

Opening Statement
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Permanent Subcommittee on Investigations
Hearing On
Medicaid Providers That Cheat on Their Taxes
And What Should Be Done About It
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Good afternoon and welcome to today's hearing. At the outset, I would like to commend our Chair, Senator Levin, for holding this hearing. Like all of the Subcommittee's investigations, this has been a bipartisan effort every step along the way. I appreciate your support throughout this investigation.

Today, we turn our attention to a disturbing problem – Medicaid providers that are cheating on their taxes. At our request, GAO examined whether Medicaid providers are cheating on their taxes and found that more than 30,000 Medicaid providers owe back-taxes of more than one billion dollars. To make matters worse, that estimate understates the problem because GAO's analysis covered only seven states, which represented only 43% of Medicaid expenditures. So, the problem is actually much, much larger – potentially as many as 60,000 providers owe two billion dollars in unpaid federal taxes.

These are not your everyday tax-cheats. For starters, they receive billions of dollars every year from the federal government – one of these deadbeats received 39 million dollars from Medicaid in 2006 alone. Even though they make their living from the federal government, they refuse to pay their fair share of taxes. It adds insult to injury that these tax deadbeats are actually paid enormous amounts of money every year from American tax coffers. They are truly biting the hand that feeds them.

Even worse, they are abusing their employees. The report finds that 56% of the unpaid taxes are payroll taxes. Keep in mind that payroll taxes include withholdings from their employees' wages for Social Security, Medicare, and individual income taxes. These providers, like all employers, hold this money in trust for their employees and are required to forward them to the IRS. Rather than following the law, however, these providers diverted the money for their own personal gain. Many of the owners of these businesses used their employees' payroll taxes to buy luxury cars, boats, and multi-million dollar properties and homes, even though they owed hundreds of thousands – if not millions – of dollars in unpaid taxes. What's more, GAO's study also revealed that Medicaid providers also owe more than \$100 million in other debts, such as child support, student loans, and state tax debts.

To get a sense of the problem, let's review of a couple of troubling cases:

- One nursing home facility received more than \$39 million in Medicaid payments in fiscal year 2006, even though it owes more than \$16 million in taxes. The majority of that tax debt is payroll taxes. The business was fined for quality of care violations just a couple of years ago. One of its executives withdrew more than \$100,000 in cash at casinos at the same time he was not paying the nursing home's taxes. Multi-million dollar federal and state tax liens are outstanding against the business.
- Perhaps the most egregious illustration is a nursing home business received \$25 million in payments in 2006 and owed more than \$14 million in back taxes. Court documents reveal that, while the business owed this tremendous tax debt, the owner of the business bought a 10,000-square foot home worth more than \$2 million and spent tens of thousands on crystal chandeliers, 132-piece set of fine Bavarian china, and oriental rugs. The owner also used the business's money to pay for a housekeeper, a nanny, monthly payments to a parent who did not work for the company, a sailboat and jet-skis. And we're not done yet – the owner also enjoyed gambling trips to Las Vegas and Reno and went on vacations to Hawaii. During this trip to Hawaii, the owner purchased a \$16,000 Rolex on the day before a required federal payment was due.

Unfortunately, these are just the tip of the iceberg – this report establishes that there are thousands and thousands of other tax-cheats just like them in the Medicaid program. To be clear, this hearing is not an indictment of all Medicaid providers or of the Medicaid program as a whole. The vast majority of Medicaid providers are honorable, law-abiding businesses that are helping the nation's underserved communities; we appreciate their service and admire their dedication.

But there is a two-billion-dollar problem here. In a time requiring strict fiscal discipline, these billions could be put towards our homeland security, our children's education, job training programs, or a host of other programs that serve America's needs. If the federal government levied the Medicaid payments in those seven states alone, we could recoup up to \$160 million every year. Levying payments all over the U.S. might recover hundreds of millions in back taxes. Even for the federal government, that is a substantial sum of money.

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Our hearing today will examine the scope of the problem and how we can address it. We have found over the course of the Subcommittee's investigation that there is no easy fix to this problem – the Medicaid payment mechanism is complex and serious legal obstacles stand in our way. But we have been down this road before. Over the course of our four-year inquiry into tax-delinquent federal contractors, we – along with the Federal Contractor Tax Compliance Task Force – have overcome numerous seemingly insurmountable hurdles. The Task Force has worked with this Subcommittee to resolve several thorny problems that inhibit the Federal Payment Levy Program and it is continuing its work on a number of additional problems. I appreciate their diligence and I applaud

their success. I call upon the Task Force – specifically, the IRS, FMS, and CMS – to study this issue and recommend changes that would recover unpaid taxes from Medicaid payments. I ask for their commitment to work together and with this Subcommittee to fix the problem. In light of our collective ability to overcome serious problems in the past and the success achieved to date, I am confident we can work together to solve these thorny problems as well.

As we move forward, however, I would like to publicly express my concern that this Subcommittee has not received full cooperation from CMS. In July, Acting Administrator Kerry Weems said that increased oversight would be hallmark of his tenure at CMS. In fact, I believe he stated at one of his confirmation hearings “If confirmed, I will intensify CMS oversight and I expect you to hold me responsible.” Well, the proof is in the pudding, and I ask CMS to live up to Mr. Weems’s goals. Throughout our investigations, CMS’s assistance has been begrudging at best. For example, on several occasions, CMS has treated bipartisan requests from this Subcommittee as FOIA applications. Requests from GAO, on behalf of this Subcommittee, have been met with resistance and uncooperative behavior. We have had numerous other problems that have hindered and delayed the Subcommittee’s efforts. In short, we need to do better.

In fact, CMS this morning challenged GAO’s report, saying “we believe that the stated goals of this investigation were based on misconceptions about the authority and responsibilities of the Medicaid program.” Make no mistake: the goal of this investigation is clear – to identify tax abuse among government providers and fix the problem. GAO and this Subcommittee have a clear understanding of the issue; we understand its complexity. We recognize that there are intricate legal obstacles. We recognize that there are technical and procedural hurdles to overcome.

But at the same time, we recognize that federal providers and contractors should not be given a free pass on their tax obligations – whether they are contractors for DoD or providers in Medicare. Thousands of Medicaid providers should not be exempt from paying their taxes. The government has a unique opportunity to levy payments to these providers before they are made and it is incumbent on us to figure out the most efficient and effective way of doing so.

We also recognize that this affects the quality of medical care for our most vulnerable citizens; the evidence suggests that outstanding tax debt may be an indicator of low-quality medical care. The 5% of providers who cheat on their taxes frequently have other problems, such as health care-related violations. It is not in the interest of the poor to have low-quality providers in the Medicaid system. Therefore, rather than undermining Medicaid, identifying these tax-cheats could strengthen it.

I reiterate my call for CMS to work cooperatively with the IRS and FMS to find a resolution to this problem. I look forward to reviewing your collective recommendations. If legislative changes are needed, we will consider them; if the federal government may need to assist the states in order to get their participation in the continuous levy program, we will evaluate that as well. Again, the goal is to improve the functioning of our government and we need CMS to be a productive and willing partner in that effort.

I look forward to the testimony of our witnesses.

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