

Congress of the United States
Washington, DC 20515

December 7, 2015

Mr. Andy Slavitt
Acting Administrator
Centers for Medicare & Medicaid Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Mr. Slavitt,

We write today seeking information about the Centers for Medicare and Medicaid Services' (CMS) oversight of states' implementation of electronic asset verification systems for aged and disabled populations under Medicaid. Without targeted CMS oversight, States may not be using required mechanisms to ensure the accuracy of Medicaid eligibility determinations, thereby placing American taxpayer dollars at risk.

There is good reason to be concerned about the need to further protect taxpayer dollars in Medicaid. According to the Agency Financial Report released by the U.S. Department of Health and Human Services (HHS) on November 16th, in fiscal year 2015, the Medicaid improper payment rate was 9.78 percent overall, and 10.59 percent in fee-for-service Medicaid.

According to the CMS's Office of the Actuary, in 2013, there were over 15 million individuals enrolled in Medicaid on the basis of being disabled or age 65 or over (aged).¹ Medicaid expenditures for the aged and disabled totaled nearly \$260 billion in 2013; with the program spending an average of \$15,483 per aged enrollee and \$17,352 per disabled enrollee. More striking, the aged and disabled accounted for 64 percent of Medicaid expenditures, while constituting only 26 percent of program enrollees.²

To help ensure the accuracy of eligibility determinations for the aged and disabled population in Medicaid, in 2008, Congress passed legislation that required States to implement electronic asset verification systems to verify the assets of aged, blind, or disabled applicants for Medicaid.³ These populations must have assets below established standards to qualify for Medicaid coverage.

An asset verification system is a program integrity tool to provide States with an electronic mechanism to contact multiple financial institutions—including those not reported by an applicant—to determine if an applicant has, or had, an account and the value of any existing accounts. These systems provide States with independent data on applicant's financial accounts which can be used to assess applicants' assets at the time of application, as well as provide information regarding whether applicants' transferred assets to qualify for Medicaid coverage.

¹ The most recent year actual expenditure data is available from the Office of the Actuary.

² <http://www.medicaid.gov/medicaid-chip-program-information/by-topics/financing-and-reimbursement/downloads/medicaid-actuarial-report-2014.pdf>

³ Supplemental Appropriations Act, 2008, Pub. L. No. 110-252, § 7001(d)(1), 122 Stat. 2323, 2391 (codified at 42 U.S.C. § 1396w).

The law specifies that federal matching payments for expenditures for the populations subject to asset verification *must be withheld should states fail to implement the required asset verification system*, unless the State demonstrates a good faith effort to comply, submits a corrective action plan to remedy such noncompliance, and fulfills the terms of the corrective action plan within 12 months. The law provided for States' implementation of these systems to occur on a rolling basis. The first systems were to be implemented by the end of fiscal year 2009, with all States implementing systems by the end of fiscal year 2013.⁴

Although 25 States were supposed to have implemented their electronic asset verification systems by the end of fiscal year 2011, the Government Accountability Office (GAO) reported that *no State had implemented one as of November 2011*.⁵ Subsequently, in a May 2014 report, GAO stated that only 2 of the 12 States for which they conducted interviews reported having implemented an asset verification system, despite the fact that *all* States were to have implemented the systems by the end of fiscal year 2013.⁶

Given this GAO information, we are concerned that States are not using all mechanisms required by federal law to ensure that accuracy of Medicaid eligibility determinations. This is problematic not only because States may be out of compliance with federal law, but because this possible lack of CMS oversight may be placing American taxpayer dollars at risk for being improperly spent. As such, please provide answers to the following questions:

1. What is the status of States' implementation of electronic asset verification systems? Which States have implemented these required systems and when were their systems implemented?
2. For the States that have implemented asset verification systems, what proportion of aged, blind, and disabled applicants' assets are verified through the asset verification systems? What, if any, data is available on the extent to which such electronic asset checks have led to the discovery of unreported assets?
3. For the States that have not implemented the required asset verification systems, what is the status of their corrective action plans?
 - a. Which States submitted corrective action plans and when were the corrective action plans submitted?
 - b. To what extent have these States fulfilled the terms of their corrective action plans?
4. To what extent has CMS withheld federal matching funds as a result of States noncompliance with the requirement regarding electronic asset verification systems? In

⁴ The Supplemental Appropriations Act, 2008, required California, New Jersey, and New York to implement an asset verification system by the end of fiscal year 2009 and directed the Secretary of Health and Human Services to require the remaining states to implement their systems in a manner that results in a specified percentage of aged, blind, and disabled Medicaid applicants being subject to this type of asset verification each year over the 5-year period of fiscal year 2009 through fiscal year 2013.

⁵ According to GAO, 18 states reported that they were in the process of implementing an asset verification system, while the remaining 33 states had yet to begin implementation. See <http://www.gao.gov/assets/600/593053.pdf>

⁶ <http://www.gao.gov/assets/670/663417.pdf>

answering, please specify the states from which federal funding has been withheld, the time frames of the withholding, and the amount withheld.

5. What, if any, action has CMS taken to assist states in coming into compliance with the asset verification system requirements, such as disseminating best practices or offering technical assistance?

We respectfully request your response to this letter no later than 45 days after receipt of this letter. If you have any questions, please contact Josh Trent or Michelle Rosenberg with the Energy and Commerce Committee at (202) 225-2927 or Kim Brandt with the Finance Committee at (202) 224-4515.

Sincerely,



Fred Upton
Chairman
Committee on Energy and Commerce
U.S. House of Representatives



Orrin Hatch
Chairman
Committee on Finance
U.S. Senate