



DEPARTMENT OF HEALTH AND HUMAN SERVICES

## OFFICE OF INSPECTOR GENERAL

WASHINGTON, DC 20201



JUL - 7 2014

The Honorable Darrell Issa  
Chairman  
Committee on Oversight and Government Reform  
House of Representatives  
Washington, DC 20515

The Honorable Trey Gowdy  
House of Representatives  
Washington, DC 20515

Dear Chairman Issa and Mr. Gowdy:

I am writing in response to your letter dated December 13, 2011. In your letter, you expressed concern that some States have not implemented changes to Federal laws, especially related to eligibility and asset transfer. You stated that you were particularly concerned regarding implementation of the requirements added by the Omnibus Budget Reconciliation Act of 1993 (OBRA) (P.L. No. 103-66, Aug. 10, 1993) and the Deficit Reduction Act of 2005 (DRA) (P.L. No. 109-171, Feb. 8, 2006).

You stated that you seek to better understand whether States are implementing provisions of Federal law that are meant to limit individuals with above-average wealth from accessing Medicaid. You asked that we:

- 1) provide data on each State's progress on implementing the OBRA and the DRA, including details regarding which States have yet to implement certain provisions related to eligibility and asset transfer;
- 2) provide data on States' efforts with regard to estate recovery, including the amount of resources States put into estate recoveries; and
- 3) update estate recovery figures for each State.

To address the issues raised in your letter, we surveyed all 51 States (including the District of Columbia). We asked questions regarding the areas addressed in your letter. We received a 100-percent response rate. We did not independently verify the information reported to us.

### *Implementation of Statutory Changes*

Twenty-eight of the fifty-one States reported that they have implemented all the eligibility and asset transfer requirements of the OBRA and the DRA. The 23 remaining States reported that

they have implemented some but not all of the eligibility and asset transfer provisions of the OBRA (3 States) or that they have implemented some but not all of the requirements of the DRA (22 States). (Two of the States reported that they had not fully implemented either the OBRA or the DRA.) Enclosure A includes additional detail on the States' progress on implementing the OBRA and the DRA.

*States' Estate Recovery Efforts*

All 51 States reported that they have implemented the estate recovery requirements of the OBRA. All States reported that they are recovering assets from the probate estates of deceased Medicaid recipients when the recipients are not survived by spouses. Enclosure B includes additional detail on the States' efforts with regard to estate recovery, including the amount of resources States put into estate recovery.

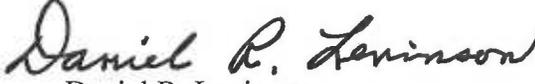
*Updated Estate Recovery Figures*

States reported total yearly recoveries nationwide that ranged from \$429.5 million in fiscal year (FY) 2005 to \$497.9 million in FY 2011. The yearly amounts of resources used to achieve these recoveries ranged from \$20.5 million in FY 2005 to \$34.2 million in FY 2011. Enclosure C includes estate recovery figures for each State.

We hope that this information is responsive to your request. We look forward to working with you and your staff on these and other oversight issues. We are sending a similar letter to the Honorable Richard Burr and the Honorable Dr. Tom Coburn.

If you have any questions or would like to discuss this matter further, please contact me, or your staff may contact Chris Hinkle, Director of Congressional and Regulatory Affairs, at (202) 401-2206 or through email at [Christina.Hinkle@oig.hhs.gov](mailto:Christina.Hinkle@oig.hhs.gov).

Sincerely,

  
Daniel R. Levinson  
Inspector General

Enclosures



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The Honorable Tom Coburn, M.D.  
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**ENCLOSURE A: STATES' PROGRESS ON IMPLEMENTING  
THE OMNIBUS BUDGET RECONCILIATION ACT OF 1993 AND  
THE DEFICIT REDUCTION ACT OF 2005**

**STATE IMPLEMENTATION OF OMNIBUS BUDGET RECONCILIATION ACT OF  
1993 ELIGIBILITY AND ASSET TRANSFER PROVISIONS**

As of November 2013, 48 States had reported that they have implemented all the eligibility and asset transfer requirements of the Omnibus Budget Reconciliation Act of 1993 (OBRA) (P.L. No. 103-66, Aug. 10, 1993). However, the remaining three States—California, the District of Columbia, and North Carolina—reported that they have not implemented some OBRA eligibility and asset transfer requirements. Table 1 includes details on these unimplemented eligibility and asset transfer provisions, and Table 2 includes a year-by-year summary of State implementation of OBRA eligibility and asset transfer provisions.

**Table 1: Unimplemented Omnibus Budget Reconciliation Act of 1993  
Eligibility and Asset Transfer Requirements**

<b>States</b>	<b>Number of States</b>	<b>OBRA Provision That Is Not Implemented</b>
California	1	Section 13611(a)(1) of the OBRA amended section 1917(c)(1) of the Social Security Act (the Act) (42 U.S.C. 1396p(c)(1)) to require that the look-back period be extended to 36 months for asset transfers (60 months for asset transfers to irrevocable trusts). <sup>1</sup>
District of Columbia	1	Section 13611(c) of the OBRA amended section 1917 of the Act by adding new subsection (e) (42 U.S.C. § 1396p(e)) <sup>2</sup> , which requires States to include in the definition of “assets” any income or resources that the individual or spouse is entitled to but does not receive because of his or her own action. Such actions may include disclaiming an inheritance, waiving pension income, or refusing to accept an injury settlement.
District of Columbia	1	Section 13611(b) of the OBRA amended section 1917 of the Act by adding subsection (d)(2) (42 U.S.C. § 1396p(d)(2)), which addresses the availability to the individual of assets held in trusts that were established on or after August 11, 1993, for purposes of determining Medicaid eligibility. This section lists circumstances in which an individual shall be considered to have established a trust.
District of Columbia, North	2	Section 13611(b) of the OBRA amended section 1917 of the Act by adding subsection (d)(6) (42 U.S.C. § 1396p(d)(6)), which provides that the term “trust” includes any legal instrument or device that is

<sup>1</sup> This requirement was superseded by section 6011(a) of the Deficit Reduction Act of 2005 (DRA) (Pub. L. No. 109-171), which extended the look-back period to 60 months for all transfer of assets on or after February 8, 2006.

