

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**U.S. DEPARTMENT OF
HEALTH AND HUMAN SERVICES MET
MANY REQUIREMENTS OF THE
IMPROPER PAYMENTS
INFORMATION ACT OF 2002 BUT
DID NOT FULLY COMPLY FOR
FISCAL YEAR 2013**

*Inquiries about this report may be addressed to the Office of Public Affairs at
Public.Affairs@oig.hhs.gov.*



Daniel R. Levinson
Inspector General

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Office of Inspector General

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EXECUTIVE SUMMARY

The U. S. Department of Health and Human Services met many requirements of the Improper Payments Information Act of 2002 but did not fully comply with it for FY 2013.

WHY WE DID THIS REVIEW

The Improper Payments Elimination and Recovery Act of 2010 (IPERA; P.L. No. 111-204) requires Offices of Inspector General (OIGs) to review and report on agencies' annual improper payment information included in their Agency Financial Reports (AFRs) to determine compliance with the Improper Payments Information Act of 2002 (P.L. No. 107-300) as amended by the IPERA as well as the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA; P.L. No. 112-248). ("IPIA" will refer to this law as amended by the IPERA and the IPERIA.) The objectives of this review were to (1) determine whether the Department of Health and Human Services (Department) complied with the IPIA for fiscal year (FY) 2013 in accordance with related Office of Management and Budget (OMB) guidance, (2) evaluate the accuracy and completeness of the Department's reporting, and (3) evaluate the Department's performance in reducing and recapturing improper payments. This is the third annual review of improper payments that we have conducted.

BACKGROUND

To improve accountability of Federal agencies' administration of funds, the IPIA requires agencies, including the Department, to annually report to the President and Congress on the agencies' improper payments. An improper payment is any payment that should not have been made or that was made in an incorrect amount (either overpayments or underpayments). The Department issued its FY 2013 AFR on December 16, 2013.

As required by OMB, agencies must report on seven key issues, which are (1) publishing an AFR and posting it on the agency Web site, (2) conducting a program-specific risk assessment, (3) developing improper payment estimates for programs and activities identified as risk susceptible, (4) publishing corrective action plans, (5) establishing annual reduction targets for those risk-susceptible programs, (6) reporting gross improper payment rates of less than 10 percent, and (7) reporting on its efforts to recapture improper payments. In addition to assessing compliance with the IPIA, OMB Circular A-123 states that OIG should evaluate the accuracy and completeness of agency reporting as well as its performance in reducing and recapturing improper payments.

WHAT WE FOUND

Although the Department did not fully comply with the IPIA, it published an AFR for 2013 and posted that report and accompanying material required by OMB on the Department's Web site, conducted a program-specific risk assessment of 32 programs that were not deemed high risk by OMB to identify those programs or activities that might have been susceptible to significant improper payments, and reported information on its efforts to recapture improper payments.

As required by the IPIA, the Department reported improper payment information for eight programs that were deemed to be high risk by OMB. For six programs (i.e., Medicare Fee-For-Service, Medicare Advantage, Medicare Prescription Drug Benefit, Medicaid, Foster Care, and Child Care Development Fund), the Department reported the information required by the IPIA. However, for two programs (i.e., Temporary Assistance for Needy Families (TANF) and Children's Health Insurance Program (CHIP)), the Department did not comply with one or more requirements.

The Department published corrective action plans (CAPs) for seven of eight programs that were deemed to be high risk by OMB. The Department did not publish a CAP for TANF. The Department cited statutory limitations that prohibit the Department from requiring the States to participate in a TANF improper payment measurement. The Department met improper payment reduction targets for four of six programs for which it reported reduction targets in the FY 2012 AFR. Medicare Fee-for-Service (FFS) and Medicare Prescription Drug Benefit did not meet their improper payment targets. A target had not been established for for CHIP or TANF in the FY 2012 AFR. However, the Department expects to publish an error rate reduction target for CHIP in its FY 2014 AFR. Also, Medicare FFS reported an improper payment rate that exceeded 10 percent.

In addition to assessing the Department's compliance with the IPIA, we evaluated the accuracy and completeness of the Department's reporting. We did not identify any inaccuracies or gaps in the information reported for six programs, but for CHIP and TANF, we identified incomplete information.

