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MEDICAID

Providers in Three States with Unpaid Federal Taxes Received over \$6 Billion in Medicaid Reimbursements



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Why GAO Did This Study

The Recovery Act increased the federal share of Medicaid funding. Federal law does not prohibit providers with tax debt from enrolling in Medicaid, but GAO's prior work found that thousands of Medicaid providers do have unpaid federal taxes. Since any provider who received Medicaid reimbursements during 2009 received Recovery Act funds, GAO was asked to (1) determine the magnitude of unpaid federal taxes owed by Medicaid providers reimbursed during 2009 in selected states; (2) provide examples of Medicaid providers who have sizeable unpaid federal taxes; and (3) evaluate opportunities and challenges related to collecting unpaid federal taxes through a levy process designed to offset Medicaid reimbursements.

GAO compared Medicaid reimbursement information from three states to known IRS tax debts as of September 30, 2009. These states were among those that received the largest portion of Recovery Act Medicaid funding. To provide examples of Medicaid providers who have sizeable unpaid federal taxes, GAO conducted a detailed review of 40 Medicaid providers from the three states that had over \$100,000 of federal tax debt. GAO's sample of three states and 40 cases cannot be generalized to all states and all Medicaid providers. GAO also reviewed relevant laws and reports and interviewed federal and state officials.

What GAO Recommends

GAO recommends that IRS explore opportunities to enhance collection of unpaid taxes from Medicaid providers, including the use of continuous levies. IRS agreed with our recommendation.

View [GAO-12-857](#). For more information, contact Richard J. Hillman at (202) 512-6722 or hillmanr@gao.gov.

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Providers in Three States with Unpaid Federal Taxes Received over \$6 Billion in Medicaid Reimbursements

What GAO Found

About 7,000 Medicaid providers in three selected states (Florida, New York, and Texas) had approximately \$791 million in unpaid federal taxes from calendar year 2009 or earlier. This represents about 5.6 percent of the Medicaid providers reimbursed by the selected states during 2009. These 7,000 Medicaid providers with unpaid federal taxes received a total of about \$6.6 billion in Medicaid reimbursements during 2009 (including American Recovery and Reinvestment Act of 2009 [Recovery Act] funds). The amount of unpaid federal taxes GAO identified is likely understated because Internal Revenue Service (IRS) taxpayer data reflect only the amount of unpaid taxes either reported on a tax return or assessed by IRS through enforcement; it does not include entities that did not file tax returns or underreported their income.

The 40 Medicaid providers GAO reviewed received a total of \$235 million in Medicaid reimbursements (including Recovery Act funds) in 2009 and had unpaid federal taxes of about \$26 million through 2010. The amount of unpaid federal taxes ranged from approximately \$100,000 to over \$6 million. In addition, IRS records indicate that providers in two of GAO's cases are currently, or have previously been, under criminal investigation. For example, in one case a provider was caught participating in a medical billing fraud.

Examples of Medicaid Providers with Sizeable Unpaid Taxes

Nature of work	Total Medicaid reimbursement	Known unpaid federal taxes	Comments
Dentist	Over \$400,000	Over \$200,000	Dentist owes primarily individual income taxes from the late 2000's. Recently, the dentist was caught participating in a medical billing fraud. After a felony conviction, the dentist surrendered his/her license.
Doctor	Over \$200,000	Over \$500,000	Doctor owes primarily individual income taxes from the 2000's. IRS tried to levy the doctor's Medicaid payments on several occasions, with limited success.
Medical Transport	Over \$1,000,000	Over \$6,000,000	Company owes primarily payroll taxes from the late 2000's. IRS levied company bank accounts and receivables and assessed a trust fund recovery penalty against the company's president.

Source: GAO analysis of 2009 Medicaid payment records and IRS known tax debts as of 9/30/11.

