



U.S. GOVERNMENT ACCOUNTABILITY OFFICE

441 G St. N.W.
Washington, DC 20548

December 17, 2015

The Honorable Joseph R. Pitts
Chairman
Subcommittee on Health
Committee on Energy and Commerce
House of Representatives

Dear Mr. Chairman:

On October 23, 2015, the Subcommittee on Health held a hearing entitled, "Reviewing the Accuracy of Medicaid and Exchange Eligibility Determinations." The attachment contains GAO's responses to the Questions for the Record received following our testimony at this hearing. The responses are based primarily on GAO's work done for the testimony and also work presented in previously issued GAO reports. If you have any questions regarding these responses, please contact me at (202) 512-6722 or BagdoyanS@gao.gov.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Seto J. Bagdoyan'. The signature is stylized and includes a long horizontal line extending to the right.

Seto J. Bagdoyan
Director of Audits
Forensic Audits and Investigative Service

Enclosure

HOUSE COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON HEALTH
QUESTIONS FOR THE RECORD

HEARING:
“REVIEWING THE ACCURACY OF MEDICAID AND EXCHANGE ELIGIBILITY DETERMINATIONS”
FRIDAY, OCTOBER 23, 2015

From Mr. Pitts

- 1. Individuals who are eligible for Medicaid are not eligible to receive subsidized coverage through an exchange. For the cases in which you applied for Medicaid coverage and ultimately ended up obtaining subsidized exchange coverage, how did the exchange verify that the applicant had been denied Medicaid coverage?**

GAO Response: As described in GAO’s October 23, 2015, testimony, officials from the Centers for Medicare & Medicaid Services (CMS) told GAO the federal Health Insurance Marketplace (Marketplace) does not require proof of a Medicaid denial when processing qualified health-plan applications, nor does the Marketplace verify such a denial with the respective state. CMS officials said that instead, they accept the applicant’s attestation that the applicant was denied Medicaid coverage.

As described below in the GAO Response to Question 2, these results occurred in the specific situation of states that had delegated their Medicaid eligibility determinations to the federal Marketplace. Generally, both state and federal marketplaces are intended to operate on a “no wrong door” basis, providing a single point of application for private health plans, Medicaid, or the Children’s Health Insurance Program. This practice is intended so that an individual can receive an eligibility determination using the same application, without the need to submit information to multiple programs.

- 2. In your statement you indicate that 4 of the 8 applicants who applied for Medicaid coverage were not enrolled in Medicaid but were able to obtain subsidized exchange coverage. While this could be seen as a positive sign that Medicaid eligibility determinations are working well, in reality it sounds like at least some of the applicants were unable to get Medicaid coverage—not because they were deemed ineligible—but because of system issues in transferring information between the federal exchange and state Medicaid programs. Is that correct? If so, can you please explain the problems that were encountered?**

GAO Response: Three of the four cases in which GAO obtained subsidized qualified health-plan coverage in lieu of Medicaid took place in two states—New Jersey and North Dakota—that had delegated their Medicaid eligibility determinations to the federal Marketplace at the time of the GAO undercover investigation. It was for these three applications that transfer of information from the federal Marketplace to the respective state was at issue.¹ Specifically:

¹The fourth case in which GAO obtained subsidized qualified health-plan coverage in lieu of Medicaid was Kentucky, which at the time of the GAO undercover investigation operated its own exchange. Thus, transfer of information from the federal Marketplace to the state was not at issue.

- For two undercover applications for New Jersey Medicaid coverage, the federal Marketplace told GAO's undercover applicants they would be contacted by the state Medicaid office within 30 days. However, the New Jersey Medicaid office did not notify the GAO undercover applicants within 30 days. GAO undercover staff periodically called the state Medicaid office over the course of approximately 4 months, attempting to determine the status of the undercover GAO applications. In these calls, New Jersey representatives indicated they had not yet received Medicaid information from the federal Marketplace and, on several occasions, said they expected to receive it shortly. Because GAO's undercover applicants could not obtain resolution with the state Medicaid office, the undercover applicants subsequently contacted the federal Marketplace to obtain subsidized coverage.

