

Congress of the United States
Washington, DC 20510

January 31, 2019

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Administrator Verma:

The Senate Committee on Homeland Security and Governmental Affairs (HSGAC) and the House Committee on Oversight and Reform are examining Medicaid fraud and the Affordable Care Act's (ACA) Medicaid expansion. We write regarding a recent Louisiana state audit.¹ State auditors discovered that up to 93 percent of the expansion population they examined received Medicaid services while ineligible, including numerous beneficiaries with incomes exceeding \$100,000—far above the income permitted to qualify for Medicaid. Auditors estimated that Louisiana may have improperly paid up to \$85 million.² If these improper (over) payments are occurring in one state, it is logical to assume overpayments are occurring in other states. We respectfully request information about what the Centers for Medicare & Medicaid Services (CMS) plans to do to determine where overpayments are being made, steps CMS will take to recover overpayments, and controls CMS will put in place to ensure federal Medicaid dollars are only paid to those who qualify.

We commend Louisiana state auditors for their efforts and informative report. In a November 2018 Louisiana audit, the Legislative Auditor compared wage data from the Louisiana Workforce Commission—used to verify eligibility for the Medicaid expansion population—to state health department Medicaid data for beneficiaries from single-person households.³ Auditors initially identified nearly 20,000 Medicaid recipients who appeared to make too much money to qualify for Medicaid.⁴ They then pulled a targeted selection of 100 single-person household expansion recipients, confirming that 93 of them, or 93 percent, were ineligible at some point during their Medicaid coverage between 2016 and 2018.⁵ Of these 100 beneficiaries, 14 had annual incomes of more than \$100,000, with one making \$145,146—766

¹ Daryl G. Purpera, Medicaid Eligibility: Wage Verification Process of the Expansion Population, No. 80180130, Louisiana Legislative Auditor, Louisiana Dep't of Health (2018) [hereinafter Purpera], *available at* [http://app.la.state.la.us/PublicReports.nsf/0/1CDD30D9C8286082862583400065E5F6/\\$FILE/0001ABC3.pdf](http://app.la.state.la.us/PublicReports.nsf/0/1CDD30D9C8286082862583400065E5F6/$FILE/0001ABC3.pdf).

² *Id.* at 5.

³ *Id.* at 1.

⁴ *Id.* at 4.

⁵ *Id.*

percent higher than the \$16,753 maximum yearly income for a single individual⁶ allowed under the ACA Medicaid expansion.⁷

A second, random sample of 100 single-person Medicaid expansion recipients produced similar results: Louisiana auditors found that 82 percent did not qualify for Medicaid at some point between 2016 and 2018.⁸

All told, the Louisiana auditors projected the state may have paid up to \$85 million for ineligible Medicaid recipients from single-person households between 2016 and 2018.⁹ Auditors reported that the high ineligibility rate resulted in part from many beneficiaries “lowballing their income at some point,” or failing to report income changes to the state.¹⁰ Louisiana “relies on Medicaid recipients to self-report changes in their wages,”¹¹ a policy that auditors said may violate federal law¹² requiring states to ensure that beneficiaries report “any changes that may affect their eligibility . . . in a timely and accurate manner.”¹³ Louisiana Legislative Auditor Daryl G. Purpera said he believes the audit’s findings show that eligibility problems under the Medicaid expansion are potentially reaching “a point where all 50 (state auditors) are going to have to declare they can no longer say the state’s books are accurate.”¹⁴

The Louisiana audit raises further questions about whether the ACA Medicaid expansion’s spiraling growth results in part from eligibility errors or fraud. As HSGAC’s prior oversight has found, CMS and other data show original Medicaid expansion per-enrollee spending and enrollment projections were significantly understated.¹⁵ As a result, the expansion has cost taxpayers an estimated 157 percent more than state officials had predicted.¹⁶

In his April 2018 testimony before the House Oversight and Reform Committee, Acting Director for the Center for Medicaid and CHIP Services Tim Hill testified about CMS improving its “ongoing efforts to ensure that States are appropriately determining eligibility for

⁶ *ACA Open Enrollment: If You Are Low-Income...*, Kaiser Fam. Found. (Oct. 25, 2018), available at <https://www.kff.org/health-reform/fact-sheet/aca-open-enrollment-if-you-are-low-income/>.

⁷ Purpera at App. E.

⁸ *Id.* at 9.

