



# Memo

To: Members of the General Assembly  
From: Beverly A. Zylstra, Deputy Director  
Date: January 8, 2013  
Re: Report on the Medicaid Divestiture Program

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In accordance with section 15, subsection 3, of the 2012 Administration-Regulation Appropriations Bill (SF 2313), the Department of Inspections and Appeals is pleased to submit a report of the fiscal impact of the department's efforts relative to the Medicaid divestiture program under Iowa Code chapter 249F.

Attached is the required report.

Please contact me at 515-281-6442 or [Beverly.zylstra@dia.iowa.gov](mailto:Beverly.zylstra@dia.iowa.gov) with any questions.

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS**  
**REPORT TO THE GENERAL ASSEMBLY**  
**REGARDING THE EXPANSION OF THE DIVESTITURE UNIT**  
**FISCAL YEAR 2012**

**Background**

The Iowa Efficiency Review Report of December 8, 2009, recommended expansion of the staffing of the Investigations Division of the Department of Inspections and Appeals for the Transfer of Assets Program, commonly referred to as the Divestiture Program, in order to increase recoveries of improperly-claimed Medicaid benefits. The General Assembly, during the 2010 session, through Senate File 2367, Administration and Regulation Appropriations Bill, appropriated the state matching funds of \$350,000 and 6.00 FTE to the Investigations Division of the Department of Inspections and Appeals for this expansion and required the Department to provide a report on the fiscal impact of the additional full-time positions. During the 2011 and 2012 sessions, the General Assembly requested reports on the ongoing fiscal impact of the FY11 funding.

Under Iowa Code chapter 249F, Transfer of Assets, is defined as:

“Transfer of assets” means any transfer or assignment of a legal or equitable interest in property, as defined in section 702.14, from a transferor to a transferee for less than fair consideration, made while the transferor is receiving medical assistance or within five years prior to application for medical assistance by the transferor. Any such transfer or assignment is presumed to be made with the intent, on the part of the transferee; transferor; or another person acting on behalf of a transferor who is an actual or implied agent, guardian, attorney-in-fact, or person acting as a fiduciary, of enabling the transferor to obtain or maintain eligibility for medical assistance or of impacting the recovery or payment of a medical assistance debt. This presumption is rebuttable only by clear and convincing evidence that the transferor’s eligibility or potential eligibility for medical assistance or the impact on the recovery or payment of a medical assistance debt was no part of the reason of the transferee; transferor; or other person acting on behalf of a transferor who is an actual or implied agent, guardian, attorney-in-fact, or person acting as a fiduciary for making or accepting the transfer or assignment. A transfer of assets includes a transfer of an interest in the transferor’s home, domicile, or land appertaining to such home or domicile while the transferor is receiving medical assistance, unless otherwise exempt under paragraph.

The Department of Inspections and Appeals is responsible for investigating any allegations of fraud regarding transfer of assets.

## **Fiscal Impact**

In January of 2012, the Divestiture Unit developed new procedures for handling cases in an effort to increase efficiencies with available resources while maintaining the highest investigative and legal standards. One of the new procedures has resulted in better education of the public on the Divestiture program and increased consent agreements during the Informal Conference proceeding. For FY 2012, consent agreements totaled \$95,117, and for the first half of FY 2013, consent agreements have already totaled \$100,379. In addition, the Unit now files claims in probate and bankruptcy proceedings with recovery of \$7,025 for the first half of FY 2013.

Due to some restructuring, the Assistant Attorney General (AAG) assigned to the Divestiture Unit has been able to file more District Court cases. The AAG obtained 23 District Court judgments, totaling \$588,662.41 during FY12. In the first half of FY13, the AAG has entered 18 District Court judgments totaling \$267,488.35.

During the first half of FY 2013, the Divestiture Unit Investigators submitted three cases to County Attorneys that resulted in criminal felony convictions of theft against the Power of Attorney of the elderly and/or disabled recipient of Medicaid. The coordinated efforts of the Department and the County Attorneys' prevent and deter financial exploitation resulting in greater protection to the health and safety of vulnerable Iowans.

Investigators are also working closely with the Adult Medical Unit of the Department of Human Services and the Estate Recovery Program to understand and augment each other's efficiencies in the identification and recovery of assets that have been improperly transferred or converted to gain or retain Medical Assistance. As a result of the coordinated efforts of the Department of Inspections and Appeals, the Department of Human Services, the Estate Recovery Program and the expansion of the Divestiture Unit, the Department's figures reflect, as shown below, a total cost savings of \$4 million in FY 2012 to the Medicaid program. The cost savings includes judgments/repayments agreements and cost avoidance.\*

### **July 2009 - June 2010 (FY 2010)**

# of Active Cases	# Cases Closed with Repayment Ordered	Total Amount Subject to Repayment	# Cases Closed with Cost Avoidance	Total Amount of Cost Avoidance	Total Repayments & Cost Avoidance	# Cases Closed with no Recovery	Criminal Conviction	Total Cases Closed
445	85	\$1,195,835.33	13	\$267,940.94	\$1,463,776.27	94	0	192

### **July 2010 - June 2011 (FY 2011)**

# of Active Cases	# Cases Closed with Repayment Ordered	Total Amount Subject to Repayment	# Cases Closed with Cost Avoidance	Total Amount of Cost Avoidance	Total Repayments & Cost Avoidance	# Cases Closed with no Recovery	Criminal Conviction	Total Cases Closed
589	129	\$2,371,911.12	25	\$1,904,925.98	\$4,276,837.10	140	5	294

**July 2011 – June 2012 (FY 2012)**

# of Active Cases	# Cases Closed with Repayment Ordered	Total Amount Subject to Repayment	# Cases Closed with Cost Avoidance	Total Amount of Cost Avoidance	Total Repayments & Cost Avoidance	# Cases Closed with no Recovery	Criminal Conviction	Total Cases Closed
1126	124	\$2,399,303.88	33	\$1,642,001.20	\$4,041,302.08	142	0	200

**July 2012 – December 2012 (FY 2013) \*\***

# of Active Cases	# Cases Closed with Repayment Ordered	Total Amount Subject to Repayment	# Cases Closed with Cost Avoidance	Total Amount of Cost Avoidance	Total Repayments & Cost Avoidance	# Cases Closed with no Recovery	Criminal Conviction	Total Cases Closed
669	52	\$961,098.19	29	\$924,325.98	\$1,885,424.17	69	3	150

As predicted last year, the repayment and cost avoidance totals for FY12 are slightly less than FY11, due to the loss of 2 Investigators. However, the policy and procedural changes implemented has streamlined the investigative process and recovery of improper asset transfers. The first half FY13 has shown an increase over the first half of FY12 in total repayment and cost avoidance dollars identified.

\* Cost Avoidance is calculated by taking of the value of [transferred] asset and attributing the value back to the recipient to determine how many months the recipient would not have been eligible for Medicaid multiplied by the monthly Medicaid benefit amount.

\*\* As of 12-20-2012