

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 WAS NOT FULLY
COMPLIANT**

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EXECUTIVE SUMMARY

The Department met many requirements of the Improper Payments Information Act but did not fully comply with requirements established under the Act and OMB guidance.

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 (OIG) to review and report on agencies' annual improper payment information included in their Agency Financial Reports (AFR) to determine compliance with the Improper Payments Information Act of 2002 (P.L. No. 107-300) as amended by the IPERA. (The "IPIA" will refer to this law as amended by the IPERA.) 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) 2012 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

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).

As required by OMB, agencies must comply in seven key areas, 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 the 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 met many of the IPIA requirements, it did not fully comply with the IPIA and OMB guidance. As required, the Department published an AFR for 2012 and posted that report and accompanying material required by OMB on its Web site. It also conducted a program-specific risk assessment of 33 programs that were not deemed high risk by OMB to identify those programs or activities that might have been susceptible to significant improper payments.

As required by the IPIA, the Department reported improper payment information for nine programs that were deemed to be high risk by OMB. However, it did not report an improper payment estimate for one of the nine programs, the Temporary Assistance for Needy Families program (TANF). The Department published corrective action plans for seven of nine programs.

The Children's Health Insurance Program (CHIP) did not publish corrective action plans as required, and this requirement did not apply to TANF because an estimate was not provided. The Department reported that four of nine programs met their improper payment rate reduction targets. However, three of nine (i.e., Medicare Fee-for-Service, Medicare Advantage, and Foster Care) did not meet their improper payment rate reduction targets for FY 2012; this requirement did not apply for the remaining two programs because a target had not been established for either program. The Department reported that seven of nine programs had an improper payment rate below 10 percent. Medicare Advantage reported an improper payment rate of 11.4 percent for FY 2012, and this requirement did not apply for TANF because it did not provide a prior-year improper payment estimate. We found that the Department reported information on its efforts to recapture improper payments in accordance with OMB guidance.

In addition to assessing the Department's compliance with the IPIA, we evaluated the accuracy and completeness of the Department's reporting and did not identify any inaccuracies or gaps in the information reported for three programs (i.e., Medicaid, Head Start, and Foster Care). For four programs (i.e., Child Care Development Funds, Medicare Fee-for-Service, Medicare Advantage, and Medicare Prescription Drugs), we identified inaccuracies, and for two programs (i.e., 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 the Medicare Advantage and Foster Care programs' improper payment rates.

WHAT WE RECOMMEND

To address issues identified in this report, we recommend that the Department improve its compliance with the IPIA. Specifically, the Department should assess the need for additional actions to meet improper payment rate reduction targets, develop and report improper payment rate reduction targets and corrective action plans for CHIP, ensure that amounts used in the computations for reporting overpayments recaptured are accurate and complete, and ensure data are retained in accordance with program requirements.

DEPARTMENT'S COMMENTS AND OUR RESPONSE

In its comments on the draft report, the Department neither agreed nor disagreed with our four recommendations. Instead, the Department described actions it has implemented or plans to implement related to the recommendations and expressed concerns primarily about the recommendation for CHIP.

We acknowledge that the Department has taken or plans to take actions to address our recommendations. With regard to our recommendations for CHIP, taking actions to comply 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 (OIG) to review agencies' annual improper payment information included in their Agency Financial Reports (AFR) to determine and report compliance with the Improper Payments Information Act of 2002 (P.L. No. 107-300) as amended by the IPERA.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) 2012 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 2012 AFR, the Department reported \$64.8 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 and the IPERA.

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 is compliant in seven key areas:

- publishing an AFR for the most recent FY and posting that report and any accompanying material required by OMB on its Web site,
- conducting 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,
- publishing improper payment estimates for all programs and activities identified in its risk assessment as susceptible to significant improper payments,

¹ In this report, "the IPIA" will mean the IPIA as amended by the IPERA.