⁹ *Id.*

¹⁰ James Varney, ‘Stunning’: 80% Using Obamacare’s Medicaid Expansion are Ineligible, *Louisiana Report Finds*, Wash. Times (Dec. 4, 2018), available at <https://www.washingtontimes.com/news/2018/dec/4/obamacare-medicaid-expansion-beneficiaries-ineligi/> [hereinafter Varney].

¹¹ Purpera at 4.

¹² 42 CFR § 435.916.

¹³ Purpera at 5.

¹⁴ Varney.

¹⁵ Letter from the Honorable Ron Johnson, Chairman, S. Comm. On Homeland Sec. & Governmental Affairs, to the Honorable Seema Verma, Adm’r, Ctrs. for Medicare & Medicaid Servs. (Sept. 27, 2017), available at <https://www.hsgac.senate.gov/imo/media/doc/2017-09-27%20RHJ%20to%20Verma%20re%20Medicaid.pdf>

¹⁶ Jonathan Ingram & Nic Horton, *A Budget Crisis in Three Parts: How ObamaCare is Bankrupting Taxpayers*, Found. for Gov’t Accountability (Feb. 1, 2018), available at <https://thefga.org/wp-content/uploads/2018/02/A-Budget-Crisis-In-Three-Parts-2-6-18.pdf>.

beneficiaries in the expansion population.”¹⁷ Similarly, you stated in your testimony to HSGAC in August 2018 that CMS has “a responsibility to make sure that taxpayer dollars are spent only on those who are truly eligible.”¹⁸ However, we have continuing concerns about CMS’s oversight of the Medicaid program and its expansion population. To assist in our oversight of significant eligibility errors and potential fraud in the Medicaid program, we respectfully request that you provide the following information:

1. Please explain if CMS has contacted Louisiana state officials about the recent audit showing eligibility errors for the Medicaid expansion population.¹⁹
2. Please explain what steps CMS is taking, or plans to take, to better police potential Medicaid eligibility fraud in every state to help ensure federal Medicaid dollars are only paid to eligible beneficiaries.
3. Please explain if CMS intends to attempt to recoup any federal Medicaid dollars identified as being spent fraudulently.
4. Please explain if the new audits of state Medicaid programs, conducted under CMS’s program integrity initiatives announced in June,²⁰ will include Louisiana.
5. Regarding Louisiana’s reliance on Medicaid recipients to self-report changes in their wages, please:
 - a. Explain whether other states are permitted to do so;
 - b. List any other states that allow such self-reporting; and
 - c. Explain what actions CMS has taken or plans to take to better oversee or regulate such self-reporting.

Please provide this material as soon as possible but no later than 5:00 p.m. on February 14, 2019, so that we may begin to receive responsive information.

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate “the efficiency, economy, and effectiveness of all agencies and departments of the Government.”

¹⁷ *Improper Payments in State Administered Programs: Medicaid*, Hearing before the H. Comm. on Oversight and Gov’t Reform, 115th Cong. (April 12, 2018) (statement of Tim Hill, Acting Director, Center for Medicaid and CHIP Servs. at the Centers for Medicare and Medicaid Servs.).

¹⁸ *Examining CMS’s Efforts to Fight Medicaid Fraud and Overpayments: Hearing before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2018) (statement of the Honorable Seema Verma, Adm’r, Ctrs. for Medicare & Medicaid Servs.), available at <https://www.hsgac.senate.gov/hearings/examining-cms-efforts-to-fight-medicaid-fraud-and-overpayments>.

¹⁹ See Purpera.

²⁰ Press Release, Ctrs. for Medicare & Medicaid Servs., CMS Announces Initiatives to Strengthen Medicaid Program Integrity (June 26, 2018), available at <https://www.cms.gov/newsroom/press-releases/cms-announces-initiatives-strengthen-medicaid-program-integrity>.

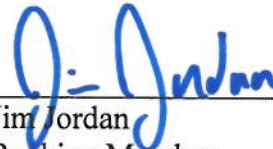
The House Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and may at “any time” investigate “any matter” as set forth in House Rule X.

If you have any questions regarding this letter, please ask your staff to contact Jerry Markon of HSGAC staff at (202) 224-4751 or Betsy Ferguson of the House Oversight and Reform Committee staff at (202) 225-5074. Thank you for your attention to this matter.

Sincerely,



Ron Johnson
Chairman
Senate Committee on Homeland
Security and Governmental Affairs



Jim Jordan
Ranking Member
House Committee on
Oversight and Reform

cc: The Honorable Gary C. Peters
Ranking Member
Senate Committee on Homeland Security
and Governmental Affairs

The Honorable Elijah E. Cummings
Chairman
House Committee on Oversight and Reform