<sup>2</sup> The DRA §§ 6012(a), 6014(a), and 6015(b) redesignated this subsection (e) as subsection (h).

States	Number of States	OBRA Provision That Is Not Implemented
Carolina		similar to a trust but includes an annuity only to such extent and in such manner as the Secretary specifies. <sup>3</sup>
District of Columbia	1	Section 13611(b) of the OBRA amended section 1917 of the Act by adding subsection (d)(3)(A) (42 U.S.C. § 1396p (d)(3)(A)), which provides guidelines for the treatment of assets held in revocable trusts that were established on or after August 11, 1993, for purposes of determining Medicaid eligibility.
District of Columbia	1	Section 13611(b) of the OBRA amended section 1917 of the Act by adding subsection(d)(3)(B) (42 U.S.C. § 1396p(d)(3)(B)), which provides guidelines for the treatment of assets held in irrevocable trusts that were established on or after August 11, 1993, for purposes of determining Medicaid eligibility.

**Table 2: State Implementation of the Omnibus Budget Reconciliation Act of 1993 Eligibility and Asset Transfer Provisions**

States	Number of States	Year <sup>4</sup>
Arizona, Connecticut, Delaware, Florida, Georgia, Kansas, Louisiana, Minnesota, Mississippi, Montana, Tennessee, Utah, Virginia	13	1993
Colorado, Iowa, Nevada, North Dakota, Pennsylvania, Texas, Vermont, Wisconsin	8	1994
Alabama, Arkansas, Idaho, Indiana, Nebraska, New Mexico, South Dakota, Washington, Wyoming	9	1995
Michigan, New Hampshire, New York, Oklahoma	4	1996
Massachusetts	1	1998
New Jersey	1	2001
Missouri, Ohio, Rhode Island, South Carolina	4	2006
Alaska, Kentucky, Maine, Maryland, Oregon	5	2007
Hawaii, West Virginia	2	2009
Illinois	1	2012
<b>Total</b>	<b>48</b>	

<sup>3</sup> Section 3259.1.A.2 of the Centers for Medicare & Medicaid Services' (CMS) *State Medicaid Manual* states that a "legal instrument or device similar to a trust" is any legal instrument, device, or arrangement that may not be called a trust under State law, but involves a grantor who transfers property to an individual or entity with fiduciary obligations (trustee). The grantor makes the transfer with the intention that it be held, managed, or administered by the individual or entity for the benefit of the grantor or others. This can include (but is not limited to) escrow accounts, investment accounts, pension funds, and similar devices managed by an individual or entity with fiduciary obligations.

<sup>4</sup> This is the year in which the State completed implementation of all eligibility and asset transfer requirements of the OBRA.

**STATE IMPLEMENTATION OF DEFICIT REDUCTION ACT OF 2005  
ELIGIBILITY AND ASSET TRANSFER PROVISIONS**

As of November 2013, 29 States had reported that they have implemented all the eligibility and asset transfer requirements of the DRA (P.L. No. 109-171, Feb. 8, 2006). However, one State—California—reported that it has not implemented the majority of the eligibility and asset transfer requirements of the DRA. In addition, the remaining 21 States reported that they have not implemented 1 or more of the DRA eligibility requirements. Table 3 includes details on these unimplemented eligibility and asset transfer provisions, and Table 4 includes a year-by-year summary of State implementation of the DRA eligibility and asset transfer provisions.

**Table 3: Unimplemented Deficit Reduction Act of 2005  
Eligibility and Asset Transfer Requirements**

States	Number of States	DRA Provision That Is Not Implemented
California	1	Section 6011(a) of the DRA amended section 1917(c)(1)(B)(i) of the Act (42 U.S.C. § 1396p(c)(1)(B)(i)) to require that the look-back period be extended to 60 months for any transfer of assets made on or after February 8, 2006.
California	1	Section 6011(b) of the DRA amended section 1917(c)(1)(D) of the Act (42 U.S.C. § 1396p(c)(1)(D)) to require that the penalty period start date be the latter of either: (1) the first date of the month during or (at the State's option) after which assets have been transferred for less than fair market value or (2) the date on which the individual is eligible for medical assistance under the State plan and is receiving institutional level of care services (based on an approved application for such services) that, were it not for the imposition of the penalty period, would be covered by Medicaid.
California, New Mexico	2	Section 6016(a) of the DRA amended section 1917(c)(1)(E) of the Act (42 U.S.C. § 1396p(c)(1)(E)) to prohibit a State from rounding down or otherwise disregarding any fractional period of ineligibility. States must impose a penalty period even if the period of ineligibility would be less than a full month.
California	1	Section 6012(a) of the DRA amended section 1917 of the Act by adding a new subsection (e)(42 U.S.C. § 1396p(e)), which provides that States shall require that the individual's application for medical assistance disclose any interest the individual or

States	Number of States	DRA Provision That Is Not Implemented
		community spouse has in an annuity or similar financial instrument.
California, Tennessee	2	Section 6012(b) of the DRA amended section 1917(c)(1) of the Act by adding new subparagraph (F) (42 U.S.C. § 1396p(c)(1)(F)), which provides that the purchase of an annuity on or after February 8, 2006, be treated as transfer of assets for less than fair market value unless the State is named as the remainder beneficiary. Section 6012(a) of the DRA amended section 1917(e)(2)(A) (42 U.S.C. § 1396p(e)(2)(A)) to provide that a State must notify the issuer of the annuity of the State's rights as a preferred remainder beneficiary.
California	1	Section 6012(c) of the DRA amended section 1917(c)(1) of the Act by adding new subparagraph (G) (42 U.S.C. § 1396p(c)(1)(G)), which provides that the purchase of an annuity by or on behalf of an annuitant who has applied for medical assistance with respect to nursing facility services or other long-term-care services be treated as a transfer of assets for less than fair market value unless the annuity meets the criteria listed in the section.
California, District of Columbia, Iowa, Oklahoma, Oregon, Vermont, Virginia	7	Section 6012(d) of the DRA provides that the provisions of the DRA apply to annuity-related transactions, including purchases, that occur on or after February 8, 2006. In its State Medicaid Directors Letter number 06-018, dated July 2006 (SMD Letter), CMS stated that such transactions include any action taken by the individual that changes the course of payments to be made by the annuity or the treatment of the income or principal of the annuity. Such actions include additions of principal and elections to annuitize the contract.
California, District of Columbia, Wyoming	3	Section 6016(c) of the DRA added section 1917(c)(1)(I) of the Act (42 U.S.C. § 1396p(c)(1)(I)), which provides that the term "assets" includes funds to purchase a promissory note, loan, or mortgage unless the instruments have a repayment term that is actuarially sound, provide for payments to be made in equal amounts during the term of the loan with no deferral and no balloon payments, and prohibit cancellation of the balance upon the death of the lender. If the instruments do not satisfy those requirements, their value shall be