CMS officials told GAO that New Jersey had a system issue that may have accounted for problems in the undercover GAO Medicaid application information being sent to the state. The CMS officials also said that the system issue was subsequently resolved. However, New Jersey officials declined GAO's request for a meeting to discuss the results of the GAO undercover investigation. Therefore, GAO could not draw a conclusion on the nature of any system issue New Jersey experienced.

- For one application for North Dakota Medicaid coverage, the federal Marketplace told the undercover GAO applicant that the applicant would be contacted by the state Medicaid office within 30 days. However, the North Dakota Medicaid office did not notify the GAO undercover applicant within 30 days. GAO's undercover staff called the North Dakota Medicaid agency to determine the status of the undercover application. An agency representative told GAO staff that the federal Marketplace denied the undercover GAO Medicaid application and therefore did not forward the Medicaid application file to North Dakota for a Medicaid eligibility determination. However, the GAO undercover applicant did not receive notification of denial from the federal Marketplace.

3. In requesting the identities of GAO's fictitious applicants, CMS is claiming that the agency needs this information to address the control gaps that GAO has identified. Therefore, please respond to the following questions.

- GAO has conducted undercover work, including the use of fictitious applicants, to test controls in other programs aside from the ACA. Is that correct?**

GAO Response: Yes, GAO has conducted undercover work, including the use of fictitious applicants, to test controls in other federal programs in addition to health-care coverage provided under the Patient Protection and Affordable Care Act (PPACA). GAO has received requests for undercover work from both chairs or ranking members of a number of congressional committees and subcommittees.

Examples of such work include:

- *Paid Tax Return Preparers: In a Limited Study, Preparers Made Significant Errors*, GAO-14-467T, April 8, 2014.

- *Head Start: Undercover Testing Finds Fraud and Abuse at Selected Head Start Centers*, GAO-10-1049, September 28, 2010.
- *Small Business Administration: Undercover Tests Show HUBZone Program Remains Vulnerable to Fraud and Abuse*, GAO-10-759, June 25, 2010.
- *Low-Income Home Energy Assistance Program: Greater Fraud Prevention Controls Are Needed*, GAO-10-621, June 18, 2010.

b. Has GAO ever provided these other agencies with identifiable information about its undercover work?

GAO Response: Yes, for certain engagements in the past, where appropriate, GAO has provided certain identifiable information to agencies about its undercover work, in order to provide agency management with information to improve operations or identify waste, fraud, or abuse. However, in certain circumstances, GAO cannot disclose certain identifiable information if it may affect GAO's ability to conduct further work in that area using that identification.

c. Have other agencies been able to correct issues that GAO identified through its undercover work without having identifiable information?

GAO Response: GAO's general practice is to conduct briefings for officials at the tested entity before issuing any final report, in order to inform the officials that their agency or program has been the subject of an undercover investigation; to share the results of the investigation; and to discuss potential remedies for any identified control weaknesses or security vulnerabilities. For example, for GAO's undercover work on health-care applications under PPACA, GAO conducted a briefing with CMS officials to inform them of GAO investigative findings and related issues, in advance of the October 2015 hearing. (See additional detail in part (d) following.) GAO did this without disclosing the specifics of its undercover identities.

Similarly, GAO briefed officials at state marketplaces in Kentucky and California on its investigative results, and officials there said they were taking corrective action based on the GAO results.

d. What information has GAO shared with CMS about the fictitious applications?

GAO Response: After concluding its undercover investigation, GAO briefed officials from CMS on the results of the work, but without, as noted above, providing identifiable information. Specifically, GAO provided highly detailed information to CMS on the undercover applications, as follows:

- In August 2015, GAO provided details of each applicant scenario discussed in the October 2015 testimony. For each undercover applicant, we described the series of interactions with the respective marketplace, contractor, and/or state Medicaid agency. This included a description of each interaction, including whether by Internet, phone, fax, or mail; the type of information requested and provided for each interaction; and whether the identity was rejected, allowed to proceed, or to enroll.

- In August 2015, GAO met with CMS officials to discuss the undercover results, including the material described above.
- Prior to the October 2015 hearing, GAO provided CMS with a summary of facts to be included in the hearing statement.

In addition, as part of earlier but related work, GAO delivered a July 2015 testimony that reported detailed results of undercover testing for the 2014 coverage year.² GAO plans to issue a final public report on this related work in February 2016, to include a number of recommendations that should enable CMS to strengthen the enrollment and verification processes.³

e. How can CMS use the information GAO provided to address the gaps identified by GAO's work?