- publishing programmatic corrective action plans in the AFR,
- publishing and meeting annual improper payment reduction targets for each program assessed to be at risk and measured for improper payments,
- reporting 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
- reporting information on its efforts to recapture improper payments (OMB Circular A-123, Appendix C, part II, section A(4)).

In addition to assessing compliance in the seven key areas in the IPIA, OMB guidance states that the OIG should also evaluate the accuracy and completeness of agency reporting and evaluate agency performance in reducing and recapturing improper payments (OMB Circular A-123).²

KEY ISSUES IDENTIFIED IN OUR PRIOR-YEAR REPORT

In March 2012, we issued a report on the Department’s compliance with the IPIA for FY 2011. In that report, we determined that the Department did not fully comply with the IPIA. Specifically:

- neither the Temporary Assistance for Needy Families program (TANF) nor the Children’s Health Insurance Program (CHIP) reported an improper payment rate,
- both the Medicare Advantage and the Child Care Development Funds (CCDF) programs reported improper payment rates that exceeded 10 percent, and
- the Department’s reporting on recapturing improper payments was not adequately supported.

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

HOW WE CONDUCTED THIS REVIEW

Our review covered IPIA information in “Other Accompanying Information” that was reported in the Department’s FY 2012 AFR.³ The Department included information on the following nine programs, which were deemed by OMB to be susceptible to significant improper payments:

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 The Department issued its FY 2012 AFR on November 15, 2012.

Medicare Fee-for-Service, Medicare Advantage, Medicare Prescription Drugs, Medicaid, CHIP, TANF, Foster Care, Head Start, and CCDF.

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 2011 AFR, we:

- reviewed applicable Federal laws and OMB circulars,
- reviewed improper payment information reported in the AFR,
- obtained and analyzed information from the Department on the nine programs deemed susceptible to significant improper payments, and
- interviewed Department 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 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 improper payment 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.

We performed our fieldwork from November 2012 through January 2013.

FINDINGS

Although the Department met many of the IPIA requirements, it did not fully comply with the IPIA and OMB guidance. As required, the Department published an AFR for 2012 and posted that report and accompanying material required by OMB on its Web site. The Department conducted a program-specific risk assessment of 33 programs that were not deemed high risk by OMB to identify those programs or activities that might have been susceptible to significant improper payments. The Department published an improper payment estimate for eight of nine programs; it did not report an improper payment estimate for TANF. The Department published corrective action plans for seven of nine programs. The Department did not publish a corrective action plan for CHIP as required; for TANF, this requirement did not apply because an improper payment estimate was not developed. The Department reported that four of nine programs met

their improper payment rate reduction targets. However, three of nine (i.e., Medicare Fee-for-Service, Medicare Advantage, and Foster Care) did not meet their improper payment rate reduction targets for FY 2012; this requirement was not applied for the remaining two programs because prior-year improper payment rates were not estimated. The Department reported that seven of nine programs had an improper payment rate below 10 percent. For the Medicare Advantage program, the Department reported an improper payment rate of 11.4 percent for FY 2012, and this requirement was not applied for TANF because a prior-year improper payment rate was not estimated. We found that the Department reported information in accordance with OMB guidance on its efforts to recapture improper payments.

In addition to assessing the Department's compliance with the IPIA, we assessed the accuracy and completeness of the Department's reporting and did not identify any inaccuracies or gaps in the information reported for three programs (i.e., Medicaid, Head Start, and Foster Care). For four programs (i.e., CCDF, Medicare Fee-for-Service, Medicare Advantage, and Medicare Prescription Drugs), we identified inaccuracies, and for two programs (i.e., CHIP and TANF), we identified incomplete information.

We also assessed 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 the Medicare Advantage and Foster Care programs' improper payment rates. We also noted some differences in the amounts reported for the recapture of improper payments for Medicare Fee-for-Service and Medicare Advantage.

