Improper Payments Elimination and Recovery Act of 2010 (IPERA), there were two main laws guiding improper payment activities: the Improper Payments Information Act (IPIA) and the Recovery Auditing Act (RAA). These were separate laws, with the RAA applying to contract outlays and the IPIA applying to grants, benefits, and loan programs. Therefore, prior to the passage of IPERA, applicable law did not require statistically sampled improper payment estimates for contract outlays that were already subject to recovery audits—which was the case with DOD's contract outlays. Avoiding this additional estimate requirement allowed agencies to:

- Focus on identifying and recapturing actual dollars through recovery audits, rather than conducting limited samples;
- Prevent duplicate reviews; and
- Utilize limited financial management resources in a cost-effective manner.

However, under IPERA, agencies are also responsible for conducting risk assessments, and if necessary, statistical samples to determine improper payment estimates for contract outlays. Accordingly, it is now appropriate that all agencies report improper payment estimates on applicable programs. In FY 2011, DOD reported an improper payment error rate for its commercial payments for the first time based on actual improper payments identified and reported. (At the time, DoD was still in the process of finalizing an estimate based on a

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00101 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.057

statistical sampling methodology.) However, DOD anticipates reporting an estimate for commercial payments in FY 2012 based on statistical sampling, as required by IPERA.

It is important to note that, even though DOD reported an error rate for its commercial payments in its FY 2011 Agency Financial Report (AFR), the Administration decided not to include it in its FY 2011 government-wide improper payment totals. This decision was made in order to avoid skewing the numbers and overstating the government-wide success. DOD's commercial payments have very high outlays and reported very low error rates. Therefore, if we had included this program in the FY 2011 totals, the government-wide improper payment amount would still have been around $115 billion. However, the government-wide error rate would have been much lower than was reported. This would have been the case because adding in these additional outlays would have inflated the denominator used for calculating the government-wide error rate. Nonetheless, we support DOD's decision to publicly report the error rate in its FY 2011 AFR, and its efforts to continually refine and improve its methodology.

2) Recovery Audit Contracting

One of the key provisions of the 2010 improper payments law was the establishment of clear definitions of Recovery Audit Contractors, companies hired by agencies to scour the financial books and payments looking for errors. This is a tool that has proven very effective in the private sector, and also very successful with the Medicare fee-for-service programs.

- **Mr. Werfel, could you comment on how agencies are doing as far as implementing Recovery Audit Contracting? Of course, Medicare and Medicaid have established strong programs, but how about other agencies and programs? Please list other agencies that are conducting or planning to conduct Recovery Audit Contracting. Please also describe any initiatives to facilitate agencies use of Recovery Audit Contracting.**

Response:

IPERA requires agencies to conduct payment recapture audits (i.e., recovery auditing) if cost-effective. A cost-effective payment recapture audit program is one in which the benefits (i.e., recaptured amounts) exceed the costs (for example, staff time and resources, or payments for the payment recapture audit contractor) associated with implementing and overseeing the program. In addition, IPERA gives agencies the option to use recovery audit contractors, to use government resources, or a combination thereof. In 2010, the President set a goal for agencies to recapture $2 billion in overpayments to contractors by the end of FY 2012. In April 2012, we announced that we have exceeded that goal, well ahead of schedule, due in large part to the Medicare Fee-for-Service Recovery Audit Contractor (RAC) program. In the first quarter of FY 2012, the Medicare RAC program collected $398 million in overpayments, putting the total government-wide recapture amount since 2010 above $2 billion (through FY 2011, we had already recaptured $1.9 billion in overpayments). While we have already surpassed the President's $2 billion goal, we anticipate that the Medicare RAC program will continue to make

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00102 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.058

progress in recapturing erroneous payments between now and the end of the fiscal year, in addition to the recovery of overpayments to be reported by other agencies in November. The overpayments recovered to date since FY 2010 also include amounts recaptured by the Departments of Agriculture, Defense, Energy, Homeland Security, Justice, Labor, State, the Treasury, Transportation, and Veterans Affairs, as well as the Environmental Protection Agency, the General Services Administration, the U.S. Agency for International Development, the Social Security Administration, and the Tennessee Valley Authority. These recoveries are the result of either recovery audit contractors or other means of recovering overpayments.