IRS may levy, or seize, a taxpayer's property to satisfy a tax debt and, in some instances, is authorized to use an automated process to continuously levy federal payments made to delinquent taxpayers. Medicaid reimbursements have never been continuously levied using this provision of the law because the IRS determined that these reimbursements do not qualify as federal payments. However, if such a process could be used, GAO estimates that IRS could have collected between \$22 million and \$330 million in the selected states in 2009. States we spoke to expressed concerns about implementing continuous levies, given the challenges they encounter with processing onetime IRS levies. For example, states have had difficulty reaching IRS revenue officers and problems with IRS sending levies to the wrong address.

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Abbreviations

BMF	Business Master File
CMS	Centers for Medicare & Medicaid Services
EIN	Employer Identification Number
FMAP	Federal Medical Assistance Percentage
FMS	Financial Management Service
FPLP	Federal Payment Levy Program
IMF	Individual Master File
IRS	Internal Revenue Service
MCO	Managed Care Organization
Recovery Act	American Recovery and Reinvestment Act of 2009
SRP	State Reciprocal Program
SSN	Social Security Number
TFRP	Trust Fund Recovery Penalty
TIN	Taxpayer Identification Number

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United States Government Accountability Office
Washington, DC 20548

July 27, 2012

The Honorable Max Baucus
Chairman
The Honorable Orrin Hatch
Ranking Member
Committee on Finance
United States Senate

The Honorable Charles Grassley
Ranking Member
Committee on the Judiciary
United States Senate

The Honorable Carl Levin
Chairman
The Honorable Tom Coburn, M.D.
Ranking Member
Permanent Subcommittee on Investigations
Committee on Homeland Security
and Governmental Affairs
United States Senate

Individuals, businesses, and other entities owed the U.S. government over \$350 billion in total unpaid tax assessments, including interest and penalties, as of September 30, 2011, according to the Internal Revenue Service (IRS).¹ Because of this and other issues, we have designated IRS enforcement of the nation's tax laws as a high-risk issue.² In addition, the American Recovery and Reinvestment Act of 2009 (Recovery Act) initially provided states with an estimated \$87 billion in federal funds for Medicaid, a federal-state health financing program for certain low-income individuals, from October 2008 through December 2010, by increasing

¹This figure includes amounts owed by taxpayers who file returns without sufficient payment as well as amounts assessed through the IRS enforcement process.

²GAO maintains a program to focus attention on government operations that it identifies as high risk due to their greater vulnerabilities to fraud, waste, abuse, and mismanagement or the need for transformation to address economy, efficiency, or effectiveness challenges. The most recent update of this program was GAO's *2011 High-Risk Series: An Update*, [GAO-11-394T](#) (Washington, D.C.: Feb. 17, 2011).

federal reimbursement rates for the Medicaid program. Recovery Act funds were made available to states and the District of Columbia through an increase to the Federal Medical Assistance Percentage (FMAP), the rate at which the federal government matches state expenditures for most Medicaid services. Thus, any provider that received Medicaid reimbursements during calendar year 2009, by definition, received some Recovery Act funds.³ Federal law does not prohibit providers with unpaid federal taxes from enrolling in or receiving payments from Medicaid. Further, although IRS can levy, or seize, Medicaid reimbursements to satisfy a provider's tax debt, it does not have the authority to do so continuously using an automated process. Because of the potential that some Medicaid providers that received Recovery Act funds have unpaid federal taxes, you asked us to examine this issue.

This report is the third in a series of three reports in response to your request regarding recipients of federal Recovery Act funds who have unpaid federal taxes.⁴ This report focuses on Medicaid providers who benefitted from Recovery Act provisions that increased FMAP for Medicaid.⁵ For this report, our objectives were to (1) determine the magnitude of unpaid federal taxes owed by Medicaid providers receiving reimbursements during 2009 in selected states; (2) provide examples of Medicaid providers who have sizeable unpaid federal taxes; and (3) evaluate opportunities and challenges related to collecting unpaid federal taxes through a levy process designed to offset Medicaid reimbursements.

³For the purposes of this report, the term "provider" refers to any individual, business, or other entity that received at least one Medicaid reimbursement (e.g., doctors, hospitals, home care providers) from at least one of the three selected states.