DEPARTMENT COMPLIANCE WITH THE IMPROPER PAYMENTS INFORMATION ACT OF 2002

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

To satisfy the IPIA, the Department published an AFR for FY 2012 dated November 15, 2012, and posted that report and accompanying material on its Web site as required by OMB. The AFR included management's discussion of Department programs, its audited financial statements, and other accompanying information.

Department Complied With Requirement To Perform Risk Assessments of Department Programs

The Department conducted a program-specific risk assessment of 33 programs that were not deemed high risk by OMB to identify those programs or activities that might have been susceptible to significant improper payments. Previously, nine of the Department's programs were deemed by OMB to be highly susceptible to improper payments.

Department Fully Complied with the Improper Payments Information Act of 2002 Requirements for Four High-Risk Programs

The Department substantially met all of the IPIA's requirements for the following four programs: Medicare Prescription Drugs, Medicaid, Head Start, and CCDF. For example, the Department published required Medicare Prescription Drugs information in the AFR, including a gross improper payment rate of 3.1 percent that was less than the target improper payment rate of 3.2 percent. In addition, the Department-published CCDF improper payment estimate was less than 10 percent and met all other IPIA requirements. The Department did not satisfy one or more requirements for the remaining five high-risk programs: Medicare Fee-for-Service, Medicare Advantage, CHIP, TANF, and Foster Care.

Improper Payment Estimate Not Reported for One Program, Temporary Assistance for Needy Families

In our FY 2011 report, we recommended that the Department take steps to develop improper payment estimates for CHIP and TANF. In its 2012 AFR, the Department reported an improper payment rate for CHIP but not for TANF. The Department did not meet other IPIA requirements for TANF because the Department did not provide an estimate of the extent of improper payments. The Department stated in its 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. The Department stated in the AFR that despite statutory limitations, it continues to explore options that will allow for a future improper payment rate measurement.

Corrective Action Plan Published for Seven of Nine Programs

As required by the IPIA, the Department did publish corrective action plans for seven of nine programs. As previously noted, the Department did not publish a corrective action plan for TANF because estimates of the extent of improper payments were not made. For CHIP, the Department did not publish a corrective action plan as required and reported that it is actively working with States to develop corrective action plans for CHIP. It expects these corrective action plans to include areas such as data and program analysis, implementation and monitoring, and evaluation.

Improper Payment Rate Reduction Targets Met for Four of Nine Programs

The Department had four programs that met their improper payment rate reduction targets. For example, the Department reported an improper payment rate reduction target of 7.4 percent for Medicaid in the FY 2011 AFR. As reported in the FY 2012 AFR, Medicaid achieved an improper payment rate of 7.1 percent, which exceeded its goal. However, three of the nine programs did not meet their improper payment rate reduction targets for FY 2012: Medicare

Fee-for-Service, Medicare Advantage, and Foster Care (Table 1).⁴ For Medicare Fee-for-Service, the Department’s reported improper payment rate (8.5 percent) exceeded its target rate (5.4 percent). The Department made two adjustments to its methodology that lowered the Medicare Fee-for-Service improper payment estimate: (1) it moved the reporting period back by 6 months to account for the effect of appeals and late documentation and (2) it used an adjustment factor⁵ for inpatient claims when the services should have been provided to the beneficiary as an outpatient. The Department has reported a number of ongoing corrective actions, including those implemented in FY 2012. According to Department officials, the Department is optimistic that these efforts will lower the improper payment rate and help it meet its targets in future reporting years. The Department revised its Medicare Fee-for-Service improper payment rate reduction targets to 8.3 percent for 2013 and to 8.0 percent for 2014, and it established a target rate of 7.5 percent for 2015.

