Congressional Research Service
Informing the legislative debate since 1914

Improper Payments in High-Priority Programs: In Brief

Garrett Hatch
Specialist in American National Government

July 16, 2018

Congressional Research Service
7-5700
www.crs.gov
R45257

CRS REPORT
Prepared for Members and
Committees of Congress

Summary

The Improper Payments Information Act (IPIA) of 2002 defines *improper payments* as payments that should not have been made or that were made in an incorrect amount, including both overpayments and underpayments. This definition includes payments made to ineligible recipients, duplicate payments, payments for a good or service not received, and payments that do not account for applicable discounts. Since FY2004, federal agencies have been required to report on the amount of improper payments they issue each year and take steps to address the root causes of the problem. The data show a significant increase in improper payments from FY2007 ($42 billion) to FY2010 ($121 billion), followed by a slight decrease through FY2013 ($106 billion), another increase through FY2016 ($144 billion), and a slight decrease in FY2017 ($141 billion). The data also show that a small subset of programs has accounted for 85% to 98% of the government's total improper payments each year. With this in mind, President Barack Obama signed Executive Order (E.O.) 13520 in 2009, which requires agencies to take additional measures to reduce the amount of improper payments associated with these "high-priority" programs. Notably, the executive order requires agencies to identify high-priority programs, develop detailed plans for reducing related improper payments, and establish annual goals against which progress could be measured. Agencies have identified 20 high-priority programs, all but one of which have been reporting data for several years. The data on high-priority programs present mixed results. Nine high-priority programs have showed improvement over time, as indicated by decreasing error rates, while three others have reported no improvement in their error rates. The error rates for the eight remaining high-priority programs have increased since they were first reported. Without further progress in reducing the error rates among high-priority programs the government's total amount of improper payments may continue to exceed $100 billion per fiscal year, as it has since FY2009. Over the period of FY2004 through FY2017, high-priority improper payments have totaled $1.2 trillion and total improper payments have totaled $1.3 trillion.

Contents

Background ... 1
Trends in Total Improper Payments... 2
High-priority Programs ... 4
High-Priority Program Error Rates ... 7

Tables

Table 1. Significant Improper Payments Amounts, Government-Wide FY2004-FY2017... 3
Table 2. High-Priority Program Improper Payments Amounts, FY2004-FY2017... 5
Table 3. Percentage of Total Improper Payments Attributable to High-Priority Programs, FY2004-FY2017 ... 6
Table 4. High-Priority Program and Government-Wide Error Rates, FY2004-FY2017... 8

Contacts

Author Contact Information ... 1

Background

In an effort to reduce and ultimately eliminate billions of dollars in improper payments made by federal agencies each year, Congress passed the Improper Payments Information Act (IPIA P.L. 107-300) in 2002.[1] IPIA requires agencies to identify programs susceptible to improper payments through risk assessments, estimate the annual amount of improper payments related to those programs, and report to Congress on corrective actions planned to reduce improper payments. Under IPIA, an improper payment is defined as a payment that should not have been made or that was made in an incorrect amount, including both overpayments and underpayments. This definition includes payments made to ineligible recipients, duplicate payments, payments for a good or service not received, and payments that do not account for applicable discounts.

The data reported between FY2004—the first year of improper payments reporting—and FY2009 showed that a small subset of programs accounted for 85% to 96% of the government's total improper payments each year. In November 2009, President Barack Obama signed Executive Order (E.O.) 13520, which required the Director of the Office of Management and Budget (OMB) to work with agencies to identify "high-priority" programs (those which account for the "highest dollar value or majority of improper payments" across the government), establish annual targets for reducing improper payments under high-priority programs, and submit a report to the agency's inspector general that detailed how the agency planned to meet those targets. The executive order also required agencies to publish data on improper payments estimates and targets for the high-priority programs they administer.[2]

In response to E.O. 13520, OMB created a central website, PaymentAccuracy.gov, which includes data for all high-priority programs, as the executive order required.[3] OMB also revised OMB Circular A-123, Appendix C, to incorporate the new requirements for high-priority programs. Under the revised circular, a program is deemed high-priority if it has