We also evaluated the Department's performance in reducing and recapturing improper payments and identified that the Department has achieved some success in reducing improper payment rates. We noted that the Department reported reductions in rates for five programs for which it reported improper payment rates. However, the Department reported increases in Medicare FFS's and Medicare Prescription Drug Benefit's improper payment rates. In addition, the Department reported increases in the percentage of improper payments identified and recaptured.

WHAT WE RECOMMEND

The Department made progress on some of our prior recommendations included in reports for FYs 2011, 2012, and 2013. However, it still has not reported an improper payment estimate for TANF, and we reemphasize our prior recommendation that it do so. Other recommendations are still outstanding, such as reducing error rates to below 10 percent and publishing improper payment target rates for CHIP. We will continue to follow up until they are resolved.

We did not identify any new issues in this report but continue to recommend that the Department improve its compliance with the IPIA.

DEPARTMENT COMMENTS AND OUR RESPONSE

In its comments on our draft report, the Department provided information on the status of actions it has taken in response to our previous recommendations. In addition, the Department disagreed with our finding that it did not comply with the IPIA with respect to CHIP and requested that we report that it had not established CHIP reduction targets because of a lack of baseline data but is on track to report reduction targets in the FY 2014 AFR.

We appreciate the actions that the Department has taken and plans to take to ensure compliance with IPIA and to reduce improper payments. With regard to our finding that the Department did not report improper payment reduction targets for CHIP, we acknowledge the statutory prohibitions against reporting improper payment estimates for FYs 2008 through 2010. We are not aware of any exception to the IPIA requirement to publish an annual reduction target for CHIP. Taking this action in accordance with the IPIA will focus the Department's efforts to minimize improper payments.

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INTRODUCTION

WHY WE DID THIS REVIEW

The Improper Payments Elimination and Recovery Act of 2010 (IPERA; P.L. No. 111-204) requires Offices of Inspector General (OIGs) to review and report on agencies' annual improper payment information included in their Agency Financial Reports (AFRs) to determine compliance with the Improper Payments Information Act of 2002 (IPIA; P.L. No. 107-300) as amended.¹

OBJECTIVES

Our objectives were to (1) determine whether the Department of Health and Human Services (Department) complied with the IPIA for fiscal year (FY) 2013 in accordance with related Office of Management and Budget (OMB) guidance, (2) evaluate the accuracy and completeness of the Department's reporting, and (3) evaluate the Department's performance in reducing and recapturing improper payments.

BACKGROUND

In its FY 2013 AFR, the Department reported approximately \$65.3 billion in improper payments. An improper payment is any payment that should not have been made or that was made in an incorrect amount (either overpayments or underpayments). To improve accountability of Federal agencies' administration of funds, the IPIA requires agencies, including the Department, to annually report information to the President and Congress on the agencies' improper payments. OMB Circular A-123, Appendix C, parts I and II, and OMB Circular A-136, part II, section 5.8, provide guidance on the implementation of the IPIA.

COMPLIANCE WITH THE IMPROPER PAYMENTS INFORMATION ACT OF 2002 AND OFFICE OF MANAGEMENT AND BUDGET GUIDANCE

To determine compliance with the IPIA and OMB guidance, an OIG should review the AFR of the most recent FY to determine whether the agency has:

- published an AFR for the most recent FY and posted that report and any accompanying material required by OMB on its Web site,
- conducted a program-specific risk assessment, if required, for each program or activity to identify those programs or activities that may be susceptible to significant improper payments,
- published improper payment estimates for all programs and activities identified in its risk assessment as susceptible to significant improper payments,

¹ The IPIA has been amended by the IPERA as well as the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA; P.L. No. 112-248). In this report, "IPIA" will mean the IPIA as amended by the IPERA and the IPERIA.

- published programmatic corrective action plans (CAPs) in the AFR,
- published and met annual reduction targets for each program assessed to be at risk and measured for improper payments,
- reported a gross improper payment rate of less than 10 percent for each program or activity for which an improper payment estimate was obtained and published in the AFR, and
- reported information on its efforts to recapture improper payments.

The OIG must also evaluate the accuracy and completeness of agency reporting and evaluate agency performance in reducing and recapturing improper payments (OMB Circular A-123, Appendix C, part II, section A(4)).²

KEY ISSUES IDENTIFIED IN OUR PRIOR-YEAR REPORT

In March 2013, we issued a report on the Department’s compliance with the IPIA for FY 2012. In that report, we determined that the Department did not fully comply with the IPIA. Specifically the Department:³

- did not publish an improper payment estimate for the Temporary Assistance for Needy Families (TANF) program,⁴
- did not establish improper payment target rates for the Children’s Health Insurance Program (CHIP) or for TANF as required,
- did not meet the improper payment rate reduction targets for Medicare Fee-for-Service (FFS), Medicare Advantage, and Foster Care for FY 2012, and
- reported an improper payment rate of greater than 10 percent for Medicare Advantage.