⁴The first report, GAO, *Recovery Act: Thousands of Recovery Act Contract and Grant Recipients Owe Hundreds of Millions in Federal Taxes*, [GAO-11-485](#) (Washington, D.C.: Apr. 28, 2011), described Recovery Act contractors and grant recipients who received federal funds while having unpaid federal taxes. The second report, GAO, *Recovery Act: Tax Debtors Have Received FHA Mortgage Insurance and First-Time Homebuyer Credits*, [GAO-12-592](#) (Washington, D.C.: May 29, 2012), described individuals who benefitted from the Recovery Act's first-time homebuyer tax credit or increased FHA mortgage insurance loan limits, or both, while having unpaid federal taxes.

⁵The Recovery Act increased the federal share of Medicaid costs by increasing the federal matching rate by a minimum of 6.2 percent from October 1, 2008, to December 31, 2010. Pub. L. No. 111-5, § 5001 (Feb. 17, 2009).

To determine the magnitude of unpaid federal taxes owed by Medicaid providers receiving reimbursements during 2009 in selected states, we obtained and analyzed annual Medicaid reimbursement information from the states of New York, Texas, and Florida. We attempted to obtain data from the state of California, but determined that the data we received were unreliable for the purposes of this report. We selected these states because they received the largest portion of the Recovery Act Medicaid funding.⁶ We also obtained federal tax-debt data from IRS as of September 30, 2011. Using the taxpayer identification number (TIN) as a unique identifier, we electronically matched IRS's tax debt data to the population of Medicaid providers. We included only agreed-upon tax debts over \$100 from tax year 2009 and earlier to ensure that the provider owed or was accruing tax debt at the time that the provider received Medicaid funds. Our analysis determined the magnitude of known unpaid federal taxes owed by 2009 Medicaid providers in only New York, Texas, and Florida and cannot be generalized to other states or periods.

To provide examples of Medicaid providers who have sizeable unpaid federal taxes, we selected 20 Medicaid providers with unpaid business taxes and 20 Medicaid providers with unpaid individual taxes in the three selected states for detailed examination. These nonrepresentative selections of providers were chosen by using a random sample of the 113 Medicaid providers with unpaid business taxes and 26 Medicaid providers with unpaid individual taxes with at least \$100,000 in Medicaid reimbursements during 2009, \$100,000 in unpaid federal taxes, and five noncontinuous years of accumulated unpaid federal taxes in or before 2010. In addition, you asked us to determine whether the owners and principals of Medicaid providers had unpaid federal taxes. To do so, we used open-source information to identify the owners and other principals for 600 randomly selected known Medicaid providers in Florida, New York, and Texas. We electronically matched these individuals with IRS's tax debt data to identify their known unpaid federal taxes and to confirm their professional relationship with a nondebtor Medicaid provider. For example, a hospital that served as a Medicaid provider did not have unpaid federal taxes, but one of its owners or other key principals did have unpaid federal taxes. For all examples, we reviewed IRS

⁶New York, California, Texas, and Florida reported a combined \$126.5 billion (35.1 percent) in Medicaid reimbursements for 2009, of which \$12.1 billion was paid with Recovery Act funds. New York, California, Texas, and Florida accounted for 13.55 percent, 11.74 percent, 6.11 percent, and 5.46 percent of the Recovery Act Medicaid funds for 2009, respectively.

and public records to develop case studies. These case studies are intended to illustrate the sizeable amounts of unpaid federal taxes owed by some Medicaid providers, are among the most egregious examples of Medicaid providers with unpaid federal taxes we identified, and cannot be generalized beyond the cases presented.

To evaluate opportunities and challenges related to collecting unpaid federal taxes through a levy process designed to recapture unpaid taxes by offsetting subsequent Medicaid reimbursements, we interviewed officials from relevant federal agencies and from selected states (chosen on the basis of size of their Medicaid programs or their participation in federal debt collection programs, or both).⁷ We also reviewed applicable laws and regulations related to the issues of subjecting Medicaid reimbursements to tax levies, including the Department of the Treasury's Federal Payment Levy Program (FPLP). A more detailed description of the scope and methodology related to our audit work supporting this report is provided in appendix I.