States	Number of States	DRA Provision That Is Not Implemented
		the outstanding balance as of the date of the individual's application for medical assistance for long-term-care services.
California, District of Columbia, North Dakota, Washington	4	Section 6016(d) of the DRA amended section 1917(c)(1) of the Act by adding a new subparagraph (J) (42 U.S.C. § 1396p(c)(1)(J)), which provides that the term "assets" includes the purchase of a life estate interest in another individual's home unless the purchaser resides in the home for at least 1 year after the purchase date. The SMD Letter states that if the purchaser resides in the home for less than a year, the transaction should be treated as a transfer of assets. The amount of the transfer is the entire amount used to purchase the life estate and should not be reduced or prorated to reflect an individuals' residency of less than a year.
District of Columbia, New Mexico	2	Section 6013 of the DRA amended section 1924(d) of the Act by adding subsection (6) (42 U.S.C. § 1396r-5(d)(6)), which requires all States to follow the "income first" method in calculating revisions to the community spouse resource allowance. All States are required to attribute or allocate the maximum available income of the institutionalized spouse to the community spouse before providing to the community spouse an amount or resources adequate to cover the difference between the minimum monthly maintenance needs allowance and all income available to the community spouse.
Alaska, California, Colorado, Delaware, District of Columbia, Kentucky, Michigan, Mississippi, Nebraska, Oregon, Pennsylvania, Rhode Island, Utah, Vermont, Wyoming	15	Section 6015 of the DRA amended section 1917 of the Act by adding subsection (g) (42 U.S.C. § 1396p(g)), which sets forth conditions under which an entrance fee paid to a continuing care retirement community or life care community be treated as a resource to an individual for purposes of determining Medicaid eligibility.

States	Number of States	DRA Provision That Is Not Implemented
California	1	Section 6014(a) of the DRA amended section 1917(f) of the Act (42 U.S.C. § 1396p(f)) to provide that in determining the eligibility of an individual to receive medical assistance payment for nursing facility services or other long-term-care services, States must deny eligibility if the individual's equity interest in his or her home exceeds \$500,000 (disqualification rule). States may elect a home equity limit that is greater than \$500,000, as adjusted by inflation beginning in 2011, but that does not exceed \$750,000, as adjusted by inflation. This restriction applies only to an applicant who does not have a spouse or a child under the age of 21 or who is blind or disabled or is lawfully residing in the individual's home. This provision applies to applicants submitting an application on or after January 1, 2006.

**Table 4: State Implementation of the Deficit Reduction Act of 2005 Eligibility and Asset Transfer Provisions**

States	Number of States	Year <sup>5</sup>
Alabama, Arkansas, Connecticut, Massachusetts, Minnesota, Montana, Nevada, New York, Ohio, South Carolina, South Dakota, Texas	12	2006
Arizona, Georgia, Kansas, Louisiana, Maine, Maryland, Missouri, North Carolina	8	2007
Idaho	1	2008
Hawaii, West Virginia, Wisconsin	3	2009
Florida, New Hampshire	2	2010
Indiana	1	2011
Illinois, New Jersey	2	2012
<b>Total</b>	<b>29</b>	

<sup>5</sup> This is the year in which the State completed implementation of all DRA provisions.

**ENCLOSURE B: STATES' ESTATE RECOVERY EFFORTS**

**STATE IMPLEMENTATION OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1993 ESTATE RECOVERY REQUIREMENT**

All 51 States reported that they have implemented the OBRA provision requiring recovery of medical assistance costs from the estate of a deceased Medicaid recipient. Table 5 includes a year-by-year summary of State implementation of the OBRA estate recovery requirement.

**Table 5: State Implementation of the Omnibus Budget Reconciliation Act of 1993 Estate Recovery Requirement**

States <sup>1</sup>	Number of States	Year <sup>2</sup>
Idaho, Kansas, Nevada	3	1993
Alaska, Arizona, California, Colorado, Hawaii, Iowa, Nebraska, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee	12	1994
Arkansas, Florida, Indiana, Maine, Massachusetts, Mississippi, Minnesota, Montana, New Mexico, North Dakota, New Jersey, Ohio, Oregon, Utah, Vermont, Virginia, West Virginia, Wisconsin	18	1995
Delaware, Illinois, Louisiana, Missouri, New York, North Carolina	6	1996
Wyoming	1	1997
Rhode Island	1	1998
Washington	1	2003 <sup>3</sup>
Connecticut, Georgia, Kentucky	3	2004

<sup>1</sup> Before the OBRA became law, sections 1902 and 1917 of the Social Security Act (the Act) allowed (but did not require) States to recover certain medical assistance costs correctly paid by the State on behalf of an individual who was aged 65 years or older when the individual received such medical assistance. Using this authority, 23 States—Alabama, California, Connecticut, the District of Columbia, Florida, Georgia, Hawaii, Illinois, Indiana, Massachusetts, Maryland, Missouri, Minnesota, Montana, North Dakota, New Hampshire, New Jersey, New York, Oregon, Rhode Island, Utah, Vermont, and Washington—had implemented estate recovery programs before the enactment of the OBRA.