In addition, the Department’s FY 2012 AFR contained inaccuracies or incomplete information for the Child Care Development Fund (CCDF), Medicare FFS, Medicare Advantage, and Medicare Prescription Drug Benefit (Medicare Prescription Drugs). Because TANF and CHIP did not report all of the information required by the IPIA on the nature and extent of improper payments, we could not assess the accuracy or completeness of TANF and CHIP data.

² An estimate of improper payments is not an estimate of fraud. Because the improper payment estimation process is not designed to detect or measure the amount of fraud in programs such as Medicare, there may be fraud in a program that is not included in the reported improper payment estimate.

³ We have reported the noncompliance issues for TANF and CHIP in each of our reports on the Department’s compliance with the IPIA. We initially reported the Medicare FFS noncompliance issue in our FY 2012 report.

⁴ According to the Department, statutory limitations prevented it from requiring States to participate in a TANF improper payment measurement.

We recommended that the Department address these issues. See Appendix A for a list of OIG reports related to this topic.

HOW WE CONDUCTED THIS REVIEW

Our review covered IPIA information in “Other Information” that was reported in the Department’s FY 2013 AFR.⁵ The Department included information on the following eight programs, which were deemed by OMB to be susceptible to significant improper payments: Medicare FFS, Medicare Advantage, Medicare Prescription Drugs, Medicaid, CHIP, TANF, Foster Care, and CCDF.⁶

To determine whether the Department complied with the IPIA and whether it had made progress on recommendations included in our report on the Department’s FY 2012 AFR, we:

- reviewed improper payment information reported in the FY 2013 AFR,
- obtained and analyzed information from the Department on the eight programs deemed susceptible to significant improper payments, and
- interviewed Department staff to obtain an understanding of the processes and events related to determining improper payments.

To evaluate the accuracy and completeness of the Department’s reporting, we reviewed the documentation and related information provided by the Department to support the balances, amounts, percentages, and ratios reported in the FY 2013 AFR.

To evaluate the Department’s performance in reducing and recapturing improper payments, we reviewed documentation provided by the Department on its corrective actions to reduce improper payments, analyzed the reported error rates, and compared the FY 2012 and FY 2013 identified and recaptured amounts reported by the Department.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix B contains the details of our audit scope and methodology.

⁵ The Department issued its FY 2013 AFR on December 16, 2013. OMB Memorandum M-13-24 (September 30, 2013) directed agencies to execute an orderly shutdown of operations due to the absence of appropriations. Operations resumed with the signing of a continuing resolution (OMB Memorandum M-14-01, dated October 17, 2013). The suspension of Government operations delayed the issuance of the AFR by 30 days. The OIG report on compliance with the IPIA is due 120 days after the issuance of the Department’s AFR.

⁶ The Department received a waiver from OMB (dated September 6, 2013) granting relief from improper payment reporting requirements for Head Start. However, the Department reported payment recapture information for Head Start in the FY 2013 AFR.

FINDINGS

Although the Department met many IPIA requirements, it did not fully comply with the IPIA. As required, the Department:

- published an AFR for FY 2013 and posted that report and accompanying material required by OMB on the Department's Web site,
- conducted a program-specific risk assessment of 32 programs that were not deemed high risk by OMB to identify those programs or activities that might have been susceptible to significant improper payments,
- reported information on its efforts to recapture improper payments, and
- increased the percentage of improper payments recaptured on the basis of the amount of improper payments identified.

However, the Department did not fully comply with the remaining IPIA requirements. Specifically the Department:

- published improper payment estimates for only seven of the eight programs that OMB deemed to be susceptible to significant improper payments,
- published CAPs for only seven of the eight programs,
- met improper payment rate reduction targets for only four of the six programs for which it reported reduction targets in the FY 2012 AFR, and
- reported an improper payment rate for Medicare FFS that exceeded 10 percent.

In addition, we found that the Department has not been in compliance with the IPIA for 3 consecutive FYs for two programs (TANF and CHIP) and for 2 consecutive FYs for one program (Medicare FFS).

