

**Senate Finance Committee, Subcommittee on Health Care**

*Medicaid: Compliance with Eligibility Requirements*

October 30, 2019

2:00 PM, 215 Dirksen

Purpose

*The purpose of this hearing was to discuss evidence of eligibility errors in the Medicaid expansion population and other issues surrounding state compliance with eligibility requirements.*

Members Present

Chairman Toomey, Ranking Member Stabenow, Senators Cardin, Brown, Casey, Daines, Cortez Masto, Cassidy, and Cantwell

Witnesses

**Mr. Brian Ritchie**, Assistant Inspector General for Audit Services, Office Of Inspector General (OIG), United States Department of Health and Human Services

**Ms. Carolyn Yocom**, Director, Health Care, United States Government Accountability Office (GAO)

**Mr. Daryl Purpera**, Legislative Auditor, Louisiana Legislative Auditor

**Ms. Judith Solomon**, Senior Fellow, Center on Budget and Policy Priorities

Opening Statements

**Chairman Toomey** said that last fiscal year, the federal government improperly spent \$36 billion in the Medicaid program, accounting for about 26 percent of government-wide improper payments. Medicaid spending is already on an unsustainable path. Unfortunately, the financial stability of the Medicaid program has worsened due to the new expansion population created by the Affordable Care Act (ACA). States are rewarded financially for enrolling members of this expansion population – working age, able-bodied adults. Making matters worse, the Obama Administration stopped auditing state eligibility requirements in 2014. States must do a better job of adhering to eligibility requirements, and the federal government must do a better job of enforcing the law.

**Ranking Member Stabenow** said that right now, the biggest threat to people wishing to enroll in Medicaid is a court challenge, supported by this Administration, which could overturn the entire ACA and rip health care away from millions of Americans. Congress should be focused on improving health care access and closing the coverage gap.

Testimony

**Mr. Ritchie** said that OIG shares Congress' commitment to protecting Medicaid from fraud, waste, and abuse. A strong compliance strategy starts with prevention. OIG has conducted seven audits in four states to ensure that states are not making Medicaid payments to people who are not eligible for the program. Generally, errors that the audits uncovered were due to states not properly verifying income or citizenship requirements. OIG has recommended that states develop and implement eligibility policies and maintain verification procedures.

**Ms. Yocom** said that Medicaid provides health coverage for over 75 million low-income people. Its size and complexity make it particularly vulnerable to improper payments. GAO has found that improvement is needed in CMS oversight of Medicaid eligibility determinations. Improvements in Medicaid data could improve program oversight. Finally, oversight could be improved further by collaboration and information sharing. State auditors are uniquely positioned to help CMS oversee Medicaid.

**Mr. Purpera** said that a report in Louisiana found that many higher-income Medicaid beneficiaries did not qualify for all or part of their coverage. Because eligibility is based on reported monthly income, a person's income could rise after enrollment, and unless it was voluntarily reported, the state would not know. The auditors recommended that the state engage in more frequent income verification. State auditors are often responsible for auditing the program, but do not have access to necessary federal data.

**Ms. Solomon** said that everyone shares the goal of ensuring that only eligible people receive Medicaid, but Congress should also be concerned with ensuring that every eligible person can maintain their Medicaid coverage. Enrollment of children in Medicaid has dropped by almost 1 million over two years. Lawmakers need to deal with unnecessary churn of people going on and off coverage. States must take volatile income and living situations into account when determining eligibility. There are ways for states to improve on these issues. They can adopt continuous eligibility policies and adopt better methods of communication. Congress also needs to recognize that the findings of recent audits have shown human and system error, rather than widespread fraud.

### Questions and Answers

**Chairman Toomey** asked why the payment error rate measurement audits are important. **Ms. Yocom** said that audits cover three areas: fee for service, managed care, and eligibility. In 2014, CMS decided to stop publically reporting eligibility measures. That work has now resumed, and a report is expected in mid-November. **Chairman Toomey** asked Mr. Purpera if he thinks there were cases of fraud in the Louisiana findings. **Mr. Purpera** said yes. **Chairman Toomey** asked what challenges states have in verifying income. **Mr. Purpera** said that federal tax information is needed to thoroughly verify income, and state auditors do not have access to it.

**Ranking Member Stabenow** asked Mr. Purpera if the report he discussed evaluated Louisiana's old Medicaid enrollment system, before the state expanded Medicaid. **Mr. Purpera** said yes. **Ranking Member Stabenow** asked if there are ways that states can improve their eligibility compliance practices without kicking large numbers of people off coverage. **Ms. Solomon** said yes. The state can do several things. For example, if the state identifies someone with income that is too high for Medicaid, officials should take steps to help that person get subsidies to purchase care from the marketplace. Another problem is communication failure. States should adopt better methods of the communication, like text messages and online portals. **Ranking Member Stabenow** asked how health care outcomes in states with Medicaid expansion compare to those without. **Ms. Yocom** said that GAO found that states that expanded Medicaid had significantly better health care access and outcomes.

**Sen. Cardin** asked how states can simplify Medicaid enrollment. **Ms. Solomon** said that states can definitely do more. First of all, there are a number of states that still have not expanded Medicaid. And for states that have, they do not adequately take into account income and living situation volatility.

**Sen. Brown** asked if Louisiana's uninsured rate is the lowest it's ever been. **Mr. Purpera** said he is not sure. **Sen. Brown** asked if Medicaid expansion in Louisiana created jobs. **Mr. Purpera** said he cannot verify that. **Sen. Brown** asked about the consequences of bureaucratic enrollment requirements. **Mr. Purpera** said that Medicaid is estimated to cost \$1 trillion per year by 2025. He feels that requiring people to fill out the necessary paperwork is appropriate.

**Sen. Casey** asked how excessive paperwork leads to people losing coverage. **Ms. Solomon** said that there are many studies that show that excessive paperwork and similar requirements are a particularly big barrier for low-income people.

**Sen. Daines** asked how much variance there is among states in their eligibility verification practices. **Mr. Purpera** said that it varies widely. CMS allows far too much latitude. CMS could impose more requirements, such as using tax data, to close the gaps and prevent improper payment.

**Sen. Cortez Masto** asked if some of the improper payment number is attributable to providers, not just beneficiaries. **Ms. Yocom** said yes, the improper payment rate for fee for service has historically been much higher than what is attributable for individuals. **Sen. Cortez Masto** asked if quarterly wage data can be misleading. **Ms. Solomon** said yes. It can mischaracterize people who may be working seasonally or experiencing frequent job turnover.

**Sen. Cassidy** asked why it is important for states to be able to use tax data rather than wage data to verify incomes. **Mr. Purpera** said that wage data does not capture self-employment income, investment income, or rent income. **Sen. Cassidy** asked how much improper payment is costing taxpayers in Louisiana. **Mr. Purpera** said about it costs about \$70 million for every one percent of ineligible people who are enrolled.

**Sen. Cantwell** said that the focus should be on rebalancing, and she hopes the committee will hold a hearing on that. That is how to achieve savings in Medicaid.