Table 1: Assessment of Achieving Fiscal Year 2012 Improper Payment (Percentage) Targets

Program	Improper Payment Estimate (Percentage)		
	FY 2012 Target	FY 2012 Actual	Target Met
Medicare Fee-for-Service	5.4	8.5	No
Medicare Advantage ⁶	10.4	11.4	No
Medicare Prescription Drugs	3.2	3.1	Yes
Medicaid	7.4	7.1	Yes
CHIP	N/A	8.2	N/A
TANF	N/A	N/A	N/A
Head Start	0.6	0.6	Yes
Foster Care	4.5	6.2	No
CCDF	10.8	9.4	Yes

Source: the Department, FY 2012 AFR.

N/A = Not applicable because these programs did not submit improper payment estimates in FY 2011. Therefore, 2012 targets could not be estimated.

For Medicare Advantage, the Department’s reported improper payment rate (11.4 percent) exceeded its target rate (10.4 percent). In addition, the Medicare Advantage improper payment rate increased from 11.0 percent in the FY 2011 AFR to 11.4 percent in the FY 2012 AFR. According to the Department, the majority of the errors related to insufficient documentation to

⁴ For TANF and CHIP, the Department did not have a target improper payment rate to meet for FY 2012 because it did not report an improper payment estimate for either program in the FY 2011 AFR.

⁵ The adjustment factor was meant to ensure that the improper payment estimate for this subset of claims was consistent with Administrative Law Judge and Departmental Appeals Board decisions.

⁶ Medicare Advantage is identified as “Medicare Managed Care” in the AFR.

support the diagnoses submitted by managed care plans.⁷ The Department has revised its Medicare Advantage improper payment rate reduction targets to 10.9 percent for 2013 and to 10.4 percent for 2014, and it has established a target rate of 9.9 percent for 2015.

For Foster Care, the Department's reported improper payment rate (6.2 percent) exceeded its target rate (4.5 percent). The Department attributed the increases in the Foster Care program improper payment rate to a high improper payment rate in one large State included in its review for FY 2012.⁸ The Department reported that if the data from that State were excluded, the overall improper payment rate for Foster Care would have decreased in FY 2012. The Department has revised its Foster Care improper payment rate reduction targets to 6.0 percent for 2013 and 5.8 percent for 2014 and has established a target rate of 5.5 percent for 2015.

Meeting the improper payment rate reduction target was not applied for either TANF or CHIP because the Department had not reported an improper payment rate for either in the prior year. With regard to publishing a target for measured programs, CHIP had not set an improper payment rate reduction target for FY 2013. In FY 2014, the Department expects to publish an improper payment rate reduction target in its AFR after all 50 States and the District of Columbia have been measured once.

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

The Department reported that 7 of 9 programs achieved an improper payment rate of less than 10 percent. In our prior-year report, we recommended the Department take steps to reduce the improper payment rate for both Medicare Advantage and CCDF to below 10 percent. For FY 2012, the Department reported a gross improper payment rate of 9.4 percent for CCDF.⁹ However, Medicare Advantage did not meet the requirement of reporting an improper payment rate of less than 10 percent (Table 2). The Department reported that Medicare Advantage's gross improper payment rate was 11.4 percent. The Department reported that the rate increased from 11.0 percent in FY 2011 to 11.4 percent in FY 2012. The Department did not attribute the increase to any specific cause. Because the Department had not measured improper payments for TANF, it could not report an improper payment rate of less than 10 percent for the program.

⁷ Medicare Advantage plans submit diagnoses that the Centers for Medicare & Medicaid Services (CMS) uses to establish reimbursement rates on the basis of beneficiary risk.

⁸ To measure improper payments in Foster Care, the Department reviews eligibility in each State every 3 years.

⁹ The adjusted rate was 9.16 percent, and we discuss this issue later in the report.

**Table 2: Assessment of Achieving Fiscal Year 2012
Gross Improper Payment Rate of Less Than 10 percent**

Program	Improper Payment Estimate, Actual 2012	Gross Improper Payment Rate of Less Than 10%
Medicare Fee-for-Service	8.5	Yes
Medicare Advantage	11.4	No
Medicare Prescription Drugs	3.1	Yes
Medicaid	7.1	Yes
CHIP	8.2	Yes
TANF	N/A	N/A
Head Start	0.6	Yes
Foster Care	6.2	Yes
CCDF	9.4	Yes

Source: the Department, FY 2012 AFR.