- reported more than $750 million in improper payments in the most recent fiscal year;
- not reported an improper payments amount for the most recent fiscal year, but has reported more than $750 million in improper payments in a previous fiscal year; or
- not yet reported on improper payments for the program as a whole, but has determined that the total amount of improper payments for program components that have been measured exceeds $750 million.[4]

In FY2010, Congress passed the Improper Payments Elimination and Recovery Act (IPERA; P.L. 111-204), which amended IPIA to require improvements in agency risk assessments, improper payment estimation procedures, and corrective action plans. IPERA also requires agencies to establish recovery audit programs for the purpose of recapturing overpayments. In addition, IPERA requires the inspector general (IG) of each agency to determine whether the agency is in compliance with IPERA and report the findings to the head of the agency, the Comptroller

[1] 116 Stat. 2350.

[2] Congress subsequently incorporated these requirements into the Improper Payments Elimination and Recovery Improvement Act of 2012 (126 Stat. 2390-2391).

[3] Executive Order 13520, "Reducing Improper Payments," 74 *Federal Register* 62201, November 20, 2009.

[4] U.S. Office of Management and Budget, *Memorandum for Heads of Executive Departments and Agencies: Issuance of Part III to OMB Circular A-123, Appendix C,* M-10-13, March 22, 2010, pp. 16-23.

General, the House Committee on Oversight and Government Reform, and the Senate Committee on Homeland Security and Governmental Affairs. An agency is deemed in compliance if it has

- published an annual financial statement;
- conducted risk assessments for each program or activity;
- published improper payment estimates, corrective action plans, and improper payment reduction targets for all risk-susceptible programs and activities; and
- reported no improper payment rate that met or exceeded 10%.

In 2012, Congress passed the Improper Payments Elimination and Recovery Audit Improvement Act (IPERIA; P.L. 112-248). IPERIA codifies E.O. 13520. It requires that OMB identify a list of "high-priority" federal programs for greater levels of oversight. These programs must be chosen on the basis of the relatively high dollar value or error rate of improper payments, or because they are deemed more susceptible to improper payments when compared to other high-risk programs, regardless of size. IPERIA does not establish a dollar threshold for high-priority programs.

IPERIA requires OMB to establish annual targets, as well as quarterly and semi-annual actions for reducing improper payments for the high-priority programs. In addition, each agency with a high-priority program is required to submit an annual report on the steps it has taken, and plans to take, to prevent and recover future improper payments. The report is to be submitted to the agency's IG and posted on a website accessible to the public. The IG, in turn, must submit a report to Congress that assesses the quality of the improper payment estimates for each high-priority program, determines whether proper controls are in place to identify and prevent future improper payments, and makes recommendations to Congress on how agency plans might be modified to improve their improper payment estimates and internal controls. IPERIA also requires agencies to verify recipient eligibility by reviewing available databases prior to issuing a payment or award.

In 2015, Congress passed the Federal Improper Payment Coordination Act (FIPCA; P.L. 114-109) which amended IPERIA to expand access to federal agency data that could be used to verify payment eligibility of recipients and payment amounts. In 2016, Congress passed the Fraud Reduction and Data Analytics Act (P.L. 114-186) which requires agencies to implement financial and administrative controls related to fraud, including improper payments.

Trends in Total Improper Payments

Under IPIA, as amended, agencies are required to identify programs susceptible to significant improper payments, estimate the amount of improper payments issued under those programs, and notify Congress of the steps being taken to address the root causes of the improper payments.[5] Generally, a program is deemed susceptible to "significant" improper payments if it has (1) improper payments that exceed both $10 million and 1.5% of total program payments, or (2) more than $100 million in total improper payments.[6] For FY2017, agencies reported data on 91 risk-susceptible programs that issued more than $141 billion in improper payments that year.[7] Since FY2004, when agencies first began reporting improper payments, the government has

[5] 116 Stat. 2350.

