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IMPROPER PAYMENTS

Remaining Challenges and Strategies for Governmentwide Reduction Efforts

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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

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.

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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.

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).

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).

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.

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).

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.

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

Program	Agency	Reported improper payment estimates: Dollars (in billions)	Reported improper payment estimates: Error rate (percentages)	Reported primary cause(s)
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.

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

Program	Agency	Reported improper payment estimates: Error rate (percentages)	Reported improper payment estimates: Dollars (in millions)	Reported primary cause(s)
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

Program	Agency	Reported improper payment estimates: Error rate (percentages)	Reported improper payment estimates: Dollars (in millions)	Reported primary cause(s)
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

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 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).

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*.

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.

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).

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.

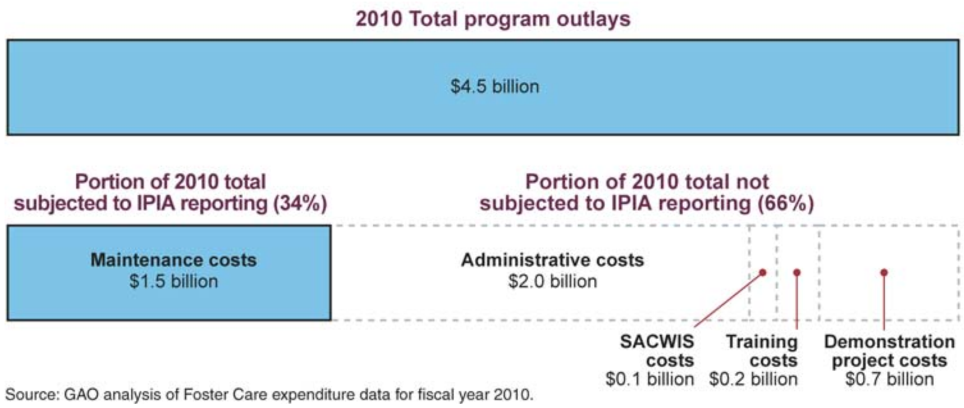
Table 3: Deficiencies in ACF's Methodology to Estimate Foster Care Improper Payments

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.

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.

- 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.

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.

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.

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 Error*s - 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.

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.

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).

- **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).

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.

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).

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.

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.

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.

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