ENERGY & COMMERCE
CHAIR RODGERS

MEMORANDUM

To: Members and Staff, Subcommittee on Oversight and Investigations

From: Majority Committee Staff

Re: Hearing on "Insights from the HHS Inspector General on Oversight of Unaccompanied Minors, Grant Management, and CMS"

On Tuesday, April 18, 2023, at 10:30 a.m. (ET) in 2322 Rayburn House Office Building, the Subcommittee on Oversight and Investigations will hold a hearing entitled "Insights from the HHS Inspector General on Oversight of Unaccompanied Minors, Grant Management, and CMS."

I. WITNESSES

- The Honorable Christi A. Grimm, Inspector General, Office of Inspector General, U.S. Department of Health and Human Services

II. OVERVIEW

The hearing will provide an opportunity for the Committee to hear from the Inspector General (IG) for the U.S. Department of Health and Human Services (HHS). The hearing will focus on three areas: (1) HHS Office of Refugee Resettlement's (ORR) management of the unaccompanied alien children program; (2) grant management by the National Institutes of Health (NIH) and the Centers for Disease Control and Prevention (CDC); and (3) HHS-OIG's oversight of the Centers for Medicare and Medicaid Services (CMS), which administer Medicare and Medicaid.

III. BACKGROUND

HHS is the largest civilian agency in the federal government, with an annual budget of $1.7 trillion.[1] In fiscal year 2021, Medicare and Medicaid expenditures alone totaled over a trillion dollars.[2] HHS is also the largest grantmaking and second largest contracting agency in the federal government, awarding $236.4 billion in grants and contracts (excluding CMS grants) in fiscal year 2021.[3] The HHS ORR, an office of the Administration for Children and Families, is responsible for overseeing the care and placement of unaccompanied children, many of them are migrants who

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[1] Dep't of Health and Human Serv., *HHS FY 2023 Budget in Brief*, https://www.hhs.gov/about/budget/fy2023/index.html.
[2] Dep't of Health and Human Serv. Off. of Inspector General, *2022: Top Management & Performance Challenges Facing HHS*, https://oig.hhs.gov/reports-and-publications/top-challenges/2022/2022-tmc.pdf, at 11.
[3] *Id.*

have crossed the southern border and are vulnerable to abuse and trafficking. Accordingly, the Department's size, budgetary resources, and diverse programs make it susceptible to fraud, waste, and abuse.

The COVID-19 pandemic has also had a profound impact on HHS operations and programs. As one of the lead agencies in the federal response, HHS has spent over $312 billion on COVID-19 awards and payments.[4] This figure does not include billions of dollars in additional Medicaid and Medicare spending related to the COVID-19 pandemic.

A. Unaccompanied Minors

The number of unaccompanied children referred to ORR has ballooned from 15,381 in fiscal year (FY) 2020 to 122,731 in FY2021 and 128,904 in FY2022.[5] Even as the numbers of unaccompanied children were skyrocketing, HHS' capacity to care for these children diminished.[6] To cope with the influx of unaccompanied children, ORR opened Emergency Intake Sites (EIS) in early 2021.[7] However, HHS OIG reports doubt the efficiency and competency of case managers at EIS facilities, as well as the general health and well-being of the children housed at these locations. OIG found children have experienced emotional distress and instances of self-harm.[8]

Due to overcrowding, unaccompanied children are now released to sponsors without sufficient vetting procedures. As a result, these children are vulnerable to trafficking and exploitation.[9] There are also concerns about ORR's ability to track released children—according to recent findings, over the last two years, HHS has "lost immediate contact with a third of migrant children" and "could not reach more than 85,000 children" one month after they were placed with an adult."[10]

B. NIH & CDC Grant Management

OIG has identified concerns in NIH grant oversight, particularly those involving research conducted in foreign countries. OIG found "most grantees" failed to adhere to NIH disclosure requirements for "foreign financial interests and other support."[11] OIG also found that a number of grantees do not have oversight practices to ensure the accuracy of materials submitted to NIH.[12]