[6] 124 Stat. 2225.

[7] Office of Management and Budget, "Payment Accuracy: Frequently Asked Questions," at https://www.paymentaccuracy.gov/content/faq#20.

identified approximately $1.3 trillion in erroneous payments. **Table 1** shows the total amount of annual improper payments reported from FY2004 through FY2017.

Table 1. Significant Improper Payments Amounts, Government-Wide FY2004-FY2017

In Billions of Dollars

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Total	$45	$38	$41	$42	$73	$105	$121	$115	$108	$106	$125	$137	$144	$141

Source: U.S. Office of Management and Budget, "Payment Accuracy: 2017 Data Set" at https://paymentaccuracy.gov/resources/#data.

Note: The number of programs for which improper payments were reported has increased since FY2004. Dollar amounts are nominal.

The data in **Table 1** show that the amount of improper payments reported was relatively flat from FY2004 through FY2007, after which it increased by 188% through FY2010, declined slightly from FY2011 to FY2013, and then increased again by 36% through FY2016, and declined slightly in FY2017.

The increase in improper payments from the end of FY2007 to the end of FY2010 can be partially attributed to the inclusion of new programs. A number of programs with billions of dollars in annual outlays lacked valid improper payments estimates and did not begin reporting until FY2008. The Department of Health and Human Services (HHS) first reported on Medicaid and Medicare Part C, for example, in FY2008, estimating $25.4 billion in improper payments for the two programs combined that year.[8] In addition, government expenditures for public assistance increased as the economy weakened, which further increased the amount of improper payments issued under many risk-susceptible programs. Expenditures increased by more than one-third, for example, under the Earned Income Tax Credit program (48%), Medicaid (34%), and Medicare Part C (33%), between FY2007 and FY2010.[9] In some cases, increased expenditures corresponded with an increase in the error rate. The Medicare Fee-for-Service program, for example, saw its expenditures increase from $276 billion in FY2007 to $326 billion in FY2010, while the program's error rate rose from 3.9% to 9.1% in that same time period.[10]

The second period of increase, from FY2014 through FY2016, appears to have a similar set of dynamics. Improper payment estimates were reported for new programs after the end of FY2013, including two programs run by the Department of Veterans' Affairs that reported a combined total of $4.8 billion in improper payments in FY2016.[11] Expenditures increased for many programs from FY2013 to FY2016, including Medicare Part C, where program outlays grew by 31% and the amount of improper payments increased by 37%, or $4.4 billion.[12] Finally, growth in

[8] Office of Management and Budget, "Payment Accuracy: 2017 Data Set," at https://paymentaccuracy.gov/resources/#data.

[9] Ibid.

[10] Ibid.

[11] The Department of Veterans' Affairs (VA) first reported improper payment estimates for the Purchased Long-Term Services (PLTS) and Community Care programs in FY2013. VA reported $1.2 billion in improper payments for PLTS and $3.2 billion for the Community Care program for FY2016. U.S. Office of Management and Budget, "Payment Accuracy: 2016 Data Set," at https://paymentaccuracy.gov/resources/#data.

[12] U.S. Office of Management and Budget, "Payment Accuracy: 2017 Data Set," at https://paymentaccuracy.gov/resources/#data.

expenditures sometimes coincided with an increase in a program's error rate. The Medicaid program saw its expenditures increase from $247 billion in FY2013 to $346 billion in FY2016, and its error rate increased from 5.8% to 10.5% at the same time.[13] As a consequence, the amount of improper payments reported for Medicaid increased by $22 billion in three years.

High-priority Programs

As noted in the previous section, 20 programs have accounted for a significant portion of the government's total improper payments. OMB and federal agencies are required to establish annual targets for reducing improper payments under these high-priority programs and submit a report to the agency's IG that details how the agency plans to meet those targets. **Table 2** identifies the amount of improper payments issued by each of these high-priority programs from FY2004 through FY2017.

[13] Ibid.