For six programs, the Department reported accurate and complete information. However, for CHIP and TANF, the Department's reporting was incomplete.

In the FY 2013 AFR, the Department reported reductions in rates for five of the seven programs for which it reported improper payment rates. However, the Department reported increases in the Medicare FFS and Medicare Prescription Drug programs' improper payment rates.

DEPARTMENT COMPLIANCE WITH THE IMPROPER PAYMENTS INFORMATION ACT OF 2002

Department Complied With Requirement To Publish and Post the Agency Financial Report

The Department published an AFR for FY 2013, dated December 16, 2013, and posted that report and accompanying material on its Web site as required by OMB, in compliance with the IPIA. The AFR included management's discussion of the Department's programs, the Department's audited financial statements, and other information.

Department Complied With Requirement To Perform Risk Assessments of Department Programs

The Department, in compliance with the IPIA, conducted a program-specific risk assessment of 32 programs that were not deemed high risk by OMB to identify those programs or activities that might have been susceptible to significant improper payments.

Information on Recapturing Improper Payments

The Department reported information on its actions to recapture improper payments and the results of those actions in compliance with OMB guidance. The Department reported recoveries by the recovery audit contractors and overpayments recaptured outside the work performed by those contractors. For example, the Department reported that the Medicare FFS recovery auditors recovered \$3.7 billion in FY 2013, compared to \$2.3 billion for FY 2012.

Department Published Improper Payment Estimates for Seven of Eight High-Risk Programs

The Department published improper payment estimates in compliance with the IPIA for the following seven programs: CCDF, Medicare Advantage, Medicaid, Medicare FFS, Medicare Prescription Drugs, Foster Care, and CHIP. However, the Department did not report improper payment estimates for TANF.

The Department stated in its FY 2013 AFR that it did not report an improper payment estimate for TANF because it is a State-administered program and statutory limitations prohibit the Department from requiring States to participate in a TANF improper payment measurement. The IPIA requires Federal agencies to review all of their programs to identify those that may be susceptible to significant improper payments. OMB has designated TANF as a Federal program with a significant risk of improper payments. Accordingly, TANF is required to estimate improper payments.

In our FY 2011 report, we recommended that the Department take steps to develop improper payment estimates for CHIP and TANF. In both its FY 2012 and FY 2013 AFRs, the Department reported an improper payment estimate for CHIP but not TANF. Because the Department did not report an estimate of improper payment for TANF, the Department did not meet other IPIA requirements for TANF.

Corrective Action Plan Published for Seven of Eight Programs

As required by the IPIA, the Department published CAPs for seven of eight programs. The Department did not publish a CAP for TANF because, as previously noted, estimates of the extent of improper payments were not made. The Department stated in the FY 2013 AFR that despite statutory limitations, it has taken actions to assist States in reducing improper payments.

Improper Payment Rate Reduction Targets Met for Four of the Six Programs for Which the Department Reported Reduction Targets in the Fiscal Year 2012 Agency Financial Report

The Department had four programs that met their improper payment reduction targets (Medicare Advantage, CCDF, Medicaid, and Foster Care). For example, in its FY 2012 AFR, the Department reported an FY 2013 improper payment rate reduction target of 10.9 percent for Medicare Advantage. As reported in the FY 2013 AFR, Medicare Advantage achieved an improper payment rate of 9.5 percent. Also, the Department reported for the CCDF program a gross improper payment rate of 5.9 percent, which was less than the target improper payment rate of 9.0 percent for FY 2013.

Of the remaining four programs, two did not meet their improper payment rate reduction targets for FY 2013 (Medicare FFS and Medicare Prescription Drugs) and two did not have target improper payment rates for FY 2013 (TANF and CHIP).⁷ For Medicare FFS, the Department's reported improper payment rate (10.1 percent) exceeded its target rate (8.3 percent). The Department has reported a number of ongoing corrective actions, including some that were implemented in FY 2012. According to Department officials, the Department is optimistic that these efforts will lower the error rate and help it meet its targets in future reporting years. The Department revised its Medicare FFS improper payment error rate targets to 9.9 percent for FY 2014 and to 9.8 percent for FY 2015, and it established a target of 9.7 percent for FY 2016.

For Medicare Prescription Drugs, the Department's reported improper payment rate (3.7 percent) exceeded its target rate (3.1 percent). According to the Department, all of the improper payments are related to administrative and documentation errors. The Department has revised its Medicare Prescription Drugs improper payment error rate targets to 3.6 percent for FY 2014 and to 3.5 percent for FY 2015, and it has established a target of 3.4 percent for FY 2016.