<sup>2</sup> For the 23 States that had implemented estate recovery programs before the enactment of the OBRA, we have provided the year in which the States amended their State plans to comply with the OBRA requirement concerning estate recovery.

<sup>3</sup> Although Washington reported that it implemented the OBRA requirements, it could not confirm the year of the implementation. Washington had an estate recovery program effective from 1987. The Centers for Medicare & Medicaid Services-approved State plan amendment TN # 03-018, which was effective as of September 2003 and superseded State plan amendment TN # 95-15, shows that Washington implemented the estate recovery requirement of the OBRA. We could not be certain whether implementation occurred in 2003 or in an earlier year.

States <sup>1</sup>	Number of States	Year <sup>2</sup>
District of Columbia, New Hampshire, Texas	3	2005
Maryland, Michigan	2	2010
Alabama	1	2011
<b>Total</b>	<b>51</b>	

As of November 2013, 26 States had reported that they have adopted an expanded definition of an estate to allow recovering medical assistance costs from the assets that are not included in the definition of an estate in State probate law. These States are: California, Delaware, the District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, North Dakota, Ohio, Oregon, South Dakota, Virginia, Washington, Wisconsin, and Wyoming. However, even after adopting the expanded definition of an estate, not all these States have been successful in recovering medical assistance costs after the death of the surviving spouse, which will be explained in the “States’ Estate Recovery Efforts” section.

Further, 42 States reported that they have also implemented the optional provision for recovering all medical assistance costs from the individual’s estate. The nine exceptions were Louisiana, North Carolina, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Vermont, and Washington.

### **STATES’ ESTATE RECOVERY EFFORTS**

All 51 States appear to be recovering the assets in the probate estate of a deceased Medicaid recipient when the recipient is not survived by his or her spouse. However, we noted that certain provisions within the Act and State laws have prevented some States from recovering medical assistance costs after the death of a surviving spouse. Specifically, the Act requires States to recover medical assistance costs from the probate estate (as defined in State probate law) of a Medicaid recipient but only after the death of any surviving spouse. Under this requirement, assets that are transferred outside probate to the surviving spouse are not subject to recovery because they would not be part of the probate estate of the recipient. The Act does not authorize recovery from the estate of the surviving spouse. Although the Act permits the State to expand the definition of the recipient’s estate to allow recovering medical assistance costs from the assets that are not included in the definition of probate estate, it limits recovery to assets in which the deceased recipient had a legal interest at the time of death. Therefore, for an interest to be recoverable from the surviving spouse’s estate in those States, the interest must be an interest recognized by the State law and held by the recipient at the time of death. Legal challenges in at least three States have limited States’ efforts to recover medical assistance costs after the death of the surviving spouse.<sup>4</sup>

<sup>4</sup> Hines v. Department of Public Aid, (Ill. Supreme Ct., May 18, 2006); In Estate of Raymond v. Shuh, Deceased (Mo. Ct. of Appeals, Eastern District, Jan. 29, 2008); and In the Matter of Paul Budney, Deceased (Wis. Ct. of Appeals, October 31, 1995).

## **COSTS OF ESTATE RECOVERY**

Forty-four States provided their costs of estate recovery for the 7 fiscal years (FYs) we requested, and Wisconsin provided cost data for the most recent 3 FYs. However, six States—Arkansas, Connecticut, Montana, New Mexico, New York, and West Virginia—reported that they are unable to determine the expenditures attributable to their estate recovery efforts.

Most States do not track or capture all time spent by their staff on estate recovery activities alone. Several States indicated that the actual cost of estate recovery may have been higher than what they had estimated and reported to us. In some States, contractors have been used for some or all of the estate recovery functions. In those cases, payments to contractors are included in the total estate recovery costs.

Table 6 in Enclosure C includes the costs of estate recovery by State for FYs 2005 through 2011.

### **ENCLOSURE C: UPDATED ESTATE RECOVERY FIGURES**

States reported total yearly recoveries nationwide that ranged from \$429.5 million in FY 2005 to \$497.9 million in FY 2011. The yearly amounts of resources used to achieve these recoveries ranged from \$20.5 million in FY 2005 to \$34.2 million in FY 2011. Total estate recovery figures for FYs 2005 through 2011 and the cost of estate recovery can be found in Table 6.

Although all 51 States provided total estate recovery figures for the years we requested, only 7 States—Alabama, Colorado, Iowa, Pennsylvania, Virginia, Washington, and Wisconsin—were able to provide details about the types of recoveries, such as recoveries from the probate estates and the enforcement of liens on real property. We could not compare total recoveries for these categories among the seven States because of inconsistencies in the types of details provided.