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[4] Dep't of Health and Human Serv., Off. Of Grant Mgmt., *HHS COVID-19 Funding Overview*, https://taggs.hhs.gov/Coronavirus/Overview.
[5] Dep't of Health and Human Serv. Off. of Refugee Resettlement, *Fact Sheets and Data*, https://www.acf.hhs.gov/orr/about/ucs/facts-and-data.
[6] Dep't of Health and Human Serv. Off. of Inspector General, Operational Challenges Within ORR and the ORR Emergency Intake Site at Fort Bliss Hindered Case Management for Children, OEI-07-21-00251 (Sept. 2022), https://oig.hhs.gov/oei/reports/OEI-07-21-00251.pdf.
[7] *Id.* at 3.
[8] *Id.* at 13-14.
[9] *Id.* at 16-17.
[10] Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, N.Y. Times (Feb. 25, 2023), https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html.
[11] Dep't of Health and Human Serv., Off. of Inspector General, Semiannual Report to Congress April 1, 2022-Sept. 30, 2022, https://oig.hhs.gov/reports-and-publications/archives/semiannual/2022/fall-sar-2022.pdf.
[12] *Id.* at 67.

Moreover, NIH did not ensure its clinical trials complied with federal reporting requirements, either because it does not have adequate reporting procedures for the submission of clinical trial results, or because it took insufficient enforcement action for noncompliance and continued funding violators.[13] For example, OIG's audit of the NIH award to EcoHealth Alliance (EcoHealth), totaling approximately $8 million, which included $1.8 million of EcoHealth's subawards to eight subrecipients, including the Wuhan Institute of Virology (WIV) found that NIH "did not effectively monitor or take timely action to address EcoHealth's compliance with some requirements" pertaining to the research of enhanced potential pandemic pathogens (ePPPs).[14] In addition, the OIG audit found the following deficiencies: NIH's improper termination of a grant; EcoHealth's inability to obtain scientific documentation from WIV; and EcoHealth's improper use of grant funds, resulting in $89,171 in unallowable costs.

CDC administers many public health program grants. Some provide public health funding to all States, territories, and selected local jurisdictions, while others provide funding on a competitive basis to a subset of State, Local, Territorial, and Tribal (SLTT) agencies, nonprofits, or other private organizations. In FY 2019, CDC awarded 5,010 grants totaling over $5.9 billion in obligations (including research and program grants).[15] Grant recipients included SLTT governments, nonprofit organizations, foreign governments and organizations, for-profit organizations, and tribal entities. The majority of the grants (66 percent) were awarded to government entities, and state government agencies accounted for 92 percent of such grants.[16]

C. CMS

CMS administers Medicare, Medicaid, Children's Health Insurance Program (CHIP), and the Health Insurance Marketplace under the Patient Protection and Affordable Care Act (PPACA), which serve millions of Americans. HHS OIG has done many reports looking at program integrity and if private entities are following the rules of these massive federal programs. For example, OIG has reports on topics such as how Medicaid continues to pay for dead beneficiaries,[17] prior authorization requests in Medicare,[18] and telehealth.[19] In FY2021, Medicare, Medicaid, and CHIP