Table 2. High-Priority Program Improper Payments Amounts, FY2004-FY2017

In Billions of Dollars

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Total
Medicare (Fee-for-Service)	$21.6	$12.1	$10.8	$10.8	$10.4	$30.8	$29.7	$28.8	$29.6	$36.0	$45.8	$43.3	$41.1	$36.2	$387.0
Medicaid	NR	NR	NR	NR	18.6	18.1	22.5	21.9	19.2	14.4	17.5	29.1	36.3	36.7	234.3
Earned Income Tax Credit	9.7	10.5	10.7	11.4	12.1	12.3	16.9	15.2	12.6	14.5	17.7	15.6	16.8	16.2	192.2
Medicare Advantage (Part C)	NR	NR	NR	NR	6.9	12.0	13.6	12.4	13.1	11.8	12.2	14.1	16.2	14.3	126.6
Unemployment Insurance	3.9	3.3	3.4	3.3	4.2	12.3	17.5	13.7	10.3	6.2	5.6	3.5	3.9	4.1	95.2
Supplemental Security Income	2.6	2.9	3.0	4.1	4.6	5.4	4.8	4.6	4.7	4.3	5.1	4.8	4.2	5.0	60.1
Retirement, Survivors, and Disability Insurance	1.7	3.7	3.3	2.5	2.0	2.5	3.2	4.5	3.2	2.4	3.0	5.0	3.7	2.6	43.3
Supplemental Nutrition Assistance	1.6	1.4	1.6	1.8	1.7	1.7	2.2	2.5	2.7	2.6	2.4	2.6	NR	NR	24.8
Rental Housing Assistance	1.7	1.5	1.5	1.5	1.0	1.0	0.9	1.0	1.2	1.3	1.0	1.3	1.7	NR	16.6
National School Lunch	NR	NR	NR	1.4	1.5	1.6	1.5	1.7	1.6	1.8	1.7	1.8	1.8	1.9	18.3
Medicare (Part D)	NR	NR	NR	NR	NR	NR	NR	1.7	1.6	2.1	1.9	2.2	2.4	1.3	13.2
Pell Grants	0.6	0.4	0.4	0.4	0.6	0.6	1.0	1.0	0.8	0.7	0.7	0.6	2.2	2.2	12.2
Direct Student Loans	NR	NR	NR	NR	NR	NR	NR	NR	NR	1.1	1.5	1.3	3.9	3.9	11.7
School Breakfast	NR	NR	NR	0.5	0.5	0.6	0.6	0.7	0.8	0.8	0.9	0.9	0.9	1.0	8.2
VA Community Care	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	0.3	2.1	3.6	5.3	11.3
USDA Crop Insurance	0.1	0.0	0.1	0.1	0.2	0.2	0.5	0.2	0.2	0.6	1.0	0.3	0.2	NR	3.7
Children's Health Insurance	NR	NR	NR	NR	0.8	NR	NR	NR	0.7	0.6	0.6	0.6	0.7	1.2	4.4
VA Compensation	NR	NR	NR	NR	NR	NR	NR	NR	NR	0.3	0.7	1.4	0.4	.5	3.3
SBA 7(a) Guaranty Approvals	NR	NR	NR	0.0	0.0	NR	0.0	0.0	0.2	0.5	0.6	0.8	0.2	.2	2.5
VA Long-Term Support	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	0.1	0.9	1.2	1.9	4.1

Source: U.S. Office of Management and Budget, "Payment Accuracy: 2017 Data Set" at https://paymentaccuracy.gov/resources/#data.

Notes: NR stands for Not Reported. An NR indicates an agency did not publish that year. Dollar amounts are nominal.

The data in **Table 2** show that 20 high-priority programs issued more than $1.2 trillion in improper payments since FY2004. Overall, 18 of the 20 high-priority programs that have reported improper payments data so far have seen an increase in the amount of annual improper payments between their first year of reporting and FY2017.