GAO Response: GAO believes the information provided to CMS and the state marketplaces is sufficient for them to be able to identify vulnerabilities that allowed GAO's undercover applicants to be enrolled, and to take appropriate corrective measures. As noted above, GAO provided information on its undercover activities to the state marketplaces, and state officials outlined to GAO staff steps they plan to take to modify their eligibility determination processes, and related training for their staffs, after learning the results of the GAO testing. In addition, as also noted above, GAO plans to issue a final public report based on related work, with a number of recommendations to CMS.

4. What did you find the key differences to be between the state and federal marketplaces? Have the state-based exchanges done a better job than the federal exchange in ensuring that the necessary controls are in place?

GAO Response: Although GAO's investigation included the federal Marketplace and two state marketplaces, the undercover results are illustrative and cannot be generalized to the full population of enrollees. Therefore, GAO cannot draw conclusions about any key differences between the state and federal marketplaces. However, as noted above, the two state marketplaces where GAO conducted undercover work—Kentucky and California—have told GAO they are taking corrective action after learning the results of the GAO testing.

5. Some have suggested GAO should not be testifying on preliminary results. Has GAO testified or presented preliminary results for other issues in the past?

GAO Response: Yes, GAO has testified on preliminary results for other issues in the past. It is important for GAO to be able to testify before issuance of a report when our findings are sufficiently developed. GAO does this with some frequency to support oversight and legislative efforts. In particular, we have done so on at least eight occasions for fiscal year

²GAO, *Patient Protection and Affordable Care Act: Observations on 18 Undercover Tests of Enrollment Controls for Health Care Coverage and Consumer Subsidies Provided under the Act*, GAO-15-702T (Washington, D.C.: July 16, 2015).

³In particular, this examination focuses on the enrollment process for the federal Marketplace, including an assessment of how application information is verified. GAO has met with CMS staff to review findings planned to be in that report, including discussion of preliminary recommendations.

2015, on a variety of topics, including critical infrastructure, disability insurance, counterterrorism, rural housing, the federal workforce, and Indian affairs.

a. Can you provide a couple of examples?

GAO Response: Recent examples of such testimony include:

- *Veteran-Owned Small Businesses: Preliminary Observations on Verification Program Progress and Challenges*, GAO-16-179T, November 4, 2015.
- *High-Containment Laboratories: Preliminary Observations on Federal Efforts to Address Weaknesses Exposed by Recent Safety Lapses*, GAO-15-792T, July 28, 2015.
- *Critical Infrastructure Protection: Preliminary Observations on DHS Efforts to Address Electromagnetic Threats to the Electric Grid*, GAO-15-692T, July 22, 2015.

b. Between now and when you issue your final report will your key findings that you were able to obtain coverage for 17 of 18 applicants change?

GAO Response: GAO does not anticipate that its key findings, presented as preliminary results in GAO's October 2015 testimony, will change. This is because undercover investigative work on which the results were based is complete.

6. What modes (e.g. online, paper applications, telephone) did the fictitious applicants use to apply for coverage? Given that all but one applicant obtained coverage, what does this imply about the enrollment controls and vulnerabilities that exist for the various modes available for obtaining coverage?

GAO Response: At the outset, 10 of 18 GAO undercover applicants applied by phone, and 8 applied online. As GAO reported in its October 2015 testimony, for 14 applications, we failed during the initial portion of the undercover work to clear an identity-checking step. As a result, we were directed to contact a contractor that handles identity checking.⁴ As described in GAO's testimony, GAO ultimately obtained coverage for 17 of 18 undercover applicants.

GAO's undercover investigation as a whole found that the health-care marketplace eligibility determination and enrollment process remains vulnerable to fraud. However, as GAO noted in its testimony, the results, while illustrative, cannot be generalized to the full population of enrollees.

⁴Known as "identity proofing," the process uses personal and financial history on file with a credit-reporting agency. The marketplace generates questions that only the applicant is believed likely to know. According to CMS, the purpose of identity proofing is to prevent someone from creating an account and applying for health coverage based on someone else's identity and without their knowledge. Although intended to counter such identity theft involving others, identity proofing thus also serves as an enrollment control.