IPERA significantly expanded agency payment recapture audit requirements from contracts to all types of payments and activities, including benefits, grants, loans and contracts, and expanded the pool of payments subject to recapture audits by lowering the annual outlay threshold from $500 million to $1 million. OMB has taken several steps to ensure that agencies are implementing IPERA. As you may recall, in November 2010 we issued initial IPERA guidance that required agencies to, among other things, review their programs and activities that could be subject to IPERA's new payment recapture authorities, and to submit a plan to OMB describing how they would implement the law and new requirements[1]. Since then, we have been working with agencies to determine how OMB's IPERA guidance affects their implementation plans. Agencies are still working to determine how to implement payment recapture audits to recapture funds in grants, benefits, and other types of programs, given these forms of assistance are structured in disparate ways that are unlike contracts.

One example of payment recapture audits outside of contracting is the Unemployment Insurance (UI) program. During FY 2011, the Department of Labor (DOL) reviewed all of its major programs and activities to establish the cost-effectiveness of payment recapture audits. The UI program, which accounts for the majority of funds for which DOL is responsible under IPERA and over $114 billion for FY 2011, was deemed cost effective. DOL reported in its FY 2011 Agency Financial Report (AFR) that States recaptured a total of nearly $1.3 billion in UI improper payments, representing a 43 percent recapture rate. The recapture rate is equal to the amount actually recaptured divided by the amount identified for recapture (typically through an audit or a review of payment files). We will continue to work closely with agencies to help them find cost-effective ways to implement these new types of payment recapture audits, such as allowing agencies to leverage their own employees or other Federal agencies to conduct payment recapture audits. We will also continue to partner with grantees and other recipients to advance these efforts.

3) State Portion of Improper Payments Recoveries

The Improper Payments Elimination and Recovery Act of 2010 established that federal agencies may retain a portion of its improper payment recoveries for agency use. OMB guidance further clarifies under what conditions, and what portion of, a recovery may be retained for use by the agency. In several major programs, state agencies are responsible

[1] This guidance is available at http://www.whitehouse.gov/sites/default/files/omb/memoranda/2011/m11-04.pdf.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00103 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.059

for managing federal programs (for example, Medicaid and Unemployment Insurance). However, it is unclear under the improper payments laws, or under associated guidance, how much and under what condition a state government or agency conducting a recovery program may retain funds recovered from federal improper payments.

- **Mr. Werfel, could OMB examine the current improper payments statutes, and associated guidance, that define how and when states may retain a portion of recovered federal improper payments? If necessary, could you provide ideas or potential language for new improper payments legislation that could clarify the situation for states?**

Response:

It is true that IPERA does not address whether States may retain a portion of recovered improper payments. However, OMB's IPERA implementing guidance acknowledges that many programs are Federally-funded but State-administered, and that Federal agencies should support State efforts to reduce improper payments in these programs. Unless outlined in separate statutory authority, the guidance specifically allows Federal agencies to use up to 25 percent of funds recovered under a payment recapture audit program to support financial management improvements, including providing a portion of this funding to State and local governments to support their financial management improvement programs.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00104 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.060

Post-Hearing Questions for the Record
Submitted to the Honorable Mr. Daniel Werfel
Controller, Office of Management and Budget

From Senator Mark L. Pryor

"Assessing Efforts to Combat Waste and Fraud in Federal Programs"
March 28, 2012

1. **We know that some of the programs experiencing high improper payment rates are those of which the Federal and state governments share responsibility. Reducing improper payments will require effort across all levels of government. Can you give specific examples as to how the Administration is engaging state and local governments to help them contribute to the reduction in improper payments?**

   Response:

   There are numerous examples where the Administration is working collaboratively with state and local governments to eliminate improper payments. For instance, one of the high-error programs is the Unemployment Insurance (UI) program, which is state-administered. We have been working closely with the Department of Labor (DOL) to address improper payments in the UI program, and last fall, DOL announced a series of actions it is taking to reduce improper payments. These efforts include: increasing transparency by posting State-by-State error rates on DOL's website; designating States with high error rates as high-priority; requiring further actions by the States to address improper payments; and providing supplemental funding for States that implement program integrity initiatives. We believe that by working closely with states, DOL will be able to reduce improper payments in UI and save hundreds of millions, if not billions, of dollars.

