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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

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June 26, 2019

The Honorable Seema Verma
Administrator
Centers for Medicare and Medicaid Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Administrator Verma:

One year ago today, a day before the Committee on Homeland Security and Governmental Affairs held a hearing on Medicaid fraud,¹ the Centers for Medicare and Medicaid Services (CMS) announced a series of “new and enhanced initiatives designed to improve Medicaid program integrity through greater transparency and accountability, strengthened data, and innovative and robust analytic tools.”² With Medicaid spending now projected to rise at an average annual rate of 5.7 percent over the next decade,³ significantly faster than U.S. gross domestic product,⁴ it is imperative that CMS utilize every tool at its disposal to minimize waste, fraud, and abuse. Accordingly, I write to respectfully request an update on those June 2018 initiatives.

CMS announced those new initiatives just days after the Committee released a Majority Staff report finding that the Medicaid program is “plagued by waste, fraud and abuse.”⁵ The report documented a large spike in Medicaid overpayments to providers,⁶ an increasing number of Medicaid fraud criminal convictions,⁷ and showed that CMS had “not taken basic steps to fight Medicaid fraud, including reviewing federal eligibility determinations for accuracy and even creating an antifraud strategy.”⁸ Other evidence has since emerged showing that Medicaid fraud remains a serious problem, including:

¹ *Medicaid Fraud and Overpayments: Problems and Solutions: Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (June 27, 2018), <https://www.hsgac.senate.gov/hearings/medicaid-fraud-and-overpayments-problems-and-solutions>.

² Press Release, Ctr. of Medicare & Medicaid Servs., CMS Announces Initiatives to Strengthen Medicaid Program Integrity (June 26, 2018), <https://www.cms.gov/newsroom/press-releases/cms-announces-initiatives-strengthen-medicaid-program-integrity>.

³ Les Masterson, *Medicaid Spending Increase Expected to Exceed GDP Growth over Next Decade*, Healthcare Dive (Sept. 24, 2018), <https://www.healthcaredive.com/news/medicaid-spending-increase-expected-to-exceed-gdp-growth-over-next-decade/532982/>.

⁴ *Id.*

⁵ S. Comm. on Homeland Sec. & Governmental Affairs, *The Centers for Medicare and Medicaid Services Has Been a Poor Steward of Federal Medicaid Dollars*, (June 20, 2018), <https://www.hsgac.senate.gov/imo/media/doc/2018-06-20%20Medicaid%20Fraud%20and%20Overpayments%20Majority%20Staff%20Report.pdf>.

⁶ *Id.* at 10-11.

⁷ *Id.* at 3.

⁸ *Id.* at 5.

- The October 2018 findings by the California State Auditor that the state made at least \$4 billion in questionable Medicaid payments—including \$2.3 billion in federal funds—between 2014 and 2017 on behalf of more than 450,000 people marked as Medicaid-eligible in the state system but ineligible in the county systems.⁹ In one example, auditors found that California made more than \$383,000 in Medicaid long-term care payments on behalf of a beneficiary who had been deceased for four years.¹⁰
- The November 2018 findings by the Louisiana state auditors that up to 93 percent of the Affordable Care Act’s Medicaid expansion population they examined received Medicaid services while ineligible.¹¹ Auditors reported that the high ineligibility rate resulted in part from Louisiana’s policy of relying on Medicaid recipients to self-report changes to their wages, a policy that auditors said may violate federal law.¹²
- The April 2019 findings by the North Carolina State Auditor that the state Department of Health and Human Services improperly paid more than \$100 million in Medicaid claims—\$71 million in overpayments to Medicaid providers¹³ and an estimated \$29 million in payments to ineligible beneficiaries—in fiscal year 2018.¹⁴

On June 26, 2018, when CMS announced its new initiatives, it stated that they would “include stronger audit functions; enhanced oversight of state contracts with private insurance companies; increased beneficiary eligibility oversight, and stricter enforcement of state compliance with federal rules.”¹⁵ CMS described the initiatives in three parts: (1) audits of some states “based on the amount spent on clinical services and quality improvement versus administration and profit,” (2) new audits of state beneficiary eligibility determinations, and (3) the use of advanced analytics “to both improve Medicaid eligibility and payment data” for program integrity purposes.¹⁶