**Table 6: Cost of Estate Recovery and Estate Recovery Figures**

**Fiscal Year 2005**

State	Estate Recovery Cost	Estate Recovered	Estate Recovery Cost as % of Estate Recovered
Alabama	\$261,211	\$5,789,371	4.51%
Alaska	\$700	\$5,000	14.00%
Arizona	\$511,151	\$2,438,881	20.96%
Arkansas	not available	\$1,597,779	not available
California	\$1,810,617	\$68,037,670	2.66%
Colorado	\$577,342	\$7,380,099	7.82%
Connecticut	not available	\$9,451,678	not available
Delaware	\$150,000	\$1,355,312	11.07%
District of Columbia	\$336,863	\$2,400,890	14.03%
Florida	\$983,705	\$17,235,855	5.71%
Georgia	\$0	\$0	0.00%
Hawaii	\$133,500	\$2,519,094	5.30%
Idaho	\$363,127	\$6,715,946	5.41%
Illinois	\$1,754,876	\$19,669,790	8.92%
Indiana	\$1,270,688	\$7,755,792	16.38%
Iowa	\$1,073,282	\$10,327,615	10.39%
Kansas	\$46,272	\$6,060,480	0.76%
Kentucky	\$497,818	\$8,344,891	5.97%
Louisiana	\$35,000	\$169,437	20.66%
Maine	\$111,373	\$4,541,661	2.45%
Maryland	\$400,000	\$379,051	105.53%
Massachusetts	\$2,055,890	\$37,919,216	5.42%
Michigan	\$0	\$0	0.00%
Minnesota	\$350,344	\$26,139,105	1.34%
Mississippi	\$84,740	\$591,339	14.33%
Missouri	\$195,683	\$10,357,535	1.89%
Montana	not available	\$1,673,637	not available
Nebraska	\$168,000	\$906,863	18.53%
Nevada	not available	\$1,925,513	not available
New Hampshire	\$0	\$5,891,315	0.00%
New Jersey	\$809,313	\$12,990,503	6.23%
New Mexico	not available	\$1,005,208	not available
New York	not available	\$34,351,987	not available
North Carolina	\$181,433	\$7,417,825	2.45%
North Dakota	\$81,570	\$1,626,123	5.02%
Ohio	\$926,352	\$14,841,666	6.24%
Oklahoma	\$98,245	\$2,385,270	4.12%
Oregon	\$1,623,660	\$1,161,185	139.83%
Pennsylvania	\$1,319,875	\$27,293,322	4.84%
Rhode Island	\$241,423	\$4,196,365	5.75%
South Carolina	\$540,638	\$5,486,769	9.85%
South Dakota	\$49,880	\$1,261,184	3.96%
Tennessee	\$178,001	\$15,070,852	1.18%
Texas	\$6,933	\$0	---
Utah	\$83,680	\$417,543	20.04%
Vermont	\$59,468	\$872,387	6.82%
Virginia	\$129,138	\$1,435,631	9.00%
Washington	\$901,422	\$11,180,030	8.06%
West Virginia	not available	\$190,100	not available
Wisconsin	not available	\$17,423,400	not available
Wyoming	\$125,000	\$1,297,225	9.64%
<b>TOTAL</b>	<b>\$20,528,213</b>	<b>\$429,485,390</b>	<b>4.78%</b>

Fiscal Year 2006

State	Estate Recovery Cost	Estate Recovered	Estate Recovery Cost as % of Estate Recovered
Alabama	\$261,211	\$5,483,364	4.76%
Alaska	\$29,561	\$445,578	6.63%
Arizona	\$753,950	\$4,520,968	16.68%
Arkansas	not available	\$2,034,762	not available
California	\$3,162,239	\$78,506,706	4.03%
Colorado	\$637,003	\$8,096,308	7.87%
Connecticut	not available	\$11,109,514	not available
Delaware	\$150,000	\$1,244,547	12.05%
District of Columbia	\$383,181	\$2,694,084	14.22%
Florida	\$802,503	\$12,926,660	6.21%
Georgia	\$0	\$0	0.00%
Hawaii	\$138,354	\$4,143,648	3.34%
Idaho	\$374,020	\$8,801,869	4.25%
Illinois	\$1,903,289	\$19,315,332	9.85%
Indiana	\$1,546,807	\$7,946,214	19.47%
Iowa	\$1,000,187	\$15,088,871	6.63%
Kansas	\$11,265	\$4,610,116	0.24%
Kentucky	\$655,427	\$9,000,013	7.28%
Louisiana	\$35,000	\$179,838	19.46%
Maine	\$117,235	\$4,439,909	2.64%
Maryland	\$400,000	\$7,569,856	5.28%
Massachusetts	\$2,211,028	\$40,368,280	5.48%
Michigan	\$0	\$0	0.00%
Minnesota	\$403,295	\$23,800,840	1.69%
Mississippi	\$84,740	\$464,744	18.23%
Missouri	\$189,018	\$13,018,584	1.45%
Montana	not available	\$1,774,479	not available
Nebraska	\$168,000	\$1,565,778	10.73%
Nevada	\$479,640	\$1,646,522	29.13%
New Hampshire	\$11,366	\$5,529,604	0.21%
New Jersey	\$849,778	\$6,011,924	14.13%
New Mexico	not available	\$1,410,080	not available
New York	not available	\$35,460,376	not available
North Carolina	\$181,433	\$7,671,512	2.37%
North Dakota	\$91,220	\$1,981,280	4.60%
Ohio	\$2,265,573	\$15,672,618	14.46%
Oklahoma	\$98,245	\$2,473,245	3.97%
Oregon	\$1,882,837	\$13,139,540	14.33%
Pennsylvania	\$1,319,875	\$27,148,277	4.86%
Rhode Island	\$289,707	\$6,404,359	4.52%
South Carolina	\$687,486	\$6,614,549	10.39%
South Dakota	\$51,423	\$1,233,024	4.17%
Tennessee	\$180,000	\$13,974,601	1.29%
Texas	\$89,285	\$0	---
Utah	\$87,281	\$249,247	35.02%
Vermont	\$61,307	\$558,302	10.98%
Virginia	\$132,139	\$1,000,651	13.21%
Washington	\$1,134,835	\$17,030,791	6.66%
West Virginia	not available	\$99,467	not available
Wisconsin	not available	\$21,300,675	not available
Wyoming	\$125,000	\$1,700,662	7.35%
<b>TOTAL</b>	<b>\$25,435,743</b>	<b>\$477,462,168</b>	<b>5.33%</b>