   Another example in which the Administration is engaging with states and local governments to help them reduce improper payments is in our work through the Partnership Fund for Program Integrity Innovation (Partnership Fund). The Partnership Fund is a program created within the Office of Management and Budget by the 2010 Consolidated Appropriations Act. With $37.5 million in initial funding, the Partnership Fund allows Federal, state, local, and tribal agencies to pilot innovative ideas for improving assistance programs in a controlled environment. The pilot projects funded by the Partnership Fund address Federal assistance programs that are administered in cooperation with the states, or where Federal-state cooperation could otherwise be beneficial. For instance, the Partnership Fund recently announced funding for a new pilot that will provide grant funds to states to identify and test innovations that will reduce improper payments in the Temporary Assistance for Needy Families (TANF) program. Each pilot funded through the Partnership Fund is carefully evaluated to determine best practices for other states and agencies and inform future policy decisions by the Administration and Congress.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00105 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.061

Post-Hearing Questions for the Record
Submitted to the Honorable Daniel I. Werfel
Acting Controller, Office of Management and Budget

From Senator Tom Coburn

"Assessing Efforts to Combat Waste and Fraud in Federal Programs"
March 28, 2012

1. **During your testimony, I asked you whether the federal government was able to check with the Internal Revenue Service to see if individuals, businesses, or contractors are in arrears on their taxes before the federal government makes payments to them. You mentioned that OMB and other agencies may be prohibited from doing so due to privacy rules. Specifically, you cited that these restrictions may be included in section 6103 of the tax code. Can you confirm whether these privacy restrictions exist in the code?**

   Response:

   In general, federal agencies may request that contractors and other recipients of certain federal payments certify in writing whether they are current on federal taxes prior to making an award, or as part of the evaluation in selecting awardees under a competition. Federal agencies may also request that a prospective recipient furnish a written consent (satisfying IRC section 6103(c)) that would authorize the IRS to verify that certification. Further, IRC section 6103 (l)(3) allows Federal agencies to verify whether a loan or loan guarantee applicant has a tax delinquent account without the applicant's consent. Because IRC section 6103 sets out a general rule of confidentiality for returns and other return information, OMB and other agencies cannot access tax information absent a specific statutory exception.

2. **If this restriction does not exist, would OMB issue a directive ordering agencies to check with the IRS before paying contractors to see if they have paid their taxes?**

   Response:

   Section 6103, like the rest of the Internal Revenue Code, is administered by the Internal Revenue Service in coordination with Treasury's Office of Tax Policy. OMB is generally not involved in making any sort of determination with respect to Section 6103. Section 6103 of the Internal Review Code would only allow the checks as discussed in response to Question 1.

3. **If the privacy restriction does exist, would there be any other operational solution that could be implemented to allow agencies to check with the IRS to prevent payments to individuals or contractors are in arrears?**

   Response:

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00106 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.062

Other than Congress enacting additional exceptions to Section 6103, there is little that can be done operationally or administratively other than the current self-certification and/or consent regime. The Section 6103 exceptions in current law are highly specific and generally do not lend themselves to wide application or interpretation. We look forward to working with Congress on solutions to address issues with payments provided to individuals or contractors that are in arrears.

4. **During your testimony, you mentioned that only 30 states are participating in automated death reporting. Can you please list the states that are not participating? Can you also describe what impediments states may face that discourages them from participating?**

Response:

State use of Electronic Death Registration (EDR) is a complex issue. As I indicated during my testimony, not all states participate in the EDR process. States may participate only partially in EDR, with some jurisdictions within the state using the electronic process and other jurisdictions continuing to use a paper process for reporting deaths.

Of the 53 potential registration areas (50 states, plus the District of Columbia, New York City, and Puerto Rico), there are 34 which participate in EDR. However, only 7 of those 34 submit more than 75 percent of the deaths through the EDR method—and only 12 of those 34 have coverage above 50 percent. OMB does not maintain the list of states that are not participating in EDR. Rather, these data reside within both the Social Security Administration and the National Center for Health Statistics (NCHS), at the Centers for Disease Control and Prevention (CDC). I would refer you to SSA and NCHS to get a specific list of states. Each state may have its own unique reasons for not participating. However, we believe that one major impediment is cost.

5. **During your testimony, you stated that OMB had succeeded in shrinking the list of agencies for which there is no estimate or way to assess their levels of improper payments. But you acknowledged that there are some agencies or programs that we still cannot assess. Can you identify and list those agencies and/or programs?**

Response:

The Improper Payments Elimination and Recovery Act (IPERA) requires agencies to follow steps for each program to determine whether the risk of improper payments is significant and to provide valid annual estimates of improper payments (when significant risk is identified). As your question indicates, however, there are programs that have been unable to estimate and report improper payment rates to date, and continue to work diligently to do so.

