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May 13, 2015

VIA ELECTRONIC TRANSMISSION

The Honorable Sylvia Mathews Burwell
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Burwell:

This past March, the Office of Inspector General (OIG) at the Department of Health and Human Services (HHS) compiled an annual compendium of its top 25 unimplemented recommendations. This report found that HHS has failed to implement several recommendations over the last 14 years that would have saved billions of dollars and positively impacted HHS programs “in terms of cost savings and/or quality improvements.”¹ HHS’s failure to implement these recommendations has caused – and continues to cause – billions of dollars in waste, fraud, and abuse within Medicare and Medicaid programs.

Twenty-one of the recommendations are directed at the Centers for Medicare and Medicaid Services (CMS) which accounts for over 80 percent of HHS’s budget.² For example, one unimplemented recommendation involved preventing Medicare payments to incarcerated persons.³ This has been an issue since January of 2013, when OIG issued a report urging CMS to implement policies and procedures that would detect and recoup improper Medicare payments made to incarcerated persons. OIG noted that CMS did not concur to work with Medicare contractors in order to properly filter claims.⁴

The OIG also found substantial problems with federal, California and Connecticut marketplaces in ensuring that individuals that actually enrolled in qualified health plans were in fact eligible to do so. Notably, on a national basis, the marketplaces were unable to determine if citizenship and eligibility requirements were met. The OIG report notes, “Specifically, the Federal marketplace was unable to resolve 2.6 million of 2.9 million inconsistencies.”⁵

¹ *Compendium of Unimplemented Recommendations*, U.S. Dep’t of Health & Human Services, Office of the Inspector General (March 2015), available at: <https://oig.hhs.gov/reports-and-publications/compendium/>.

² *Id.* at 3.

³ *Id.* at 9.

⁴ *Id.*

⁵ *Id.* at 37-38.

In addition, the OIG reviewed 23 Head Start grantees and not one of them fully complied with federal or state requirements to protect children from unsafe materials and equipment.⁶ Further, 21 out of 24 grantees did not fully comply with federal or state requirements to conduct criminal record checks, recurring background checks, document criminal records checks, conduct checks of childcare exclusion lists, or conduct checks of child abuse and neglect registries.⁷ It is of paramount importance that we protect our children and ensure that these programs provide a safe and secure environment. Criminals, especially those with violent histories and/or a history of child abuse, must not be allowed to work in this area. OIG recommended strengthening federal regulations and employment qualifications to improve the Administration for Children and Families' (ACF) ability to engage in proper oversight.

Other unimplemented recommendations focused on the need to update CMS's Audit Tracking and Reporting System (ATARS) in order to ensure that CMS is able to timely and aggressively collect all overpayments and audit disallowance determinations.⁸ For example, as of October 2010, OIG found that CMS did not collect \$332.1 million out of \$416.3 million in overpayments.⁹ Further, OIG reported that CMS did not believe the \$332.1 million could be considered cost savings.¹⁰

According to OIG, for the third year in a row the Temporary Assistance for Needy Families (TANF) program was in noncompliance with federal law by not reporting an error rate in FY 2013.¹¹ OIG noted that HHS revisions to the TANF financial reporting form will increase the understanding and analysis of how states use the TANF block grant with an aim toward reducing improper payments. However, efficiency concerns remain.

In light of the findings contained within the OIG's compendium, please detail the steps HHS plans to take, or has taken, in order to improve the implementation of the aforementioned recommendations and a projected timeline for implementation. If HHS does not plan on implementing the recommendations, please explain why that decision was made. In particular, please explain why HHS does not believe collecting \$332.1 million in overpayments would be cost savings.

Thank you for your cooperation and attention in this matter. Please respond no later than May 27, 2015. If you have any questions, please contact Josh Flynn-Brown of my Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

⁶ *Compendium* at 16-17.

⁷ *Id.*

⁸ *Id.* at 18-19.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 39.