

# United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

CHRISTOPHER R. HIXON, STAFF DIRECTOR  
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September 21, 2018

The Honorable Gene L. Dodaro  
Comptroller General of the United States  
U.S. Government Accountability Office  
441 G Street N.W.  
Washington, DC 20548:

Dear Mr. Dodaro:

The Committee on Homeland Security and Governmental Affairs is examining so-called “Medicaid maximization schemes,” in which some states artificially inflate the federal government’s contribution to the Medicaid program while reducing their state share.<sup>1</sup> At a time of rising federal deficits and increased federal Medicaid spending,<sup>2</sup> these schemes warrant closer scrutiny.

I appreciate your continued attention to Medicaid waste, fraud, and abuse. As you articulated in your testimony to the Committee in August 2018, “the range of [state Medicaid] gimmicks . . . is almost limitless.”<sup>3</sup> Given GAO’s past work on Medicaid maximization schemes, I respectfully write to request that GAO examine the following issues:

1. All Medicaid maximization schemes used by states, the extent to which states use the schemes, and the estimated costs of these schemes to federal taxpayers. Although you testified that “no one knows” the extent or cost of these gimmicks, I request that this review include an examination of all existing state Medicaid gimmicks, including but not limited to:
  - Supplemental payments, in which states make payments to healthcare providers separate from regular claims-based payments for Medicaid services;<sup>4</sup>

<sup>1</sup> Maj. Staff, S. Comm. on Homeland Sec. & Governmental Affairs, *The Centers for Medicare & Medicaid Services Has Been a Poor Steward of Federal Medicaid Dollars* (June 20, 2018) [hereinafter Maj. Staff Rep.], available at <https://www.hsgac.senate.gov/imo/media/doc/2018-06-20%20Medicaid%20Fraud%20and%20Overpayments%20Majority%20Staff%20Report.pdf>.

<sup>2</sup> Cong. Budget Office, *The 2018 Long-Term Budget Outlook* (June 2018), available at <https://www.cbo.gov/publication/53919>; Christopher J. Truffer et al., Dep’t. of Health & Human Servs., 2016 Actuarial Report on the Financial Outlook for Medicaid (2016), available at <https://www.cms.gov/Research-Statistics-Data-and-Systems/Research/ActuarialStudies/Downloads/MedicaidReport2016.pdf>.

<sup>3</sup> “*Examining CMS’s Efforts to Fight Medicaid Fraud and Overpayments*”: *Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115 Cong. (2018) (statement of Eugene L. Dodaro, Comptroller General, Government Accountability Office), available at <https://www.hsgac.senate.gov/hearings/examining-cms-efforts-to-fight-medicaid-fraud-and-overpayments>.

<sup>4</sup> Maj. Staff Rep., *supra* note 1.

- Intergovernmental transfers (IGTs), which include “transfers of . . . funds between State and/or local public Medicaid providers and the State Medicaid agency” in ways designed to trigger the release of federal matching funds;<sup>5</sup> and
  - Provider taxes, in which states tax healthcare providers and then return the funds to the providers, triggering a federal match.<sup>6</sup>
2. The sufficiency of existing data to determine the extent and costs of state Medicaid maximization schemes, including:
- Whether existing data is reliable or unreliable;
  - The reasons why the Centers for Medicare and Medicaid Services (CMS) has not historically collected data on state Medicaid financing; and
  - Steps CMS can take to collect more useful data on state Medicaid maximization schemes.
3. The effectiveness of CMS’s new Transformed Medicaid Statistical Information System (TMSIS) in collecting data on state Medicaid maximization schemes, including:
- To what extent do available TMSIS data provide complete and consistent information on supplemental payments made to individual providers;
  - How CMS plans to use available TMSIS data to inform, prioritize and increase its oversight of supplemental payments; and
  - How CMS plans to share these data across states.

Please include with your review a list of recommendations about what CMS and Congress can do to better scrutinize state Medicaid maximization schemes.

If you have any questions regarding this request, please ask your staff to contact Jerry Markon of the Majority staff at 202-224-4751. Thank you for your attention to this request.

Sincerely,



Ron Johnson  
Chairman

cc: The Honorable Claire McCaskill

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<sup>5</sup> “Examining Medicaid and CHIP’s Federal Medical Assistance Percentage”: Hearing Before the Subcomm. on Health of the H. Comm. on Energy & Commerce, 114th Cong. (2016) (statement of John Hagg, Dir. of Medicaid Audits, Office of Inspector Gen., Dep’t of Health and Human Serv.).

<sup>6</sup> Maj. Staff Rep., *supra* note 1.

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