

**SENATOR CARL LEVIN (D-MICH)**  
**BEFORE THE**  
**PERMANENT SUBCOMMITTEE ON INVESTIGATIONS**  
**ON**  
**MEDICAID PROVIDERS THAT CHEAT ON THEIR TAXES**  
**AND WHAT SHOULD BE DONE ABOUT IT**

November 14, 2007

Today's hearing is the fifth in a series before this Subcommittee on federal contractors who get paid with taxpayer dollars but fail to pay their taxes. Prior hearings have exposed as tax delinquents over 100,000 defense and civilian contractors and Medicare service providers who collectively owe billions in unpaid taxes. The spotlight today is on the Medicaid program, in particular on the doctors, nursing homes, and other medical providers who get paid taxpayer dollars through Medicaid, but have failed to meet their tax obligations. A review of just seven states has identified nearly 30,000 Medicaid providers who collectively owe delinquent taxes that date as far back as ten years and which collectively exceed \$1 billion. Most of these unpaid taxes consist of payroll taxes that the Medicaid providers withheld from their employees' paychecks but didn't remit to the federal government, which is a crime.

Medicaid is a key federal program that helps fund health care for America's poor. The vast majority of physicians and companies who participate in the Medicaid program are true public servants who deserve our admiration and gratitude. But a small portion of Medicaid providers are benefiting from the program, while taking advantage of honest taxpayers. These Medicaid providers are putting taxpayer dollars in their pocket with one hand, while using the other to stiff Uncle Sam by not paying their taxes.

Federal programs exist to stop this type of abuse. One key program is the Federal Payment Levy Program, which was established about ten years ago to enable the federal government to identify federal payments being made to tax delinquents, and authorize the withholding of a portion of those payments to apply to the person's tax debt.

When this series of hearings began in 2004, the tax levy program was weighed down by bureaucratic requirements and endless red tape. In response to the Subcommittee's request, the key federal agencies, including

the Internal Revenue Service (IRS), the Financial Management Service (FMS) at Treasury, and others, formed a government-wide task force to streamline the tax levy program. That task force took on many of the problems that have been identified in this series of hearings.

As a result, the tax levy program has taken on new life. It has moved from covering 10% to all of the payment systems at the Department of Defense. It has doubled the number of check screenings per week. It has laid plans to add the \$400 billion in Medicare payments to the federal payments being screened for tax delinquents. And tax levy collections from federal contractors have more than doubled from about \$20 million in FY 2004 to over \$47 million this last fiscal year.

That's the good news. The not-so-good-news is that there is still a long way to go. Last year, the tax levy program collected a total of about \$343 million in unpaid taxes from all types of federal payments; only \$47 million, or less than 15 percent, came from federal contract payments. In light of the billions of dollars in unpaid taxes owed by federal contractors, \$47 million is still far, far, too low. More needs to be done to cut the red tape hindering the tax levy program.

The tax delinquents we are tackling today are the tax dodgers taking advantage of the Medicaid program. Last year, the Subcommittee asked the Government Accountability Office (GAO) to estimate the number of Medicaid providers with unpaid taxes. GAO examined records in seven states that together account for roughly 40% of the total Medicaid contract dollars spent by the federal government each year. In those seven states, by comparing Medicaid payment records to the IRS list of delinquent taxpayers, GAO was able to identify about 30,000 medical providers, about 5% of the total number of Medicaid providers in those states, with unpaid taxes of \$1 billion.

In addition, GAO identified 25 examples of blatant tax dodging, each of which involved a medical service provider who received at least \$100,000 in Medicaid payments last year. GAO identified one physician, for example, who owes over \$300,000 in unpaid federal taxes and claims "limited ability to pay taxes." Yet GAO was able to determine that this same physician owns residential property worth over \$1 million dollars, received over \$100,000 in Medicaid payments last year, and also received tens of thousands of dollars in Medicare payments.

In another instance, GAO identified a nursing home that owes approximately \$2 million in back taxes, but received 2006 Medicaid payments totaling about \$6 million. The same nursing home has also been cited by the state for jeopardizing the health and safety of its patients. A third example involves a dentist who received \$200,000 in Medicaid payments last year but who hasn't made any federal tax payments in several years.

GAO also determined that not a single Medicaid tax delinquent has had a single Medicaid payment screened under the tax levy program. When we asked why, we learned that the entire Medicaid program – all \$185 billion paid by the federal government last year – is exempt from the tax levy program, because Medicaid payments are not considered “federal payments.”

The Medicaid program works like this. The key federal agency overseeing the Medicaid program is the Center for Medicare and Medicaid Services, or CMS. But CMS does not pay Medicaid service providers directly. Instead, CMS issues large grants to the states, which actually run the Medicaid program on a day-to-day basis. It is the states, for example, which select the Medicaid service providers, establish the scope of services to be provided, set the rates, and make the actual payments. The amounts paid by the states to Medicaid providers include a mix of federal and state dollars. Typically, the state makes the payment to the Medicaid providers, and then seeks reimbursement for part of the cost from the federal government.

Right now, the tax levy program is authorized to withhold funds only from “federal payments.” There is no provision in the law for tax levies to be applied to payments that are a mix of federal and state dollars, which is what Medicaid payments are. The question we'd like to examine today is, in light of the tax dodging going on by providers who receive payments from the Medicaid program, could the tax levy law be amended to allow the federal government to attach a portion of Medicaid payments being made to tax delinquents. We'd also be interested in any other solution to the problem.

I hope the agencies gathered here today, GAO, IRS, FMS and CMS, will lend us their expertise to help analyze the problem and identify possible solutions.

The vast majority of Medicaid providers are law-abiding citizens who pay their taxes on time. In too many cases, these honest and hardworking providers have to compete against a small number of Medicaid providers who gain a competitive edge by not paying or delaying payment on their taxes. It is long past time to find a way to withhold Medicaid payments from those providers who are shortchanging the very taxpayers who are supplying their paychecks and, thereby, forcing taxpayers who pay their taxes on time to shoulder the taxes they are shirking. We need to figure out how to enlist the tax levy program to stop this abuse.

Senator Coleman got the ball rolling on these hearings into tax delinquent federal contractors, and we commend him for that. Our staffs have always worked closely together on this issue, and we thank them for their efforts as well.