[13] *Id.* at 68.
[14] Dep't of Health and Human Serv. Off. of Inspector General, The National Institutes of Health and EcoHealth Alliance Did Not Effectively Monitor Awards and Subawards, Resulting in Missed Opportunities to Oversee Research and Other Deficiencies, A-05-21-00025 (Jan. 2023), https://oig.hhs.gov/oas/reports/region5/52100025.asp.
[15] Cong. Res. Serv., In Focus: The Centers for Disease Control and Prevention (CDC) (Mar. 27, 2023), https://crsreports.congress.gov/product/pdf/IF/IF12241.
[16] Cong. Res. Serv., In Focus: The Centers for Disease Control and Prevention (CDC), (Mar. 27, 2023), https://crsreports.congress.gov/product/pdf/IF/IF12241.
[17] Dep't of Health and Human Serv. Off. of Inspector General, Kansas Made Capitation Payments to Managed Care Organizations After Beneficiaries' Deaths, A-07-20-05125 (Sept. 2021), https://oig.hhs.gov/oas/reports/region7/72005125.pdf.
[18] Dep't of Health and Human Serv. Off. of Inspector General, Some Medicare Advantage Organization Denials of Prior Authorization Requests Raise Concerns About Beneficiary Access to Medically Necessary Care, OEI-09-18-00260 (Apr. 2022), https://oig.hhs.gov/oei/reports/OEI-09-18-00260.pdf.
[19] Dep't of Health and Human Serv. Off. of Inspector General, *Telehealth* (Dec. 01, 2022), https://oig.hhs.gov/reports-and-publications/featured-topics/telehealth/.

accounted for 55 percent, or $153.7 billion, of all government estimated improper payments.[20] Recognizing the numerous challenges that emerged during the Public Health Emergency, this hearing will seek to identify lessons learned and strategies for ensuring the long-term fiscal health of these programs and areas where oversight is needed as the Biden administration implements the Inflation Reduction Act drug pricing changes. The OIG has reported that the Medicare program and Medicare patients paid substantially more for health care in hospital provider-based facilities than they paid to freestanding facilities, such as physician offices, for the same services.[21] They also previously reported on a number of operational challenges limiting CMS' ability to assess properly the provider-based status of facilities and have offered a number of recommendations to strengthen Medicare program integrity and provide greater transparency in the provider-based facility designation process.[22]

D. HRSA

The Health Resources and Services Administration (HRSA) is a subagency of HHS and administered the Provider Relief Fund[23] and the Uninsured Program[24] during COVID-19. HHS OIG has announced audits of the Provider Relief Fund and Uninsured Program, which are expected to be issued in 2023.

IV. KEY QUESTIONS

The hearing may include discussion around the following key questions:

- What steps are HHS and ORR taking to improve sponsor screening and conditions for UACs in response to HHS-OIG's recent reports?

- What action is NIH taking to improve grantee compliance with foreign funding disclosures and monitoring of foreign subgrantees?

- Given the impact that our mandatory federal health programs have on the fiscal health of the country, we should all agree on not paying for waste, fraud, and abuse. What are the biggest risks to Medicare and Medicaid program integrity?

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[20] Dep't of Health and Human Serv. Off. of Inspector General, 2022: Top Management & Performance Challenges Facing HHS, https://oig.hhs.gov/reports-and-publications/top-challenges/2022/2022-tmc.pdf, at 12.
[21] Dep't of Health and Human Serv. Off. of Inspector General, Medicare and Beneficiaries Paid Substantially More to Provider-Based Facilities in Eight Selected States in Calendar Years 2010 Through 2017 Than They Paid to Freestanding Facilities in the Same States for the Same Type of Services, A-07-18-02815 (June 2022), https://oig.hhs.gov/oas/reports/region7/71802815.pdf.
[22] Dep't of Health and Human Serv. Off. of Inspector General, CMS is Taking Steps to Improve Oversight of Provider-Based Facilities, But Vulnerabilities Remain, OEI-04-12-00380 (June 2016), https://oig.hhs.gov/oei/reports/oei-04-12-00380.pdf.
[23] Health Resources & Serv. Admin., *Provider Relief*, https://www.hrsa.gov/provider-relief.
[24] Health Resources & Serv. Admin., *COVID-19 Claims Reimbursement to Health Care Providers and Facilities for Testing, Treatment, and Vaccine Administration for the Uninsured*, https://www.hrsa.gov/provider-relief/about/covid-uninsured-claim.

V. STAFF CONTACTS

If you have any questions regarding the hearing, please contact the Subcommittee on Oversight and Investigations Majority staff at (202) 225-3641.