We conducted this performance audit from July 2010 through July 2012 in accordance with generally accepted government auditing standards.⁸ Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our audit findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Medicaid is a federal-state partnership that finances health care for certain low-income individuals, including children, families, the aged, and the disabled. More than 64 million persons were enrolled in the Medicaid program for fiscal year 2009. The Centers for Medicare & Medicaid Services (CMS) reported combined fiscal year 2009 and 2010 Medicaid program spending of \$744 billion, \$499 billion of which was funded by the federal government.⁹ The federal government matches most state

⁷We interviewed officials from California, Florida, Kentucky, Maryland, and Texas.

⁸Initiation of our review was delayed significantly because California did not comply with our request for Medicaid provider payment data for over 8 months. What California ultimately provided was not sufficiently reliable for the purposes of our report.

⁹The Recovery Act increased federal funds for Medicaid for periods including fiscal year 2009 and 2010.

Medicaid expenditures for covered services according to the FMAP, which is based on a statutory formula drawing on each state's annual per capita income.¹⁰ Because of the mechanism through which the Recovery Act increased the federal share of funding for Medicaid through an increased FMAP, any provider that received Medicaid reimbursements during 2009 received Recovery Act funds. Within broad federal requirements, each state operates and administers its Medicaid program in accordance with a CMS-approved state Medicaid plan. These plans detail the populations served, the services covered, and the methods used to calculate payments to providers.

Title XIX of the Social Security Act allows considerable flexibility within the states' Medicaid plans. Within broad national guidelines established by federal statutes, regulations, and policies, each state (1) establishes its own eligibility standards; (2) determines the type, amount, duration, and scope of services;¹¹ (3) sets the rate of payment for services; and (4) administers its own program—including enrollment of providers. Medicaid policies for eligibility, services, and payment are complex and vary considerably, even among states of similar size or geographic proximity. Thus, a person who is eligible for Medicaid in one state may not be eligible in another state, and the services provided by one state may differ considerably in amount, duration, or scope from services provided in a similar or neighboring state.

To receive payment for services or goods provided to beneficiaries from Medicaid, providers must first enroll in the Medicaid program. To enroll, providers must submit a Medicaid enrollment application to the state or the state's fiscal agents who are responsible for determining whether the providers meet federal and state requirements for enrollment. The state or its fiscal agents are responsible for screening the applications on the basis of CMS and state policies. Once an applicant is deemed eligible by the state or its fiscal agents, Medicaid providers can submit their claims to the state for payment. The state is responsible for claims processing and verifying the claim is accurate, complete, medically necessary, and

¹⁰The federal share of a state's Medicaid payments may range from 50 to 83 percent.

¹¹All states must provide certain services, such as inpatient and outpatient hospital services, nursing facility services, and physician services, and may provide additional, optional services, such as prescription drugs, dental care, and certain home- and community-based services.

covered under the state's Medicaid plan. After the claim is approved by the state, it pays the claim.

Federal reimbursement for Medicaid generally begins after a Medicaid beneficiary receives care from a health care provider such as a hospital, physician, or nursing home. The state pays the provider from a combination of state funds and federal funds, the latter of which have been advanced by CMS each quarter. The state then files a quarterly expenditure report, in which it claims the federal share of the Medicaid expenditure as reimbursement for its payment to providers and reconciles its total expenditures with the federal advance. In addition to reimbursement for medical services, the state may claim federal reimbursement for functions it performs to administer its Medicaid program, such as enrolling new beneficiaries; reviewing the appropriateness of providers' claims; and collecting payments from third parties, which are payers other than Medicaid, such as Medicare, that may be liable for some or all of a particular health claim.¹²

Federal law does not prohibit providers with unpaid federal taxes from enrolling in or receiving payments from Medicaid. Federal regulations and policies require the states, as part of their responsibilities for determining whether the providers meet Medicaid requirements for enrollment, to verify basic information on potential providers, including whether the providers meet state licensure requirements and whether the providers are prohibited from participating in federal health care programs. However, federal regulations and policies do not require the states to screen these providers for federal tax delinquency nor do they explicitly authorize the states to reject the providers that have delinquent tax debt from participation in Medicaid. Further, federal law generally does not permit IRS to disclose taxpayer information, including tax debts, unless the taxpayer consents.