Fiscal Year 2007

State	Estate Recovery Cost	Estate Recovered	Estate Recovery Cost as % of Estate Recovered
Alabama	\$261,211	\$5,685,236	4.59%
Alaska	\$39,287	\$179,736	21.86%
Arizona	\$769,771	\$4,944,238	15.57%
Arkansas	not available	\$1,351,378	not available
California	\$4,743,502	\$78,784,678	6.02%
Colorado	\$478,602	\$6,287,884	7.61%
Connecticut	not available	\$11,318,518	not available
Delaware	\$150,000	\$828,649	18.10%
District of Columbia	\$500,930	\$2,412,830	20.76%
Florida	\$976,113	\$15,180,661	6.43%
Georgia	\$272,775	\$1,423,017	19.17%
Hawaii	\$144,120	\$3,230,905	4.46%
Idaho	\$385,241	\$9,548,932	4.03%
Illinois	\$1,973,933	\$20,840,078	9.47%
Indiana	\$1,396,917	\$9,532,345	14.65%
Iowa	\$1,139,926	\$15,175,206	7.51%
Kansas	\$26,739	\$5,256,293	0.51%
Kentucky	\$388,435	\$6,709,297	5.79%
Louisiana	\$35,000	\$111,263	31.46%
Maine	\$123,405	\$5,899,346	2.09%
Maryland	\$400,000	\$8,426,971	4.75%
Massachusetts	\$2,315,694	\$40,233,554	5.76%
Michigan	\$0	\$0	0.00%
Minnesota	\$349,438	\$19,977,630	1.75%
Mississippi	\$84,740	\$1,629,373	5.20%
Missouri	\$194,772	\$13,469,324	1.45%
Montana	not available	\$2,449,962	not available
Nebraska	\$168,000	\$1,934,119	8.69%
Nevada	\$706,162	\$1,997,787	35.35%
New Hampshire	\$104,558	\$4,327,319	2.42%
New Jersey	\$892,269	\$11,744,384	7.60%
New Mexico	not available	\$1,086,117	not available
New York	not available	\$38,993,957	not available
North Carolina	\$181,433	\$11,976,029	1.51%
North Dakota	\$97,692	\$1,633,289	5.98%
Ohio	\$1,877,088	\$16,032,006	11.71%
Oklahoma	\$98,245	\$2,451,024	4.01%
Oregon	\$2,004,557	\$11,735,784	17.08%
Pennsylvania	\$1,358,504	\$33,760,689	4.02%
Rhode Island	\$386,276	\$3,155,962	12.24%
South Carolina	\$642,060	\$5,669,678	11.32%
South Dakota	\$52,966	\$1,206,275	4.39%
Tennessee	\$1,550,527	\$17,095,349	9.07%
Texas	\$181,511	\$1,033,749	17.56%
Utah	\$92,977	\$113,141	82.18%
Vermont	\$63,203	\$594,689	10.63%
Virginia	\$135,260	\$2,561,929	5.28%
Washington	\$1,172,734	\$17,055,804	6.88%
West Virginia	not available	\$123,835	not available
Wisconsin	not available	\$13,016,265	not available
Wyoming	\$125,000	\$1,866,527	6.70%
<b>TOTAL</b>	<b>\$29,041,573</b>	<b>\$492,053,011</b>	<b>5.9%</b>

Fiscal Year 2008

State	Estate Recovery Cost	Estate Recovered	Estate Recovery Cost as % of Estate Recovered
Alabama	\$261,211	\$6,150,051	4.25%
Alaska	\$95,038	\$128,923	73.72%
Arizona	\$531,446	\$2,824,335	18.82%
Arkansas	not available	\$1,824,040	not available
California	\$5,220,834	\$67,723,302	7.71%
Colorado	\$417,328	\$5,799,176	7.20%
Connecticut	not available	\$9,042,569	not available
Delaware	\$150,000	\$1,432,222	10.47%
District of Columbia	\$478,941	\$1,198,749	39.95%
Florida	\$824,925	\$12,194,878	6.76%
Georgia	\$425,282	\$3,889,060	10.94%
Hawaii	\$150,124	\$1,343,085	11.18%
Idaho	\$396,798	\$8,624,531	4.60%
Illinois	\$2,077,585	\$18,700,050	11.11%
Indiana	\$720,777	\$10,564,135	6.82%
Iowa	\$1,315,033	\$17,275,254	7.61%
Kansas	\$443,585	\$7,753,942	5.72%
Kentucky	\$533,669	\$5,974,661	8.93%
Louisiana	\$78,500	\$389,036	20.18%
Maine	\$129,900	\$4,985,800	2.61%
Maryland	\$400,000	\$7,676,969	5.21%
Massachusetts	\$2,479,915	\$35,446,147	7.00%
Michigan	\$0	\$0	0.00%
Minnesota	\$440,959	\$20,117,558	2.19%
Mississippi	\$91,246	\$1,687,732	5.41%
Missouri	\$205,193	\$12,408,031	1.65%
Montana	not available	\$2,181,826	not available
Nebraska	\$168,000	\$1,290,468	13.02%
Nevada	\$670,279	\$1,994,996	33.60%
New Hampshire	\$181,773	\$4,644,049	3.91%
New Jersey	\$936,882	\$15,006,434	6.24%
New Mexico	not available	\$2,289,834	not available
New York	not available	\$35,418,177	not available
North Carolina	\$181,433	\$10,236,531	1.77%
North Dakota	\$99,812	\$1,876,780	5.32%
Ohio	\$2,433,632	\$19,489,520	12.49%
Oklahoma	\$98,245	\$2,084,982	4.71%
Oregon	\$1,982,349	\$15,378,709	12.89%
Pennsylvania	\$1,229,622	\$35,353,127	3.48%
Rhode Island	\$386,276	\$2,862,969	13.49%
South Carolina	\$570,007	\$4,514,111	12.63%
South Dakota	\$54,555	\$934,293	5.84%
Tennessee	\$1,509,179	\$16,508,502	9.14%
Texas	\$471,721	\$3,935,999	11.98%
Utah	\$92,984	\$157,466	59.05%
Vermont	\$65,158	\$721,466	9.03%
Virginia	\$138,506	\$1,162,622	11.91%
Washington	\$1,129,765	\$18,258,064	6.19%
West Virginia	not available	\$146,328	not available
Wisconsin	\$0	\$19,660,493	0.00%
Wyoming	\$137,500	\$1,695,965	8.11%
<b>TOTAL</b>	<b>\$30,405,967</b>	<b>\$482,957,947</b>	<b>6.3%</b>

