Congressional Budget Office
Cost Estimate

April 22, 2019

At a Glance

S. 375, Payment Integrity Information Act of 2019

As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on February 13, 2019

Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	n.e.	n.e.
Revenues	0	n.a.	n.a.
Deficit Effect	0	n.e.	n.e.
Spending Subject to Appropriation (Outlays)	0	n.e.	n.e.

Pay-as-you-go procedures apply?	**Yes**	**Mandate Effects**	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	**No**	Contains intergovernmental mandate?	**No**
		Contains private-sector mandate?	**No**

n.a. = not applicable; n.e. = not estimated

The bill would
- Direct federal agencies to undertake numerous activities designed to reduce improper payments

Estimated budgetary effects would primarily stem from
- Potential administrative activities of federal employees
- Audits of selected programs or activities

Areas of significant uncertainty include
- How this legislation would build on and interact with current law, policy, and practice of the federal government
- Effectiveness of potential new program integrity initiatives

Detailed estimate begins on the next page.

See also *CBO's Cost Estimates Explained*, www.cbo.gov/publication/54437;
How CBO Prepares Cost Estimates, www.cbo.gov/publication/53519; and *Glossary*, www.cbo.gov/publication/42904.

Bill Summary

S. 375 would direct federal agencies to undertake numerous activities designed to reduce improper payments. Specifically, agencies would be required to identify and report annually on programs that are susceptible to improper payments. Agencies also would need to estimate the magnitude of improper payments and report to their inspectors general and the OMB Director on progress. S. 375 also would require agencies to implement recovery audits if they would be cost-effective for any program or activity that spends more than $1 million annually.

Estimated Federal Cost

Enacting S. 375 could affect direct spending and revenues; therefore, pay-as-you-go procedures apply. However, CBO cannot estimate the magnitude or the direction of those effects. S. 375 also could affect spending subject to appropriation, but CBO also cannot determine the potential change in discretionary spending that would result from implementing the bill.

Background and Current Law

Within government programs, an improper payment is generally defined as "any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. In addition, improper payments include payments with insufficient documentation to determine if the payment was proper."[1] Effectively, improper payments include fraud, payments that arise from paperwork errors (such as accidental transposition of numbers in a form), and from design elements that make the program susceptible to improper payments.[2]

Over the past two decades, many laws have been enacted to curtail improper payments, including the Improper Payments Information Act of 2002, the Improper Payments Elimination and Recovery Act of 2010, the Improper Payments Elimination and Recovery Improvement Act of 2012, and the Fraud Reduction and Data Analytics Act of 2015.

According to guidance from the Office of Management and Budget (OMB), federal agencies already must estimate the magnitude of improper payments for many programs,

1. Sec. 2(f)(2) of the Improper Payments Elimination and Recovery Act of 2010, Public Law 111-204.

2. Common reasons for improper payments are described at Performance.gov, "Payment Accuracy: Frequently Asked Questions" (accessed December 19, 2018), https://paymentaccuracy.gov/faq.

even though it can be difficult.[3] In addition, the Government Accountability Office (GAO), maintains a list of programs at high risk for improper payments.[4]

Basis of Estimate

Under recovery audits, third-party contractors identify overpayments and underpayments in federal programs. Those contractors may be paid from contingency fees where the contractor receives a percentage of any identified improper payments, or compensated using a set fee.

For example, the Centers for Medicare & Medicaid Services (CMS) currently conducts recovery audits for Medicare's fee-for-service program. Contractors are paid on a contingency basis, generally between 9 percent and 12 percent of the improper payments they identify. Over fiscal years 2013 through 2016, the current Medicare recovery audit contractor (RAC) program returned approximately $5 billion to the Medicare Trust Funds—about 0.2 percent of Medicare spending for that same period.[5]

Although recovery audits could be used effectively to identify underpayments and to recover overpayments in other programs, CBO cannot estimate the budgetary effects of this provision for several reasons:

- Information about the number of agencies that might use recovery audits under S. 375 and the amount of federal spending or collections that might result is difficult to find. Agencies can use such audits under current law; their failure to do so might indicate that they do not expect the use of contract auditors to be useful or cost-effective.

- The bill's standard for cost-effectiveness of recovery audits would depend, in part, on how agencies structured payments to contractors. As a result, estimating the net budgetary effect of recovery audits or their budgetary effects is difficult.

- For programs that receive annual appropriations, recovering overpayments might not result in net savings, especially if agencies could spend the recovered funds without subsequent appropriation action. Future appropriations would need to be reduced to realize any reduction in spending.

In addition, CBO cannot determine whether CMS would be able to continue to operate its current RAC program, which differs from the program outlined in the bill in several aspects. If the program changed to meet the requirements of S. 375, Medicare recoveries of improper

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3. Acceptable statistical sampling methods are described in Office of Management and Budget, Requirements for Payment Integrity Improvement, Circular A-123, Appendix C (June 2018), https://go.usa.gov/xExQG. (PDF, 2.3 MB).

4. Government Accountability Office, "High Risk List" (accessed December 19, 2018) www.gao.gov/highrisk/overview.

5. For more information on the CMS RAC program, see Centers for Medicare & Medicaid Services, "Medicare Fee for Service Recovery Audit Program: "Resources" (September 18, 2018) https://go.usa.gov/xExQ6.

payments could be larger or smaller than under CBO's current baseline projections. CBO cannot estimate the direction or magnitude of those effects on direct spending.

Finally, the bill also would require federal agencies to undertake several new or modified activities that CBO expects could require new administrative resources. Because such spending is generally subject to appropriation, S. 375 would increase the amount of discretionary funding that agencies require. However, CBO cannot determine how the bill might affect such spending. Agencies could redirect current spending on activities designed to reduce improper payments to fulfill the requirements of S. 375 but those resources might not be sufficient to meet the bill's requirements.

Uncertainty

CBO cannot determine whether the activities mandated by section (a), Identification of Susceptible Programs and Activities, or section (b), Improving the Determination of Improper Payments, would materially affect the ability of federal agencies to identify, prevent, and recover improper payments relative to what they can already do. For example, as noted above, GAO already identifies high-risk programs but how the identification mandated by S. 375 would differ from GAO's is unclear. Similarly, agencies are now required to identify improper payments within the programs they administer and CBO cannot determine whether the changes mandated by S. 375 would improve on current processes. Because of those uncertanities CBO cannot determine how federal spending might change if the activities required under S. 375 were implemented.

Increasing the number of employees focused on preventing and recovering such payments could reduce improper payments. Using information from the Office of Personnel Management, CBO estimates that approximately 81,500 current federal workers engage in activities related to obligating, apportioning, or otherwise managing federal funds. Based on average salary and benefits, CBO estimates that compensation for those workers totals more than $8 billion annually. If the number of staff devoted to preventing improper payments were increased by 1 percent (about 30 employees) costs would increase by more than $80 million annually, assuming appropriation of the estimated amounts. Likewise, a 5 percent increase in staffing would cost more than $400 million annually and add more than 4,000 new employees throughout the government. However, S. 375 would neither authorize nor appropriate funding for agencies to hire additional personnel. Without knowing how many staff might be hired to implement the legislation, CBO cannot estimate how the number or magnitude of improper payments that might be affected.

Pay-As-You-Go Considerations

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. Enacting S. 375 could affect direct spending; therefore, pay-as-you-go procedures apply. However, CBO cannot estimate the magnitude or the direction of those effects.

Increase in Long-Term Deficits

Although CBO cannot determine the effects of S. 375, enacting the bill probably would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2030.

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