IRS may levy a taxpayer's property to satisfy a tax debt. For instance, IRS could seize and sell property that a taxpayer holds (such as the taxpayer's car, boat, or house), or IRS could seize property that belongs to the taxpayer but is held by someone else (such as the taxpayer's wages, retirement accounts, dividends, bank accounts, licenses, rental income, accounts receivable, or commissions). Currently, IRS may issue

¹²Federal reimbursements for administrative costs are paid at a different matching percentage than beneficiary care costs.

a onetime notice of levy to a state Medicaid agency to collect the receivable balance immediately due to a given provider. IRS may then issue additional successive, onetime levies if the proceeds received from the initial levy are not sufficient to satisfy the government's claim. A provision of the Taxpayer Relief Act of 1997¹³ authorizes IRS to continuously levy (typically using an automated process) certain federal payments made to delinquent taxpayers in order to collect tax debt, but Medicaid reimbursements have never been collected using this provision of the law. This is because IRS determined that Medicaid disbursements do not qualify as federal payments and thus may not be subjected to the continuous levy. This decision was based on the nature of the Medicaid reimbursement as a state entitlement, and the considerable operational discretion vested in state agencies in the administration of the Medicaid program, including discretion to create unique eligibility standards for enrollment of providers and to establish criteria for disbursement of funds.

About 7,000 Medicaid Providers in the Selected States Owed Approximately \$791 Million in Federal Tax Debt

Our analysis found that, as of September 30, 2011, about 7,000 Medicaid providers in the three selected states had approximately \$791 million in unpaid federal taxes from 2009 or earlier.¹⁴ These providers accumulated an additional \$59 million in unpaid federal taxes during 2010 and 2011.¹⁵ These providers represent about 5.6 percent of the approximately 125,000 Medicaid providers reimbursed by the selected states during 2009. These 7,000 Medicaid providers with unpaid federal taxes received a total of about \$6.6 billion in Medicaid reimbursements during 2009, which included Recovery Act funds.¹⁶ The amount of unpaid federal taxes we identified among Medicaid providers is likely understated because the IRS taxpayer data reflect only the amount of unpaid taxes either reported by the taxpayer on a tax return or assessed by IRS through its various enforcement

¹³Pub. L. No. 105-34, § 1024 (Aug. 5, 1997), 26 U.S.C. § 6331(h).

¹⁴These figures include an unknown number of individuals and businesses that have a current installment agreement, have submitted an offer-in-compromise, have declared bankruptcy, or are otherwise in the process of negotiating a payment method for their delinquent taxes.

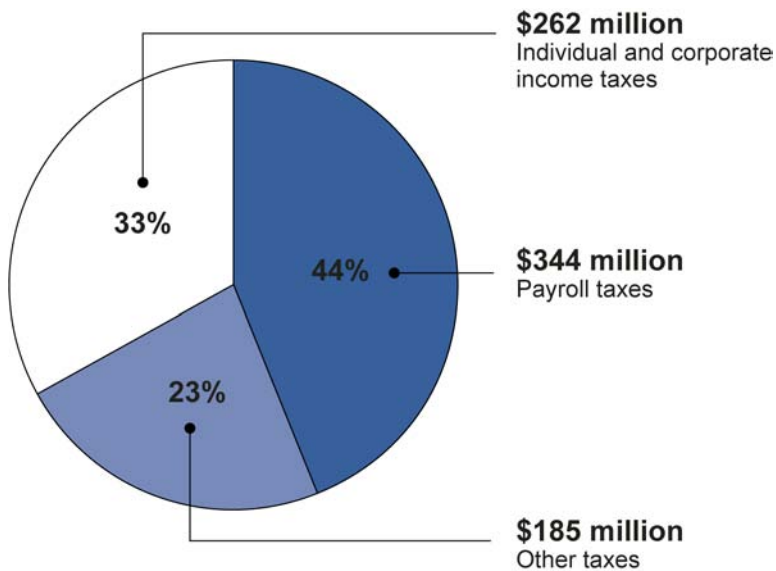
¹⁵In addition, we note that approximately 4,200 additional 2009 Medicaid providers in these states accumulated unpaid federal taxes during only 2010 or 2011.