Fiscal Year 2009

State	Estate Recovery Cost	Estate Recovered	Estate Recovery Cost as % of Estate Recovered
Alabama	\$261,211	\$6,943,427	3.76%
Alaska	\$134,376	\$116,527	115.32%
Arizona	\$573,749	\$2,395,654	23.95%
Arkansas	not available	\$1,390,993	not available
California	\$5,726,036	\$58,982,354	9.71%
Colorado	\$414,364	\$5,999,205	6.91%
Connecticut	not available	\$9,724,749	not available
Delaware	\$220,000	\$1,631,546	13.48%
District of Columbia	\$292,178	\$1,155,141	25.29%
Florida	\$572,204	\$9,887,647	5.79%
Georgia	\$536,683	\$4,930,519	10.88%
Hawaii	\$150,124	\$2,724,311	5.51%
Idaho	\$408,702	\$7,707,038	5.30%
Illinois	\$2,175,065	\$19,874,629	10.94%
Indiana	\$678,387	\$14,711,683	4.61%
Iowa	\$1,335,970	\$18,047,445	7.40%
Kansas	\$580,874	\$7,735,853	7.51%
Kentucky	\$526,183	\$5,988,103	8.79%
Louisiana	\$78,500	\$327,110	24.00%
Maine	\$129,900	\$6,365,389	2.04%
Maryland	\$400,000	\$5,994,274	6.67%
Massachusetts	\$2,395,581	\$33,487,226	7.15%
Michigan	\$0	\$0	0.00%
Minnesota	\$471,506	\$21,485,580	2.19%
Mississippi	\$91,246	\$1,307,596	6.98%
Missouri	\$198,163	\$12,361,288	1.60%
Montana	not available	\$2,803,083	not available
Nebraska	\$168,000	\$1,884,962	8.91%
Nevada	\$697,118	\$1,480,770	47.08%
New Hampshire	\$301,504	\$5,464,264	5.52%
New Jersey	\$983,726	\$8,858,808	11.10%
New Mexico	\$0	\$1,214,906	0.00%
New York	not available	\$44,796,206	not available
North Carolina	\$181,433	\$9,532,265	1.90%
North Dakota	\$91,881	\$2,080,562	4.42%
Ohio	\$2,568,542	\$21,623,033	11.88%
Oklahoma	\$98,245	\$2,718,304	3.61%
Oregon	\$1,635,186	\$13,456,203	12.15%
Pennsylvania	\$1,287,516	\$32,208,789	4.00%
Rhode Island	\$289,707	\$2,749,110	10.54%
South Carolina	\$476,015	\$3,605,871	13.20%
South Dakota	\$56,192	\$1,749,693	3.21%
Tennessee	\$1,263,996	\$12,847,487	9.84%
Texas	\$705,168	\$5,309,148	13.28%
Utah	\$93,134	\$124,498	74.81%
Vermont	\$67,173	\$634,027	10.59%
Virginia	\$138,506	\$1,287,448	10.76%
Washington	\$1,363,408	\$14,480,744	9.42%
West Virginia	not available	\$130,021	not available
Wisconsin	\$725,734	\$19,088,438	3.80%
Wyoming	\$125,000	\$1,254,540	9.96%
<b>TOTAL</b>	<b>\$31,668,186</b>	<b>\$472,658,467</b>	<b>6.7%</b>

Fiscal Year 2010

State	Estate Recovery Cost	Estate Recovered	Estate Recovery Cost as % of Estate Recovered
Alabama	\$261,211	\$5,351,824	4.88%
Alaska	\$196,115	\$918,766	21.35%
Arizona	\$697,471	\$3,190,143	21.86%
Arkansas	not available	\$828,551	not available
California	\$5,708,706	\$62,018,014	9.20%
Colorado	\$383,420	\$6,605,074	5.80%
Connecticut	not available	\$7,590,448	not available
Delaware	\$220,000	\$1,752,623	12.55%
District of Columbia	\$253,424	\$311,792	81.28%
Florida	\$376,806	\$11,082,116	3.40%
Georgia	\$517,905	\$4,789,555	10.81%
Hawaii	\$150,124	\$516,418	29.07%
Idaho	\$420,963	\$4,272,353	9.85%
Illinois	\$2,547,887	\$25,718,637	9.91%
Indiana	\$240,120	\$11,422,824	2.10%
Iowa	\$1,411,972	\$18,834,551	7.50%
Kansas	\$455,387	\$9,698,267	4.70%
Kentucky	\$503,086	\$5,696,994	8.83%
Louisiana	\$78,500	\$323,789	24.24%
Maine	\$129,900	\$7,858,328	1.65%
Maryland	\$400,000	\$6,910,905	5.79%
Massachusetts	\$2,396,297	\$35,342,152	6.78%
Michigan	\$0	\$0	0.00%
Minnesota	\$474,119	\$21,891,327	2.17%
Mississippi	\$91,246	\$1,258,350	7.25%
Missouri	\$201,553	\$12,453,717	1.62%
Montana	not available	\$1,990,677	not available
Nebraska	\$168,000	\$1,840,716	9.13%
Nevada	\$685,685	\$1,745,202	39.29%
New Hampshire	\$306,908	\$4,441,110	6.91%
New Jersey	\$1,032,912	\$14,856,577	6.95%
New Mexico	not available	\$1,474,492	not available
New York	not available	\$45,033,062	not available
North Carolina	\$765,298	\$9,108,410	8.40%
North Dakota	\$99,847	\$2,871,155	3.48%
Ohio	\$3,434,539	\$23,193,041	14.81%
Oklahoma	\$98,245	\$3,683,635	2.67%
Oregon	\$1,608,241	\$10,771,009	14.93%
Pennsylvania	\$1,257,665	\$34,748,179	3.62%
Rhode Island	\$289,707	\$2,892,520	10.02%
South Carolina	\$559,916	\$4,470,538	12.52%
South Dakota	\$57,447	\$1,809,126	3.18%
Tennessee	\$1,378,166	\$13,955,835	9.88%
Texas	\$670,617	\$4,861,664	13.79%
Utah	\$93,358	\$160,123	58.30%
Vermont	\$69,250	\$1,775,670	3.90%
Virginia	\$138,506	\$1,368,057	10.12%
Washington	\$906,158	\$13,369,384	6.78%
West Virginia	not available	\$149,482	not available
Wisconsin	\$993,343	\$19,773,415	5.02%
Wyoming	\$155,000	\$1,407,870	11.01%
<b>TOTAL</b>	<b>\$32,885,020</b>	<b>\$488,388,467</b>	<b>6.73%</b>