The data also show that a subgroup of four high-priority programs—Medicare Advantage, Medicaid, Medicare Fee-for-Service, and the Earned Income Tax Credit (EITC)—account for a large proportion of the government's total improper payments. In FY2017, those four programs accounted for $103 billion of the government's total improper payments of $141 billion. Restated, four programs accounted for an estimated 73% of all of the government's improper payments in the most recent fiscal year for which data are available.

Taken as a whole, high-priority programs have accounted for a large percentage of the government's total annual improper payments each fiscal year. As **Table 3** shows, high-priority programs accounted for 85% to 98% of the improper payments reported by agencies annually from FY2004 through FY2017.

Table 3. Percentage of Total Improper Payments Attributable to High-Priority Programs, FY2004-FY2017

In Billions of Dollars

	2004	2005	2006	2007	2008	2009	2010
High-priority	$44	$36	$35	$38	$65	$99	$115
Total	45	38	41	42	73	105	121
Percent	98%	95%	85%	90%	89%	94%	95%
	2011	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**
High-priority	$110	$103	$102	$120	$132	$141	$135
Total	115	108	106	125	137	144	141
Percent	96%	95%	96%	96%	96%	98%	96%

Source: U.S. Office of Management and Budget, "Payment Accuracy: 2017 Data Set," at https://paymentaccuracy.gov/resources/#data.

Notes: Dollar amounts are nominal.

The data in **Table 3** show that after some fluctuation during the first five years of reporting, high-priority programs have accounted for a relatively stable portion of the government's total improper payments. Between FY2004 and FY2008, high-priority programs accounted for as much as 98% and as little as 85% of the government's total improper payments, a variance of 13 percentage points. By comparison, between FY2009 and FY2017, high-priority programs accounted for as much as 98% and as little as 94% of the government's total improper payments—a variance of 4 percentage points. The first five years of reporting may have displayed greater variance because agencies were in the initial stages of developing improper payment estimates for their programs. This may have, in turn, increased year-to-year variations in total improper payments—variations that should theoretically diminish over time as agencies develop more accurate measures. Should the current trend continue into future fiscal years, high-priority programs would account for 9 out of every 10 dollars reported as improper payments.

High-Priority Program Error Rates

OMB's guidance on high-priority programs was intended to focus agency efforts on the subset of programs with the highest dollar amounts of improper payments. As the data in **Table 4** show, the results have been mixed. While some high-priority programs have seen a steady decline in their improper payments error rates, others have shown little or no improvement—and some have seen their error rates increase over time.