The Department did not report an error rate reduction target for CHIP. In FY 2012, the Department considered target rates to be not applicable to CHIP because it had not yet measured improper payments in all 50 States and the District of Columbia. In FY 2014, according to the Department's FY 2013 AFR, the Department expects to publish an error rate reduction target in its AFR after all 50 States and the District of Columbia have been measured once.

⁷ The Department did not have a target improper payment rate to meet for FY 2013 because TANF did not report an improper payment estimate in the FY 2012 AFR. CHIP plans to have a target improper payment rate starting in FY 2014.

Table 1 summarizes the Department’s performance in meeting improper payment rate targets for FY 2013.

**Table 1: Fiscal Year 2013
Improper Payment Rates and Targets**

Program	Improper Payments Estimate (Percentage)		
	FY 2013 Target Rate	FY 2013 Reported (Actual) Rate	Met Target Rate
Medicare FFS	8.3	10.1	No
Medicare Advantage	10.9	9.5	Yes
Medicare Prescription Drugs	3.1	3.7	No
Medicaid	6.4	5.8	Yes
CHIP	* ⁸	7.1	* ⁹
Foster Care	6.0	5.3	Yes
TANF	* ¹⁰	* ¹¹	* ⁸
CCDF	9.0	5.9	Yes

Source: The FY 2013 target rate was provided by HHS, Table 1 “Improper Payment Reduction Outlook,” in the HHS AFR for FY 2012. The FY 2013 reported rate was provided by HHS, Table 1 “Improper Payment Reduction Outlook,” in the HHS AFR for FY 2013.

Gross Improper Payment Rate for Six of Seven Programs Was Less Than 10 Percent

The Department reported that six of the seven programs for which the Department reported a gross improper payment rate in FY 2013 achieved an improper payment rate of less than 10 percent.¹⁰ Medicare FFS did not meet the goal of reporting an improper payment rate of less than 10 percent (Table 2). The Department reported that the rate increased from 8.5 percent in FY 2012 to 10.1 percent in FY 2013. Specifically, the Department reported that Medicare FFS’s unadjusted gross improper payment rate was 10.7 percent, but after necessary adjustments, it was 10.1 percent. The Department anticipates that the Medicare FFS CAPs will lead to significant reductions in improper payments. However, the Department also anticipates that several

⁸ Beginning with FY 2014, the Department plans to complete the baseline measurement, as well as establish and report target rates in the AFR for CHIP, on the basis of the measurement of 50 States and the District of Columbia over a 3-year period (FYs 2012-2014) (HHS FY 2012 AFR, Table 1, note 4).

⁹ We could not evaluate whether CHIP or TANF met their target rate because no target rate was established.

¹⁰ The Department expressed no reason for not publishing a FY 2013 target rate in its FY 2012 AFR for TANF (HHS FY 2012 AFR, Table 1).

¹¹ The Department stated in the FY 2013 AFR that TANF is not reporting an error rate for FY 2013 because of statutory limitations (HHS FY 2012 AFR, Table 1, note 5).

upcoming policy changes may lead to short-term increases in improper payment rates for certain claim types. One policy change is the face-to-face evaluation requirement for certain claim types (e.g., durable medical equipment and home health services) that was included in the Patient Protection and Affordable Care Act.

We analyzed the Supplemental Appendices for the FY 2013 and FY 2012 Medicare FFS improper payment reports¹² to determine what service types had increases in projected improper payments. We found that projected improper payments related to “lab tests—other” (non-Medicare fee schedule), home health services, nonhospital-based hospice services, and psychoses services showed increases of approximately \$151 million, \$1.9 billion, \$903 million, and \$341 million respectively. In addition, for all four service types, insufficient documentation errors increased relative to last year’s projection of improper payments.

**Table 2: Assessment of Achieving Fiscal Year 2013
Gross Improper Payment Rate of Less Than 10 Percent**

Program	Improper Payment Estimate, Actual, FY 2013	Gross Improper Payment Rate Less Than 10 %
Medicare FFS	10.1	No
Medicare Advantage	9.5	Yes
Medicare Prescription Drugs	3.7	Yes
Medicaid	5.8	Yes
CHIP	7.1	Yes
Foster Care	5.3	Yes
TANF	* ¹⁰	* ¹³
CCDF	5.9	Yes

Source: The FY 2013 reported rate was provided by HHS, Table 1 “Improper Payment Reduction Outlook,” in the HHS AFR for FY 2013.