One program that has not been reporting an improper payment estimate is the Temporary Assistance for Needy Families (TANF) program, within the Department of Health and Human Services (HHS). TANF has not reported an improper payment estimate since FY 2008, the first and only time it ever reported this information. Because the TANF statute explicitly limits the

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00107 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.063

information that the Federal Government can collect from States, HHS does not have the authority to ask the states to conduct improper payment measurements the way it does for other state-administered programs.

In order to obtain an estimate of TANF's improper payments, HHS has explored several options. Most recently, the HHS Office of the Inspector General (OIG) conducted pilot tests in FY 2007 of three high-dollar states to test a methodology for establishing a national error rate for TANF. In FY 2008, the OIG randomly selected eight states, including all three pilot states, to determine the TANF program's error rate. For FY 2008 reporting, HHS reported a national error rate estimate of 9.3%. This rate was then applied to all TANF funds to come up with an estimate of $1.6 billion in improper payments. This estimate was based on the audit of the States reviewed in 2007 and 2008. This is the only rate available for the TANF program. The OIG intended to review three other state TANF programs for FY 2009, but due to a lack of funding, the OIG was not able to conduct any more reviews. Many stakeholders argue that TANF should not be measured for a national improper payment rate because TANF is a block grant program administered by states and not the Federal government. Others have raised conceptual concerns of the OIG audit design, arguing that the audit reviewed only cash benefit payment accuracy and, since cash benefits only comprise about one third of TANF spending, the OIG approach may have overstated the amount of improper payments. While we do not have a current solution for obtaining improper payment estimates for TANF, the Administration is committed to identifying a solution moving forward, and we stand ready to work with Congress.

Another program that has not reported an improper payment estimate since FY 2008 is the Children's Health Insurance Program (CHIP), within HHS. The CHIP Reauthorization Act of 2009 (CHIPRA) prohibits HHS from calculating or publishing error rates for the program until six months after a final rule is published. HHS published a final rule in the summer of 2010 and is expected to report an improper payment estimate for CHIP in FY 2012.

Also, there may be other programs that are not reporting improper payment estimates because they have not properly conducted a risk-assessment. All agency OIGs recently reviewed, for the first time, whether agencies were in compliance with IPERA, as required by the law. There were agencies that were deemed non-compliant, and in many instances it was due to the fact that not all programs conducted an improper payment risk-assessment. One of the factors that each agency OIG reviewed was the program-by-program error rate. If an agency had at least one program with an error rate over 10 percent, then the agency would automatically be out of compliance. In general, agencies were found to be non-compliant for different reasons, including the following key factors: error rates above 10 percent; inconsistent risk assessment, sampling methodology, and improper payment definitions; programs not reporting improper payments, when they should be reporting; and reduction goals not being met. This work conducted by the IG community is tremendously important in reinforcing our work to comply with IPERA, and we are committed to building on these findings and recommendations to bring additional programs into compliance.

6. **You mentioned that the majority of known or estimated improper payments were in the Medicare and Medicaid programs. Can you identify any legislative remedies that would**

H605-41331-79W7 with DISTILLER

VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00108 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE

73-079.064

ensure that the HHS Department has the legislative tools that it needs to prevent and recover improper payments?

Response:

The FY 2013 President's Budget supports fraud prevention and the reduction of improper payments as top priorities of the Administration. The President's Budget has historically included a suite of mandatory and discretionary "program integrity" proposals that trigger budgetary savings by enabling error reduction or increased collections. In the FY 2013 Budget, this collection of program integrity proposals can be found in the *Cuts, Consolidations, and Savings* volume. The Budget proposes legislative changes that give HHS important new tools to enhance program integrity oversight; cut waste, fraud, and abuse in Medicare, Medicaid, and CHIP; and generate an additional $3.6 billion in program savings over 10 years. These proposals enhance pre-payment scrutiny, increase penalties for improper actions, strengthen CMS' ability to implement corrective actions, and promote integrity in Federal-State financing. We urge Congress to enact these proposals and provide HHS with the tools necessary to continue to prevent and recover improper payments.

