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GAO Accountability•Integrity•Reliability

Highlights

Highlights of GAO-04-228, a report to the Committee on Finance, U.S. Senate

Why GAO Did This Study

For years, some states have taken advantage of a loophole in Medicaid law that allows them to claim billions of dollars in excessive federal matching funds by exploiting the “upper payment limit” (UPL), which is intended to be a ceiling on federal cost sharing. Congress and the Centers for Medicare & Medicaid Services (CMS) acted to curtail UPL financing schemes through law in 2000 and regulation in 2001. CMS recognized that some states had developed a long-standing reliance on UPL funds. The law and regulation authorized transition periods of up to 8 years for states to phase out excessive UPL claims.

GAO was asked to examine CMS’s oversight of nursing home UPL arrangements, including the status of and the basis for transition period decisions.

What GAO Recommends

CMS concurred with GAO’s recommendations that the agency improve its oversight of UPL arrangements, including expediting its financial reviews, establishing uniform guidance for states, and improving state reporting. CMS, Nebraska, and Wisconsin disagreed with GAO’s recommendation that CMS reassess its decisions to grant those two states an 8-year transition period. GAO is suggesting that Congress consider ending, under certain circumstances, the 8-year transition periods for states with excessive nursing home UPL arrangements.

www.gao.gov/cgi-bin/getrpt?GAO-04-228.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Kathryn G. Allen at (202) 512-7118.

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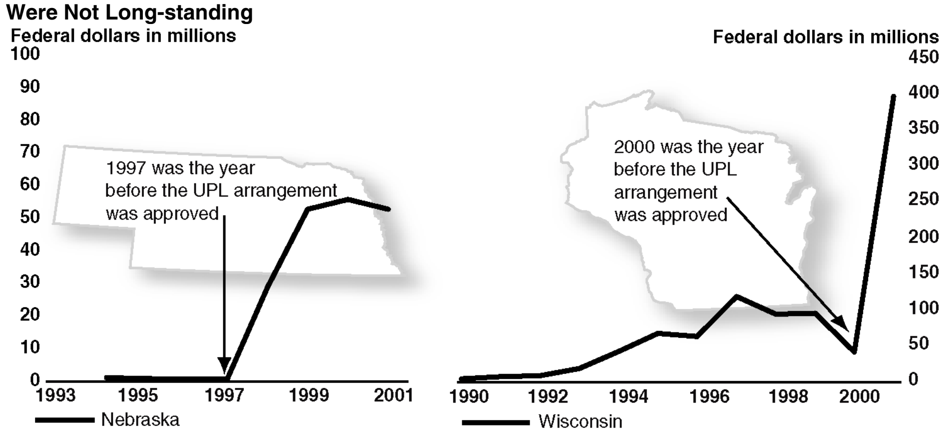
Improved Federal Oversight of State Financing Schemes Is Needed

What GAO Found

CMS has granted transition periods to 18 states for phasing out excessive claims for federal Medicaid funds obtained through UPL financing schemes. Eight states were granted 1- or 2-year transition periods, seven were granted 5-year transitions, and three states—Nebraska, Pennsylvania, and Wisconsin—were granted the maximum of 8 years. The law permits 8-year transition periods for qualifying states with UPL financing schemes relating to a payment provision established on or before October 1, 1992. Although permissible under the law, CMS’s decisions to grant 8-year transition periods to two of the three states were not consistent with the agency’s stated purpose for the UPL regulation and transition policy, which targeted arrangements with problematic characteristics and states with a long-standing budgetary reliance on excessive federal funds. Neither Nebraska nor Wisconsin had such arrangements or budgetary reliance until after 1997 and 2000, respectively (see figure). Under their 8-year transition periods, these states can claim about $633 million more in federal matching funds than they could have claimed under shorter transition periods consistent with the stated purpose of CMS’s regulation and transition policy.

Nebraska’s and Wisconsin’s UPL Financing Schemes and Claims for Excessive Payments Were Not Long-standing



Source: GAO.

CMS has strengthened its oversight of state UPL schemes, including forming a team to coordinate its reviews, drafting internal guidelines for reviewing state methods, and conducting financial reviews that have identified hundreds of millions of dollars in improper claims. CMS has not focused its reviews on the states with the largest arrangements, however, or instructed states on appropriate methods for calculating their UPLs. GAO’s analysis of six states’ UPL methods found variations and concerns suggesting that states may be overstating their UPL claims. Although efforts by Congress and CMS have narrowed the UPL loophole, it has not been eliminated. States can and do continue to claim excessive federal matching funds through UPL arrangements, using them for non-Medicaid purposes or to inappropriately increase the federal share of Medicaid program expenditures.