Noncompliance for Fiscal Years 2011, 2012, and 2013

The IPERA and OMB Circular A-123 require Inspectors General to report on agency compliance with the IPIA. If an agency is determined by an Inspector General not to be in compliance with the IPIA for 3 consecutive FYs for the same program or activity, the head of the agency shall, not

¹² Comprehensive Error Rate Testing program, *Medicare Fee-for-Service 2013 Improper Payments Report and Appendices*, issued January 27, 2014, and Comprehensive Error Rate Testing program, *Medicare Fee-for-Service 2012 Improper Payments Report and Appendices*, issued September 9, 2013. Last accessed on March 19, 2014, at <http://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/CERT/CERT-Reports.html>.

¹³ We could not evaluate whether TANF achieved an improper payment rate of less than 10 percent because the Department did not publish an improper payment measurement.

later than 30 days after such determination, submit to Congress either reauthorization proposals for each program or activity that has not been in compliance for 3 or more consecutive FYs or proposed statutory changes necessary to bring the program or activity into compliance.¹⁴ We identified noncompliance in TANF (no estimate of improper payments and failure to meet other IPIA requirements) and CHIP (failure to publish improper payment reduction targets) for 3 consecutive years.

If a program or activity is determined by the Inspector General to not be in compliance for 2 consecutive fiscal years, OMB will determine if additional funding would help the agency come into compliance and how much additional funding the agency should obligate to compliance efforts.¹⁵ We have identified Medicare FFS as being not in compliance (failure to meet annual reduction targets) for FY 2012 and FY 2013. Specifically, for FYs 2012 and 2013, the Department had improper payment target rates of 5.4 percent and 8.3 percent, respectively, and reported improper payment rates of 8.5 percent and 10.1 percent.

ACCURACY AND COMPLETENESS OF INFORMATION IN THE AGENCY FINANCIAL REPORT

In addition to assessing compliance with the IPIA, we reviewed the accuracy and completeness of the Department's reporting in accordance with OMB guidance. For six of eight programs, we did not identify any issues with the accuracy or completeness of the information that the Department reported. As discussed in prior sections, the Department reported incomplete information for TANF and CHIP.

PERFORMANCE IN REDUCING AND RECAPTURING IMPROPER PAYMENTS

The Department has achieved some success in reducing improper payment rates. Specifically, the Department reported reductions in rates for five of the seven programs (i.e., Medicare Advantage, Medicaid, CHIP, Foster Care, and CCDF) for which it reported improper payment rates. However, the Department reported increases in the improper payment rates of Medicare FFS from 8.5 percent in FY 2012 to 10.1 percent in FY 2013 and in Medicare Prescription Drugs from 3.1 percent in FY 2012 to 3.7 percent in FY 2013.

We compared the amounts reported by the Department for recapture auditing and for overpayments recaptured outside of recapture audits. The Department has increased the percentage of improper payments identified and recaptured. For example, the Department recaptured approximately 88 percent of the identified improper payments in FY 2013, as compared with approximately 79 percent for FY 2012. The Medicare FFS recovery auditor contractors demonstrated the largest improvement by recovering an additional \$486.7 million in FY 2013 over FY 2012.

¹⁴ IPERA, section 3(c)(3).

¹⁵ IPERA, section 3(c)(2).

RECOMMENDATIONS

The Department made progress on some of our recommendations. However, it still has not reported an improper payment estimate for TANF, and we reemphasize our prior recommendation that it do so. Other recommendations are still outstanding, such as reducing error rates below 10 percent and publishing improper payment target rates for CHIP. We will continue to follow up until they are resolved.

We did not identify any new issues in this report but continue to recommend that the Department improve its compliance with the IPIA.

DEPARTMENT COMMENTS

In its comments on our draft report, the Department provided information on the status of actions it has taken in response to our previous recommendations. Specifically, the Department stated that it:

- will work with Congress to address issues related to accountability, to address how funds are used, and to craft statutory changes that would allow for reliable error rate measurement once legislation is considered to reauthorize TANF,
- has taken and continues to take a number of actions to reduce error rates in all of its programs, and
- continues to set aggressive reduction targets in an effort to drive improvement in payment accuracy levels.