7. **The HHS Office of Inspector General released a report (OEI-05-10-00210) in March on Medicaid integrity contractors. The report found that the federal government is losing money in federal Medicaid program integrity efforts by paying more to contractors than the contractors' recoveries return—yielding a negative return on investment. What lessons do you think can be drawn from these findings? What would be a better approach for HHS to prevent and recover improper payments in Medicaid?**

Response:

We are committed to improving efforts to prevent and address fraud, waste, and abuse in the Medicaid program. The HHS Office of Inspector General's (OIG) report on Audit Medicaid Integrity Contractors (MICs) includes important findings on the vulnerabilities and strengths of the MIC program. The Centers for Medicare & Medicaid Services (CMS) concurred with both recommendations. CMS stated that it has redesigned its approach to audit assignments and, beginning in early 2010, it determined that fundamental changes to the MIC program were needed. An integral change in that redesign was the new focus on collaborative auditing projects with the states, which moved away from traditional stand-alone federal audits that relied on state-reported data from the Medicaid Statistical Information Statistics (MSIS) system. CMS is implementing the program redesign as a phased approach that involves piloting new concepts and sharing best practices with states, as well as total or supplementary use of direct State data for Medicaid Integrity Program audits.

Meanwhile, CMS is working vigorously to reconfigure how to best review and audit Medicaid providers through our contractors. This reconfiguration includes expanding that review to include improving oversight of managed care entities, improving identification of audit targets like high-risk providers serving both Medicare and Medicaid beneficiaries, overhauling CMS' contractor structure, and enhancing support to States in their recovery of overpayments.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00109 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.065

We look forward to working with CMS to strengthen programs that prevent and recover improper payments.

8. **Senator Carper and I have introduced the FAST Act (S.1251) that is aimed to combat the waste, fraud, and abuse in the Medicare and Medicaid programs. Does the OMB support our legislation?**

Response:

The Administration has shown a historic commitment to initiatives that improve fraud prevention and reduce improper payments. In addition, the FY 2013 President's Budget proposes legislative changes that give HHS important new tools to enhance program integrity oversight and cut waste, fraud, and abuse in Medicare, Medicaid, and CHIP. We look forward to continued work with you and your staff on this issue.

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00110 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.066

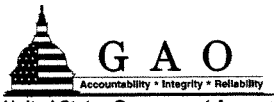
HEARING QUESTIONS FOR THE RECORD
"Assessing Efforts to Combat Waste and Fraud in Federal Programs"
Chairman Tom Carper

QUESTION FOR MS. SHEILA CONLEY OF HHS

Q: Ms. Conley, I understand that the Department has not been able to conduct improper payment estimates of the Temporary Assistance to Needy Families program because of some challenges with current law? Could you describe what steps Congress could take to address this problem, including which statutes pose these challenges? Could you also provide potential solutions, including changes to statute?

A: Regarding improper payment estimates in the Temporary Assistance for Needy Families (TANF) program, we are, as you note, unable to compel States to collect the information required to conduct an improper payment measurement. The specific sections of the Social Security Act that are relevant to this issue are Sections 411 (42 U.S.C. 611) and 417 (42 U.S.C. 617). Section 411 specifies the data elements that HHS may require States to report. Section 417 provides that the federal government may only regulate the conduct of States where Congress has given us the express authority. Accordingly, HHS does not have the authority to collect data pertaining to case and payment accuracy for TANF since it is not included under Section 411.

When legislation is considered to reauthorize TANF, we want to work with Congress to address a set of issues related to accountability and how funds are used, and to craft statutory changes that would allow for reliable error rate measurement. The goal of error rate measurement should be to ensure that TANF funds – including those spent on assistance and those spent on a broader set of services and supports – are used to meet the purposes of TANF and improve outcomes for low-income families. In addition to bolstering state accountability for federal TANF funds and state maintenance of effort funds, we think that a well-designed measurement program could provide States with critical information about their programmatic vulnerabilities and allow States to devise and execute corrective action plans that will ensure that funds are used for their intended purposes.



United States Government Accountability Office
Washington, DC 20548

May 31, 2012

The Honorable Mark L. Pryor
United States Senate

Subject: *Improper Payments: Responses to Posthearing Questions Related to Remaining Challenges and Strategies for Governmentwide Reduction Efforts*

Dear Senator Pryor:

On March 28, 2012, I testified[1] before the Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, Senate Committee on Homeland Security and Governmental Affairs, at a hearing entitled, "Assessing Efforts to Combat Waste and Fraud in Federal Programs." At that hearing, we discussed (1) federal agencies' reported progress in estimating and reducing improper payments; (2) challenges in meeting current requirements to estimate and evaluate improper payments, including those identified through our case study of the estimation methodology used by the Department of Health and Human Services' Foster Care program; and (3) possible improper payment reduction strategies.