Table 4. High-Priority Program and Government-Wide Error Rates, FY2004-FY2017

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
VA Community Care	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	9.2%	54.8%	75.9%	93.4%
VA Long-Term Support	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	9.0	59.1	69.2	100%
Earned Income Tax Credit	24.5	25.4	25.4	25.5	25.4	25.5	26.3	23.5	22.7	24.1	27.1	23.4	24.0	23.9
School Breakfast	NR	NR	NR	24.9	25.0	24.6	24.9	25.0	25.2	25.3	25.6	22.3	22.5	22.8
National School Lunch	NR	NR	NR	16.3	16.5	16.4	16.3	16.0	15.5	15.7	15.3	15.7	15.2	15.3
Unemployment Insurance	10.3	10.1	10.9	10.3	10.0	10.3	11.2	12.0	11.4	9.3	11.6	10.7	11.6	12.5
Medicare (Fee-for-Service)	10.1	5.2	4.4	3.9	3.6	10.8	9.1	8.6	8.5	10.1	12.7	12.1	11.0	9.5
Medicaid	NR	NR	NR	NR	10.5	9.6	9.4	8.1	7.1	5.8	6.7	9.8	10.5	10.1
Medicare Advantage (Part C)	NR	NR	NR	NR	10.6	15.4	14.1	11.0	11.4	9.5	9.0	9.5	10.0	8.3
Children's Health Insurance	NR	NR	NR	NR	14.7	NR	NR	NR	8.2	7.1	6.5	6.8	8.0	8.6
Pell Grants	4.9	3.5	3.5	3.5	4.1	3.5	3.1	2.7	2.5	2.3	2.2	1.9	7.8	8.2
Supplemental Security Income	7.4	7.8	7.8	10.1	10.7	12.1	10.0	9.1	9.2	8.1	9.2	8.4	7.4	8.8
Rental Housing Assistance	6.9	5.6	5.4	5.5	3.5	3.5	3.1	2.9	3.9	4.3	3.2	4.0	5.2	NR
Direct Student Loans	NR	NR	NR	NR	NR	NR	NR	NR	NR	1.0	1.5	1.3	4.0	4.1
Medicare (Part D)	NR	NR	NR	NR	NR	NR	NR	3.2	3.1	3.7	3.3	3.6	3.4	1.7
USDA Crop Insurance	5.0	0.9	1.9	2.7	4.7	5.8	6.0	4.7	4.1	5.2	5.6	2.2	2.0	NR
SBA 7(a) Guaranty Approvals	NR	NR	NR	0.0	0.0	NR	0.0	0.0	1.8	4.7	5.2	5.6	1.0	1.3
VA Compensation	NR	NR	NR	NR	NR	NR	NR	NR	NR	0.7	1.3	2.3	0.6	0.7
Retirement, Survivors, and Disability Income	0.4	0.7	0.6	0.5	0.3	0.4	0.5	0.6	0.5	0.3	0.4	0.6	0.4	0.3
Supplemental Nutrition Assistance	6.6	5.9	5.8	6.0	5.6	5.0	4.4	3.8	3.8	3.4	3.2	3.7	NR	NR
Government-wide	**4.4**	**3.1**	**2.9**	**2.8**	**4.0**	**5.4**	**5.3**	**4.7**	**4.4**	**3.5**	**4.0**	**4.4**	**4.7**	**4.5**

Source: U.S. Office of Management and Budget, "Payment Accuracy: 2017 Data Set," at https://paymentaccuracy.gov/resources/#data.

Notes: NR stands for Not Reported. An NR indicates no data were published that year. Dollar amounts are nominal.

The data show that the government-wide error rate increased from 4.4% in FY2004 to its peak of 5.4% in FY2009, and then declined again to 4.5% in FY2017. While a number of factors likely contributed to this pattern, changes in the government-wide error rate mirrored changes in the error rates of several of the largest high-priority programs: Medicare Fee-for-Service, Earned Income Tax Credit, Medicare Part C, Supplemental Security Income (SSI), and the National School Lunch Program. These five programs have accounted for a majority of the government's total improper payments between FY2004 and FY2017, so changes in their error rates could drive changes in the government-wide error rate. During the period of FY2004 through FY2009, the error rates for all five programs increased, and during the period of FY2010 through FY2017 the error rates for all but Medicare Fee-for-Service decreased.

Given that high-priority programs account for such a large percentage of the government's overall improper payments, reducing the amount of funds paid erroneously depends in large part on reducing the error rates of these 20 programs. The data show, however, that nearly half of the high-priority programs have shown no improvement. Specifically, the error rates for seven programs have increased since they first began reporting data, and the error rate for one program has remained unchanged. Moreover, while the error rates for twelve programs have decreased, the decline has been less than 10% for five programs.

In some cases, program error rates have not improved despite having been subject to improper payments requirements for more than a decade. For example, EITC's error rate has remained virtually unchanged over 13 years of reporting. In FY2004, EITC's error rate stood at 24.5%, and at the end of FY2017 it stood at 23.9%. Moreover, the error rate for Unemployment Insurance increased from 10.3% to 12.5% during that same time frame.

In sum, while the government-wide error rate has fallen from its peak of 5.4%, there has been little progress made reducing the error rates for a number of high-priority programs. As a consequence, 13 years after agencies first reported improper payment rates and amounts, the government still issues more than $100 billion a year in improper payments.

Author Contact Information

Garrett Hatch
Specialist in American National Government
ghatch@crs.loc.gov, 7-7822