The Department disagreed with our finding that it did not comply with the IPIA with respect to CHIP. The Department noted that it was prohibited by statute¹⁶ from calculating or publishing an error rate for CHIP for 2008 through 2010.¹⁷ Also, the Department noted that under its OMB-approved practice, the Department does not establish reduction targets for a program until a baseline has been established. Therefore, the Department requested that we report that it has not established CHIP reduction targets because of a lack of baseline data.

The Department also provided technical comments, which we addressed as appropriate. The Department's comments, excluding technical comments, are included as Appendix C.

¹⁶ Children's Health Insurance Program Reauthorization Act of 2009, P.L. No. 111-3, § 601(b); Medicare and Medicaid Extenders Act of 2010, P.L. No. 111-309, § 205 (c).

¹⁷ Error rates for FYs 2008 through 2010 would otherwise have been published in the FY 2009 through FY 2011 AFRs.

OFFICE OF INSPECTOR GENERAL RESPONSE

We appreciate the actions that the Department has taken and plans to take to ensure compliance with the IPIA and to reduce improper payments. With regard to our finding that the Department did not report improper payment reduction targets for CHIP, we acknowledge the statutory prohibitions against reporting improper payment estimates for FYs 2008 through 2010. We are not aware of any exception to the IPIA requirement to publish an annual reduction target for CHIP. We continue to recommend that the Department develop and report error rate reduction targets for CHIP in accordance with the IPIA.

APPENDIX A: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Issue Date
<i>U.S. Department of Health and Human Services Met Many Requirements of the Improper Payments Information Act of 2002 But Was Not Fully Compliant</i>	A-17-13-52000	March 2013
<i>Medicare Claims Administration Contractors' Error Rate Reduction Plans</i>	OEI-09-12-00090	January 2014
<i>U.S. Department of Health and Human Services Did Not Fully Comply With Federal Requirements for Reporting Improper Payments</i>	A-17-12-52000	March 2012
<i>Review of CERT [Comprehensive Error Rate Testing] Errors Overturned Through the Appeals Process for Fiscal Years 2009 and 2010</i>	A-01-11-00504	March 2012
<i>Oversight and Evaluation of the Fiscal Year 2007 Payment Error Rate Measurement Program</i>	A-06-08-00078	May 2010
<i>Oversight and Evaluation of the Fiscal Year 2006 Medicaid Fee-for-Service Payment Error Rate Measurement Program</i>	A-06-07-00114	January 2009

APPENDIX B: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our review covered IPIA information in “Other Information” that was reported in the Department’s FY 2013 AFR. The Department included information on the following eight programs, which were deemed by OMB to be susceptible to significant improper payments: Medicare FFS, Medicare Advantage, Medicare Prescription Drugs, Medicaid, CHIP, TANF, Foster Care, and CCDF.

We performed our fieldwork from December 2013 through February 2014.

METHODOLOGY

To determine whether the Department complied with the IPIA and whether it had made progress on recommendations included in our report on the Department’s FY 2012 AFR, we:

- reviewed applicable Federal laws and OMB circulars;
- reviewed improper payment information reported in the FY 2013 AFR;
- obtained and analyzed other information from the Department on the eight programs deemed susceptible to significant improper payments; and
- interviewed Department, State, and Medicare Administrative Contractor staff to obtain an understanding of the processes and events related to determining improper payment rates.

To evaluate the accuracy and completeness of the Department’s reporting, we reviewed the documentation and related information provided by the Department to support the balances, amounts, percentages, and ratios reported in the FY 2013 AFR.

To evaluate the Department’s performance in reducing improper payments, we reviewed documentation provided by the Department on its corrective actions to reduce improper payments and analyzed the reported error rates.

We discussed the results of our work with the Department.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX C: DEPARTMENT COMMENTS



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary
Washington, DC 20201

Daniel R. Levinson
Inspector General
Department of Health and Human Services
Cohen Building, Room 5250
330 Independence Ave, S.W.
Washington, D.C. 20201

APR 10 2014

Dear Mr. Levinson:

Thank you for sharing the draft report on the Department of Health and Human Services' (HHS) compliance with requirements for reporting improper payments under the Improper Payments Elimination and Recovery Act of 2010 (IPERA). The draft report did not provide any new recommendations to the Department. However, as requested, this letter includes information on the status of actions we are taking in response to previous recommendations. In addition, our technical comments are attached for your consideration.