N/A = Not applicable because this program did not submit a 2012 improper payment estimate and an assessment of whether payments errors were less than 10 percent could not be made.

Information on Recapturing Improper Payments

In accordance with the IPIA, the Department reported information on its actions and results to recapture improper payments. The Department reported both recoveries by the recovery audit contractor and for overpayments recaptured outside the work performed by those contractors. For example, the Department reported that the Medicare Fee-for-Service recovery auditors had a recovery rate of 87 percent (\$2.3 billion), which exceeded their target of 83.5 percent.

Noncompliance for Fiscal Years 2011 and 2012

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 2 consecutive FYs for the same program or activity, OMB will determine whether additional funding would help the agency come into compliance and how much additional funding the agency should obligate to compliance efforts. We identified noncompliance in TANF, CHIP, and Medicare Advantage for both FY 2011 and FY 2012.

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 and did not identify any issues with accuracy and completeness of the information for three programs. However, for four programs (i.e., CCDF, Medicare Fee-for-Service, Medicare Advantage, and Medicare Prescription Drugs), we identified inaccurate information. 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.

The spreadsheet used by the Department had incorrect data that resulted in the overstatement of the reported improper payment rate for CCDF. The incorrect data were the result of two States uploading incorrect data and data for two other fields not being loaded in a timely fashion. The Department did not detect these errors. The Department reported a current-year improper payment rate of 9.43 percent. After we identified the errors, the Department recalculated the rate and came to a rate of 9.16 percent. This affected several of the amounts that the Department had reported (Table 3).

Table 3: Discrepancies in Amounts Reported for the Child Care Development Fund

Current Year	Reported (\$ in millions)	Revised (\$ in millions)
Improper Payment Percentage	9.43%	9.16%
Improper Payment Dollars (gross)	\$488	\$497
Overpayment Dollars	\$449	\$443
Underpayment Dollars	\$39	\$55
Net Improper Payment Percentage	7.90%	7.15%
Net Improper Payment Dollars	\$410	\$388

Sources: the Department, FY 2012 AFR for reported amounts; data provided by the Department on 1/18/2013 for revised amounts.

For both Medicare Fee-for-Service and Medicare Advantage, we identified minor inaccuracies in the overpayment recapture amounts reported in the AFR.¹⁰ The Medicare Fee-for-Service overpayment recapture amounts were overstated by \$400,000 and the Medicare Advantage overpayment recapture amounts were overstated by \$100,000. Both overestimates were caused by mathematical errors.

We could not determine whether the reported improper payment rates for Medicare Prescription Drugs and Medicare Advantage were accurate because a component of the rates was calculated using a calendar year (CY) 2009 data set instead of a CY 2010 data set. The Department used the CY 2009 data set because two components of CMS miscommunicated the period of time the data should be retained. CMS has developed a process to monitor and ensure that data are retained in accordance with program requirements. CMS was able to recreate a limited amount of this CY 2010 data set. We were unable to quantify the effect of using the CY 2009 data set as a substitute for the CY 2010 data set on improper payment rate estimates reported for the current year for both programs.

¹⁰ Table 7, "Overpayments Recaptured Outside of Payment Recapture Audits."

PERFORMANCE IN REDUCING IMPROPER PAYMENTS

Beyond our assessment of the Department's compliance with the IPIA, we assessed the Department's performance in reducing and recapturing improper payments and identified that the Department has achieved some success in reducing improper payment rates. The Department reported reductions in rates for five of the eight programs (i.e., Medicare Fee-for Service, Medicare Prescription Drugs, Medicaid, Head Start, and CCDF) for which it reported improper payment rates. However, the Department reported increases in the improper payment rates of Medicare Advantage of from 11.0 percent in FY 2011 to 11.4 percent in FY 2012 and in Foster Care of from 5.3 percent in FY 2011 to 6.2 percent in FY 2012. The Department has developed corrective action plans for seven programs and, as previously noted, is working with the States to develop corrective action plans for CHIP.