This letter responds to your May 1, 2012, request to provide answers to follow-up questions related to our March 28, 2012, testimony. The responses are based on work associated with our previously issued products[2] and data reported in agencies' performance and accountability reports (PAR) and agency financial reports (AFR). Your questions, along with my responses, follow:

1. In your testimony, you mention different agencies that have weaknesses in their processes for assessing the risk of improper payments and reporting estimated amounts of improper payments. Based on your observations, what are the components of a strong process for agencies assessing improper payments?

The Improper Payments Information Act of 2002 (IPIA) requires executive branch agencies to annually review all programs and activities to identify those that are susceptible to significant improper payments, estimate the amount of improper payments for such programs and activities, and report these estimates along with actions taken to reduce

[1]GAO, *Improper Payments: Remaining Challenges and Strategies for Governmentwide Reduction Efforts*, GAO-12-573T (Washington, D.C.: Mar. 28, 2012).

[2]GAO-12-573T; *Improper Payments: Moving Forward with Governmentwide Reduction Strategies*, GAO-12-405T (Washington, D.C.: Feb. 7, 2012); *Improper Payments: Status of Agencies' Efforts to Address Improper Payment and Recovery Auditing Requirements*, GAO-08-438T (Washington, D.C.: Jan. 31, 2008); *Improper Payments: Agencies' Efforts to Address Improper Payment and Recovery Auditing Requirements Continue*, GAO-07-635T (Washington, D.C.: Mar. 29, 2007); *Improper Payments: Agencies' Fiscal Year 2005 Reporting under the Improper Payments Information Act Remains Incomplete*, GAO-07-92 (Washington, D.C.: Nov. 14, 2006).

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00112 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.068

them.[3] The Improper Payments Elimination and Recovery Act of 2010 (IPERA), enacted July 22, 2010, amended IPIA and expanded requirements for identifying, estimating, and reporting on programs and activities susceptible to significant improper payments.[4]

Conducting a risk assessment is a required component of agencies' efforts to comply with IPIA and IPERA, and the Office of Management and Budget (OMB) has published guidance for agencies under this requirement. GAO has previously testified[5] that risk assessment should entail a comprehensive review and analysis of program operations to determine if risks exist, what those risks are, and the potential or actual effect of those risks on program operations. Also, the information developed during a risk assessment can help management determine the nature and type of corrective actions needed. In performing a risk assessment, management should consider all significant interactions between the entity and other parties as well as internal factors at both the entitywide and program levels.

GAO has identified factors that contribute to effective risk assessments. The first is ensuring that the risk assessment process comprehensively reviews all agency programs and activities. Also, agencies should identify risk factors that are unique to the program being assessed and consider risk-related information from all sources. Risk identification methods often include qualitative and quantitative ranking activities, management conferences, forecasting and strategic planning, and consideration of findings from audits and other assessments. Because governmental, economic, and operating conditions continually change, risk assessments should be periodically updated to identify and deal with any special risks prompted by such changes.

Once a risk assessment is conducted, agencies should estimate improper payments for the programs and activities deemed risk-susceptible. OMB has provided guidance for agencies to develop a statistically valid estimate of the annual amount of improper payments for these programs and activities, and has also established procedures for OMB review and approval of alternate methodologies. In its guidance, OMB also suggests that agencies consider working with entities (i.e., grant recipients) to use the results of ongoing audits to assist in the process of estimating an improper payment rate and amount.

As we noted in our testimony, the fiscal year 2011 governmentwide estimate of $115.3 billion included improper payment estimates for nine programs that did not report an estimate in fiscal year 2010. We view these agencies' efforts as a positive step toward increasing the transparency of the magnitude of improper payments across the federal government.

2. Have you found common or shared processing problems among agencies with high improper payment rates? If so, what are they?

The federal government continues to face challenges in determining the full extent of improper payments. Specifically, some agencies have not yet reported estimates for all risk-susceptible programs, and some agencies' estimating methodologies need to be refined. GAO has previously reported on weaknesses in DOD's process for assessing the risk of improper payments and reporting estimated amounts.[6] In addition, during fiscal year 2011, estimation methodologies were still under development at the Department of Education's

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

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

[5]GAO-07-635T.