Responses to the HHS OIG Recommendations on IPERA Compliance (A-17-14-52000)

Recommendation #1: The Department should "develop an improper payment estimate for the Temporary Assistance for Needy Families Program and, if necessary, seek statutory authority to require State participation in such a measure."

HHS Response: As noted in HHS' Fiscal Year (FY) 2013 Agency Financial Report (AFR), statutory limitations prohibit the Department from requiring States to participate in, calculate, or report a Temporary Assistance for Needy Families (TANF) program error rate. 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. In the meantime, in compliance with IPERA, HHS will submit a legislative proposal to Congress that will allow for a TANF error rate measurement. Until the law is changed, the Department continues to work with States on reducing improper payments in the TANF program.

Recommendation #2: The Department should "reduce improper payment error rates below 10 percent in all IPIA programs."

HHS Response: HHS is committed to reducing all program error rates below the 10 percent threshold, and has made progress in recent years. HHS reported an improper payment rate below 10 percent for the Child Care program and the Medicare Advantage program for the first time in the FY 2012 and FY 2013 AFRs, respectively. As the draft report notes, in FY 2013, all of our IPIA programs reported error rates below the 10 percent level, with the exception of the Medicare Fee-For-Service (FFS) program. HHS has taken, and continues to take, a number of actions, outlined in the FY 2013 AFR (please see <http://www.hhs.gov/af/> for HHS' AFR, released December 16, 2013) to reduce error rates in all of its programs, including Medicare FFS. We believe these actions will allow HHS to achieve compliance with the 10 percent goal in the future.

Recommendation #3: The Department should “develop and report error rate reduction targets for the CHIP program.”

HHS Response: HHS has reported an error rate for the Children’s Health Insurance Program (CHIP) in FY 2013 for the second year in a row. As noted in the FY 2013 AFR, HHS was specifically prohibited by the *Children’s Health Insurance Program Reauthorization Act of 2009 (CHIPRA)* from calculating or publishing an error rate for CHIP until 6 months after a new Payment Error Rate Measurement (PERM) final rule had taken effect. The PERM final rule was published on August 11, 2010. In addition, Section 205(c) of the *Medicaid Extenders Act of 2010* exempted HHS from reporting a CHIP improper payment rate in FY 2010 and FY 2011. Therefore, in compliance with *CHIPRA* and the *Medicaid Extenders Act*, HHS did not report a national error rate for CHIP in the FY 2009 through FY 2011 AFRs. In compliance with *IPERA*, HHS reported a CHIP improper payment estimate in the FY 2012 and FY 2013 AFRs.

HHS respectfully disagrees with this finding and recommends removing the CHIP noncompliance finding from the report. Under our OMB-approved practice, we do not establish reduction targets for a program until we have established the baseline. As stated in the FY 2013 AFR, the CHIP improper payment baseline will be established in FY 2014 when all three cycles of States have completed their measurement. Instead of reporting HHS out of compliance for not publishing CHIP reduction targets, HHS recommends noting that HHS has not established reduction targets for CHIP due to a lack of a baseline but is on track to report reduction targets in the FY 2014 AFR.

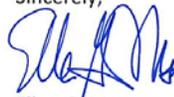
Recommendation #4: The Department should “assess the need for additional actions to meet error rate reduction targets.”

HHS Response: HHS is committed to meeting its error rate reduction targets. As the draft report notes, in FY 2013, four programs met the reduction targets that were published in the FY 2012 AFR (Child Care, Foster Care, Medicare Advantage, and Medicaid), but two programs (Medicare FFS and Medicare Prescription Drug Benefit (Part D)) did not meet the targets.

HHS sets aggressive reduction targets in an effort to drive improvement in payment accuracy levels. The downside of setting aggressive targets is that they may not always be met. As mentioned previously, HHS has taken a number of actions to reduce error rates in all its programs, including Medicare FFS and Medicare Part D. We believe these actions will allow HHS to achieve error rates at or below the established targets in the future.

Thank you again for your ongoing efforts to assist the Department. We look forward to continuing to partner with your office to prevent and reduce improper payments.

Sincerely,



Ellen G. Murray
Assistant Secretary for Financial Resources

Attachment: Technical Comments on the Draft Report on IPERA Compliance (A-17-14-52000)¹⁷

¹⁷ Office of Inspector General note—Technical comments in the auditee’s response to the draft have been omitted from the final report and all appropriate changes have been made.