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 improper payment rates below 10 percent, and we will continue to follow up until they are resolved. To address issues identified in this report, we recommend that the Department improve its compliance with the IPIA. Specifically, the Department should:

- assess the need for additional actions to meet improper payment rate reduction targets,
- develop and report improper payment rate reduction targets and corrective action plans for CHIP,
- ensure that amounts used in the computations for reporting overpayments recaptured are accurate and complete, and
- ensure data are retained in accordance with program requirements.

DEPARTMENT COMMENTS

In its comments on the draft report, the Department neither agreed nor disagreed with our four recommendations. Instead, the Department described actions it has implemented or plans to implement related to the recommendations.

Regarding our recommendation that the Department assess the need for additional actions to meet error-rate reduction targets, the Department stated that believes its actions will allow it to achieve error rates at or below targets in the future.

In response to our recommendation that the Department develop and report error rate targets and corrective action plans for CHIP, the Department noted that it was prohibited by statute¹¹ from

¹¹ The Children's Health Insurance Reauthorization Act of 2009, P.L. 111-3 § 601(b), and Medicare and Medicaid Extenders Act of 2010, P.L. 111-309 § 205(c).

calculating or publishing an error rate for CHIP for FYs 2008 through 2010.¹² The Department also stated that it was currently working to develop a comprehensive corrective action plan to be discussed in the FY 2013 AFR and will have a CHIP baseline error measurement in FY 2014 and will then establish reduction targets for CHIP.

Regarding our recommendation that the Department ensure that amounts used in the computations for reporting overpayment amounts recaptured are accurate and complete, the Department stated that it is important to report improper payment information in an accurate and complete manner. The Department is refining its internal controls to ensure that these mathematical errors do not occur in the future.

In response to our recommendation that the Department ensure that data are retained in accordance with program requirements, the Department stated that it has developed a process to ensure that data needed for the improper payment measures for Medicare Advantage and the Medicare Prescription Drugs program are retained.

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

OFFICE OF INSPECTOR GENERAL RESPONSE

With regard to our recommendation that the Department assess the need for additional actions to meet improper payment rate reduction targets, we acknowledge the corrective actions presented by the Department in the AFR cover a broad range of issues to address causes of improper payments. Nonetheless, some programs still have not met targets for reducing improper payments. For example, Medicare Advantage has a target rate above the statutory requirement of less than 10 percent until 2015. Our recommendation is not that the Department change all corrective action plans but that it assess the need for additional actions to meet the improper payment reduction target.

With regard to our recommendation that the Department develop and report improper payment reduction targets and corrective action plans 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 a programmatic corrective action plan and annual reduction target for CHIP. We appreciate that the Department has stated in its response that a comprehensive CHIP corrective action plan will be discussed in the FY 2013 AFR. On the basis of the Department's prior experience with CHIP and information gleaned from the estimation of improper payments, the Department could have established reasonable reduction targets for future years. Taking these actions in accordance with the IPIA will focus the Department's efforts to minimize improper payments.

We acknowledge that the Department recognizes the importance of ensuring that amounts used in the computations for reporting overpayment amounts recaptured are accurate and complete

¹² Error rates for FYs 2008 through 2010 would otherwise have been published in the FY 2009 through FY 2011 AFRs.

and that it is refining its internal controls. We also acknowledge that the Department has developed a process to ensure that data needed for improper payment measures for Medicare Advantage and Medicare Prescription Drugs will be retained as required.