[6]GAO-12-573T.

H605-41331-79W7 with DISTILLER

VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00113 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE

73-079.069

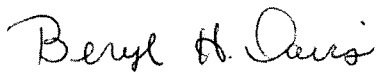
Direct Loan, DOD's Defense Finance and Accounting Service Commercial Pay, and DOD's Army Corps of Engineers Commercial Pay.

In addition to problems related to risk assessment and improper payment estimation processes, GAO work has noted that agencies have had challenges identifying and reporting on the root causes of their estimated improper payments. As we testified, past efforts to identify these root causes of improper payments may not be detailed enough and more specifics may be needed to effectively establish preventive plans, internal controls, and corrective action plans.

Of the 79 programs with improper payment estimates in fiscal year 2011, we found that agencies reported the root cause information using the required categories for 42 programs in their fiscal year 2011 PARs and AFRs.[7] Together, these programs represented about $46 billion, or 40 percent of the total reported $115.3 billion in improper payment estimates for fiscal year 2011. Of the $46 billion, the estimated improper payments amounts were spread across the three categories, with documentation and administrative errors being cited most often. We were not able to calculate the dollar amounts associated with each category because the narratives included in some of the agencies' reporting of identified causes were not sufficiently detailed or documented. Thorough and properly documented analysis regarding the root causes is critical if federal agencies are to effectively identify and implement corrective and preventive actions across their various programs.

If you have any questions about this letter or need additional information, please contact me at (202) 512-2623 or davisbh@gao.gov.

Sincerely yours,



Beryl H. Davis
Director
Financial Management and Assurance

[7]Agencies did not report the root cause information using the required OMB categories for the remaining 37 programs.

H605-41331-79W7 with DISTILLER

VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00114 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE

73-079.070

H605-41331-79W7 with DISTILLER

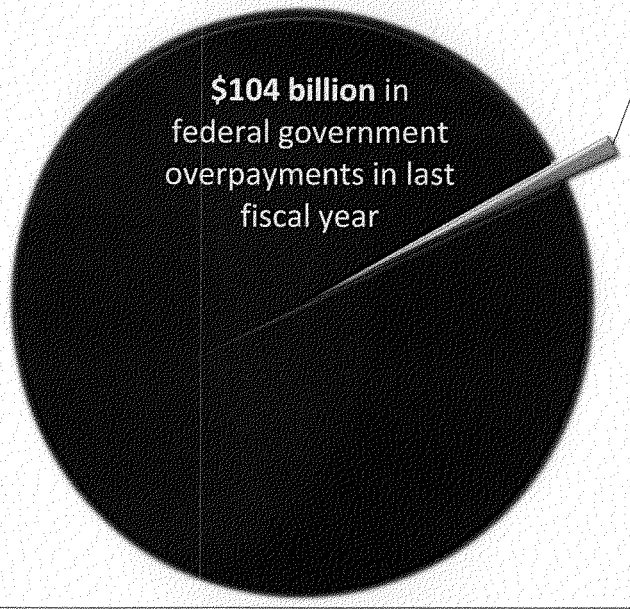
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00115 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE

IMPROPER PAYMENTS
2011

$115 Billion

73679.072

Improper Payments, Inadequate Recovery



With $104 billion in taxpayer money at stake, Washington must do better than collecting only $1.25 billion a year in overpayments to contractors and vendors.

Source: GAO Report 12-573T (March 28, 2012)

H605-41331-79W7 with DISTILLER
VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00116 Fmt 6601 Sfmt 6601 P:\DOCS\73679.TXT JOYCE
73-079.071

H605-41331-79W7 with DISTILLER

VerDate Nov 24 2008 11:05 Oct 05, 2012 Jkt 073679 PO 00000 Frm 00117 Fmt 6601 Sfmt 6011 P:\DOCS\73679.TXT JOYCE

IMPROPER PAYMENTS
STATE MANAGED PROGRAMS
2011

• Medicaid	$22B
• Unemployment Insurance (UI)	$14B
• School Lunch	$2B
• Supplemental Nutrition Assistance Program (SNAP)	$2B
TOTAL	$40B

Source: www.paymentaccuracy.gov

73679.073