¹⁶If a provider had more than one associated TIN, each TIN was counted separately for the purposes of this analysis; therefore, we found that an insignificant number of payments (less than 250 providers and \$35 million) have been counted multiple times if more than one associated TIN had delinquent federal taxes.

programs, and generally the unpaid federal taxes amount does not include entities that did not file tax returns or underreported their income.

As shown in figure 1, about 77 percent of the approximately \$791 million in unpaid federal taxes was made up of individual income taxes, corporate income taxes, and payroll taxes. The other 23 percent of taxes included excise taxes, miscellaneous penalties, and other types of taxes.

Figure 1: Medicaid Providers' Unpaid Taxes by Tax Type



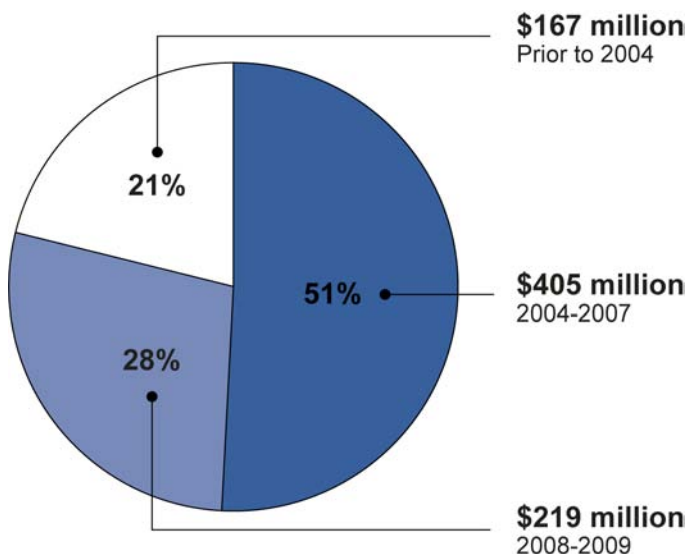
Source: GAO analysis of IRS known unpaid tax debt data as of September 30, 2011.

Over 40 percent of the unpaid federal taxes owed by Medicaid providers in these three states were payroll taxes. Employers are subject to civil and criminal penalties if they do not remit payroll taxes to the federal government. When an employer withholds taxes from an employee's wages, the employer is deemed to have a responsibility to hold these amounts "in trust" for the federal government until the employer makes a federal tax deposit in that amount. To the extent these withheld amounts are not forwarded to the federal government, the employer is liable for these amounts, as well as the employer's matching Federal Insurance Contributions Act contributions for Social Security and Medicare. Individuals within a business (e.g., corporate officers) may be held personally liable for the withheld amounts not forwarded and they may be assessed a civil monetary penalty known as a trust fund recovery penalty (TFRP). Willful failure to remit payroll taxes can also be a criminal felony

offense punishable by imprisonment up to 5 years, while the failure to properly segregate payroll taxes can be a criminal misdemeanor offense punishable by imprisonment of up to 1 year.¹⁷

A substantial amount of the unpaid federal taxes shown in IRS records as owed by Medicaid providers have been outstanding for several years. As shown in figure 2, about 51 percent of the \$791 million in unpaid federal taxes was for tax periods from 2004 through 2007, and approximately 21 percent of the unpaid federal taxes was for tax periods prior to 2004.