APPENDIX A: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

<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
<i>Review of CERT Errors Overturned Through the Appeals Process for Fiscal Years 2009 and 2010</i>	A-01-11-00504
<i>Oversight and Evaluation of the Fiscal Year 2007 Payment Error Rate Measurement Program</i>	A-06-07-00078
<i>Oversight and Evaluation of the Fiscal Year 2006 Medicaid Fee-for-Service Payment Error Rate Measurement Program</i>	A-06-07-00114

APPENDIX B: DEPARTMENT OF HEALTH AND HUMAN SERVICES COMMENTS



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Washington, D.C. 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

MAR 01 2013

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). As requested, this response includes information on the status of any actions or planned actions that we are taking in response to the draft recommendations. In addition, our technical comments are attached for your consideration.

Responses to the HHS OIG Recommendations on IPERA Compliance (A-17-13-52000)

Recommendation #1: 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 Fiscal Year (FY) 2012, three programs (Medicare Fee-For-Service (FFS), Medicare Advantage (Part C), and Foster Care) did not meet the error rate reduction targets that were published in the FY 2011 HHS Agency Financial Report (AFR). For the Medicare FFS program, although the error rate declined from 8.6 percent in FY 2011 to 8.5 percent in FY 2012, the program did not meet its error rate reduction target of 5.4 percent. For the Medicare Part C and Foster Care programs, the error rate increased rather than decreased; therefore, the programs did not meet their reduction 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. HHS has taken, and continues to take, a number of actions, outlined in the FY 2012 AFR (please see <http://www.hhs.gov/afr/> for HHS' AFR, released November 15, 2012) to reduce error rates in all of its programs, including Medicare FFS, Medicare Part C, and Foster Care. We believe these actions will allow HHS to achieve error rates at or below the established targets in the future.

Recommendation #2: The Department should "develop and report error rate reduction targets and corrective action plans for the CHIP program."

HHS Response: HHS is pleased that we were able to report an error rate for the Children's Health Insurance Program (CHIP) in FY 2012, for the first time since FY 2008. As noted in the FY 2012 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. HHS reported a CHIP improper payment estimate in the FY 2012 AFR as scheduled.

Under the PERM final rule, States submit their CHIP corrective action plans after the publication of the HHS AFR. HHS develops the CHIP corrective action plan based on the State corrective action plans. HHS is currently working with the 17 States that reported in FY 2012 to develop a comprehensive CHIP corrective action plan that will be discussed in the FY 2013 AFR.

With respect to CHIP reduction targets, as has been our previous OMB-approved practice, we do not establish reduction targets for a program until we have established the baseline. For CHIP, the baseline measurement is based on the measurement of 50 States and the District of Columbia over three years (i.e., 17 States are measured each year). The CHIP improper payment baseline will be established when all three cycles of States have completed their measurement over a three-year period (FYs 2012 through 2014). HHS will have a CHIP baseline error measurement in FY 2014, and will then establish reduction targets for the program.

Recommendation #3: The Department should “ensure that amounts used in the computations for reporting overpayments recaptured are accurate and complete”

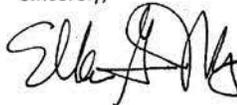
HHS Response: HHS believes it is important to report improper payment information in an accurate and complete manner. As noted in the draft report, the inaccuracy in the reported amounts of recaptured overpayments was due to mathematical errors. We are refining our internal controls to ensure that these mathematical errors do not occur in future reporting.

Recommendation #4: The Department should “ensure that data are retained in accordance with program requirements.”

HHS Response: As disclosed in the FY 2012 AFR and discussed in the draft report, for a component of the Medicare Part C and Part D programs, HHS had data issues that required the Department to utilize data from Calendar Year 2009, rather than Calendar Year 2010. However, as recognized by the OIG in the draft report, HHS has developed a process to ensure that data needed for improper payment measures for Medicare Part C and Part D will be retained for the requisite time period.

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-17-13-52000)¹

¹Office 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.