As you stated at that time, these actions “are essential to help strengthen and preserve the foundation of the program for the millions of Americans who depend on Medicaid’s safety net.”¹⁷ You stated further that, “[w]ith historic growth in Medicaid comes an urgent federal responsibility to ensure sound fiscal stewardship and oversight of the program.”¹⁸ In light of our shared commitment to ensuring that Medicaid dollars are preserved for people truly in need, I

⁹ Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Governmental Affairs, to Hon. Seema Verma, Admin’r, Ctr. for Medicare and Medicaid Servs. (Nov. 19, 2018),

<https://www.hsgac.senate.gov/imo/media/doc/2018-11-19%20Johnson%20to%20Verma%20re%20California.pdf>

¹⁰ *Id.* at 2.

¹¹ Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Governmental Affairs, to Hon. Seema Verma, Admin’r., Ctr. For Medicare and Medicaid Servs. (Jan. 31, 2019),

<https://www.hsgac.senate.gov/imo/media/doc/2019-01-31%20RHJ%20JJ%20letter%20to%20Seema%20Verma%20re%20Louisiana%20medicaid.pdf>.

¹² *Id.* at 2.

¹³ Office of the State Auditor of N.C., Statewide Federal Compliance Audit Procedures For the Year Ended June 30, 2018, (June 30, 2018), <https://www.ncauditor.net/EPSSWeb/Reports/Financial/FSA-2018-4410.pdf>.

¹⁴ *Id.* at 11.

¹⁵ See Press Release, Ctr. of Medicare & Medicaid Servs., *supra* note 2.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

respectfully request that you provide information about CMS's June 2018 initiatives to help the Committee determine how effective they have been in combatting waste, fraud and abuse. Specifically, please provide the following information:

1. Regarding CMS's pledge to "begin auditing some states based on the amount spent on clinical services and quality improvement versus administration and profit,"¹⁹ please explain:
 - a. Which states have been audited;
 - b. The status of those audits;
 - c. The methodology of those audits;
 - d. Any results from those audits; and
 - e. Whether CMS has taken any action to enhance Medicaid program integrity based on those audits.

2. Regarding CMS's pledge to conduct new audits of state beneficiary eligibility determinations,²⁰ please explain:
 - a. Which states have been audited;
 - b. The status of those audits;
 - c. The methodology of those audits;
 - d. Any results from those audits; and
 - e. Whether CMS has taken any action to enhance Medicaid program integrity based on those audits.

3. Regarding CMS's pledge to "utilize advanced analytics and other innovative solutions to both improve Medicaid eligibility and payment data and maximize the potential for program integrity purposes,"²¹ please explain:
 - a. Which specific analytics and other solutions have been used;
 - b. How specifically they have improved Medicaid eligibility and payment data; and
 - c. How specifically they have enhanced overall Medicaid program integrity.

Please provide this material as soon as possible but no later than 5:00 p.m. on July 10, 2019, so that the Committee may begin to receive responsive information.

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate "the efficiency, economy, and effectiveness of all agencies and departments of the Government."²² Additionally, Senate Resolution 70 (116th Congress) authorizes the Committee to examine "the efficiency and economy of operations of all branches of the Government including the possible existence of

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² S. Rule XXV(k); *see also* S. Res. 445, 108th Cong. (2004).

The Honorable Seema Verma

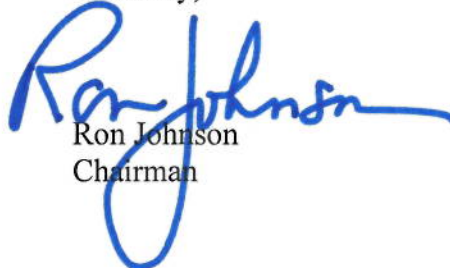
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fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices[.]”²³

If you have any questions regarding this letter, please ask your staff to contact Jerry Markon or Helen Heiden of the Committee staff at (202) 224-4751. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Ron Johnson". The signature is written in a cursive style with a large, looping "R" and "J".

Ron Johnson
Chairman

cc: The Honorable Gary Peters
Ranking Member

²³ S. Res. 70 § 12(e)(A), 116th Cong. (2019).