Fiscal Year 2011

State	Estate Recovery Cost	Estate Recovered	Estate Recovery Cost as % of Estate Recovered
Alabama	\$261,211	\$6,564,264	3.98%
Alaska	\$85,758	\$455,766	18.82%
Arizona	\$549,710	\$2,234,513	24.60%
Arkansas	not available	\$1,634,504	not available
California	\$5,731,843	\$61,652,429	9.30%
Colorado	\$436,432	\$6,942,415	6.29%
Connecticut	not available	\$7,139,525	not available
Delaware	\$220,000	\$2,988,378	7.36%
District of Columbia	\$147,729	\$735,790	20.08%
Florida	\$390,323	\$13,465,339	2.90%
Georgia	\$471,708	\$4,347,901	10.85%
Hawaii	\$150,124	\$2,071,524	7.25%
Idaho	\$433,592	\$10,371,418	4.18%
Illinois	\$2,648,292	\$21,011,820	12.60%
Indiana	\$264,676	\$12,460,792	2.12%
Iowa	\$1,567,296	\$19,041,568	8.23%
Kansas	\$813,395	\$8,245,416	9.86%
Kentucky	\$604,282	\$5,609,746	10.77%
Louisiana	\$78,500	\$608,924	12.89%
Maine	\$129,900	\$6,039,744	2.15%
Maryland	\$400,000	\$7,301,871	5.48%
Massachusetts	\$2,706,998	\$33,961,351	7.97%
Michigan	\$1,879	\$0	---
Minnesota	\$395,054	\$20,128,159	1.96%
Mississippi	\$91,246	\$1,795,534	5.08%
Missouri	\$209,269	\$10,784,440	1.94%
Montana	not available	\$2,100,299	not available
Nebraska	\$168,000	\$1,528,142	10.99%
Nevada	\$675,089	\$1,870,037	36.10%
New Hampshire	\$318,796	\$4,933,904	6.46%
New Jersey	\$1,084,558	\$12,140,609	8.93%
New Mexico	not available	\$1,738,452	not available
New York	not available	\$46,429,235	not available
North Carolina	\$1,048,347	\$9,937,605	10.55%
North Dakota	\$101,084	\$3,165,516	3.19%
Ohio	\$3,198,339	\$24,642,062	12.98%
Oklahoma	\$98,245	\$2,478,909	3.96%
Oregon	\$1,866,805	\$12,454,190	14.99%
Pennsylvania	\$1,236,164	\$35,004,237	3.53%
Rhode Island	\$579,414	\$3,469,600	16.70%
South Carolina	\$520,015	\$3,839,379	13.54%
South Dakota	\$57,447	\$1,981,471	2.90%
Tennessee	\$1,472,031	\$15,124,120	9.73%
Texas	\$720,633	\$4,784,423	15.06%
Utah	\$93,246	\$1,902,532	4.90%
Vermont	\$71,392	\$597,066	11.96%
Virginia	\$138,505	\$2,009,293	6.89%
Washington	\$994,081	\$12,665,058	7.85%
West Virginia	not available	\$104,209	not available
Wisconsin	\$846,322	\$23,751,651	3.56%
Wyoming	\$159,650	\$1,660,252	9.62%
<b>TOTAL</b>	<b>\$34,237,380</b>	<b>\$497,905,382</b>	<b>6.88%</b>



DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF INSPECTOR GENERAL

WASHINGTON, DC 20201



ACTION MEMORANDUM FOR THE INSPECTOR GENERAL

Issue:

States' Efforts in Implementing Asset Transfer and Estate Recovery Provisions of OBRA 93 and DRA 05 (A-05-12-00027)

Discussion:

The Deputy Inspector General from the originating office has reviewed and supports the report's findings, conclusions, and/or recommendations.

Recommendation:

I recommend that Inspector General Daniel R. Levinson sign this report.

Decision:

Approved: Daniel R. Levinson Disapproved: Date: JUL -3 2014

Attachment

Contact: Diann Saltman (202) 619-0255 Jeff Renshaw Telephone: (317) 226-7267 or (202) 552-6657

Concurrence: DIG Signature Date: 6/17/14

The Honorable Richard Burr  
 United States Senate  
 Washington, DC 20510

The Honorable Tom Coburn, M.D.  
 United States Senate  
 Washington, DC 20510

Dear Senator Burr and Dr. Coburn:

I am writing in response to your letter dated December 31, 2011. In your letter, you expressed concern that some States have not implemented changes to Federal laws, especially related to eligibility and asset transfer. You stated that you were particularly concerned regarding implementation of the requirements added by the Omnibus Budget Reconciliation Act of 1993 (OBRA) (P.L. No. 103-66, Aug. 10, 1993) and the Deficit Reduction Act of 2005 (DRA) (P.L. 109-171, Feb. 8, 2006).

You stated that you seek to better understand whether States are implementing provisions of Federal law that are meant to limit individuals with above-average wealth from accessing Medicaid. You asked that we:

- 1) provide data on each State's progress on implementing OBRA and DRA, including details regarding which States have yet to implement certain provisions related to eligibility and asset transfer;
- 2) provide data on States' efforts with regard to estate recovery, including the amount of resources States put into estate recoveries; and
- 3) current estate recovery figures for each State.

To address the issues raised in your letter, we conducted a survey of all 50 States and the District of Columbia. We asked questions regarding the areas addressed in your letter. We conducted follow-up questions with respondents if there was any ambiguity in responses. We received a 100 percent response rate. We did not independently verify the information reported to us.

*Implementation of Statutory Changes*

Twenty-eight of the 51 States (including the District of Columbia) reported that they have implemented all the eligibility and asset transfer requirements of OBRA and DRA. The 23 remaining States reported that they have implemented some but not all of the eligibility and asset

OFFICE	LAST NAME (please print)	DATE	OFFICE	LAST NAME (please print)	DATE	OFFICE	LAST NAME (please print)
CNMA	Haggs/Hight	6/11	CR	Hinkley	6/17	MS	Hinkley
CAS	Hinch	6/12	ES	Reinbo	6/18	MS	Hinch 7/1/12
OAS	Jarman	6/17	SO	Taitman	6/20	ES	Reinbo 7/2