Figure 2: Unpaid Taxes of Medicaid Providers by Year



Source: GAO analysis of IRS known unpaid tax debt data as of September 30, 2011.

¹⁷The law imposes no penalties upon an employee for the employer's failure to remit payroll taxes since the employer is responsible for submitting the amounts withheld. The Social Security and Medicare trust funds are subsidized or made whole for unpaid payroll taxes by the general fund of the Treasury. Thus, personal income taxes, corporate income taxes, and other government revenues are used to pay for these shortfalls to the Social Security and Medicare trust funds.

Our previous work has shown that as unpaid taxes age, the likelihood of collecting all or a portion of the amount owed decreases.¹⁸ This is due, in part, to the continued accrual of interest and penalties on the outstanding tax debt, which, over time, can dwarf the original tax obligation. The amount of unpaid federal taxes reported above does not include all tax debts owed by Medicaid providers due to statutory provisions that give IRS a finite period under which it can seek to collect on unpaid taxes. There is a 10-year statute of limitations beyond which IRS is prohibited from attempting to collect tax debt. Consequently, if the Medicaid providers have unpaid federal taxes from beyond the 10-year statutory collection period, the older tax debt may have been removed from IRS's records.¹⁹ We were unable to determine whether any tax debt had been removed for these providers on this basis, and if so, the amount that had been removed.

Unpaid Federal Taxes of Medicaid Providers Is Likely Understated

Although \$791 million in unpaid federal taxes owed by Medicaid providers in the selected states as of September 30, 2011, is a significant amount, it likely understates the full extent of unpaid taxes owed by these or other businesses and individuals. The IRS tax database reflects only the amount of unpaid federal taxes either reported by the individual or business on a tax return or assessed by IRS through its various enforcement programs. The IRS database does not reflect amounts owed by businesses and individuals that have not filed tax returns and for which IRS has not assessed tax amounts due. Further, our analysis did not attempt to account for businesses or individuals that purposely underreported income and were not specifically identified by IRS as owing the additional federal taxes. According to IRS, underreporting of income accounted for more than 80 percent of the estimated \$450 billion gross tax gap estimated for tax year 2006.²⁰ As discussed below, some of our case-study examples include individuals and businesses who did not file required accurate tax returns.

¹⁸GAO, *Internal Revenue Service: Recommendations to Improve Financial and Operational Management*, [GAO-01-42](#) (Washington, D.C.: Nov. 17, 2000).

¹⁹Of the \$167 million in pre-2004 debt shown in fig. 2, \$61 million is for 2000 or earlier, and may therefore be uncollectible.

²⁰The annual gross tax gap is the difference between taxes owed and taxes paid on time in a given year. IRS estimated that the gross tax gap for tax year 2006 was \$450 billion.

Further, we did not attempt to broadly identify instances where a Medicaid provider owed taxes under a separate TIN from the TIN under which the provider received the Medicaid reimbursements in our calculations of the magnitude of tax debt. For example, if a sole proprietor filed Medicaid claims under his/her business's Employer Identification Number (EIN), but owed personal income taxes under his/her own Social Security Number (SSN), we would not have been able to match the proprietor's Medicaid claims to his/her debt. Consequently, the extent of unpaid federal taxes for Medicaid providers may be understated since we may not have had all relevant TINs for each Medicaid provider that owes tax debt. However, we were able to identify several case-study examples of this phenomenon, as discussed below.

California Medicaid Provider Data Were Unreliable

When we reviewed each state's Medicaid data, we reached the conclusion that the data from New York, Texas, and Florida were sufficiently reliable for the purposes of our study. However, we determined, through data tests, interviews, and reviews of state audit reports that the Medicaid data from California for 2009 were unreliable. California provided us with \$38.4 billion in transactional data, but reported \$41.8 billion in Net Expenditures to CMS—a difference of \$3.4 billion (8.3 percent). When we asked California officials why the amounts in the data they provided did not reconcile to externally published sources, officials told us that they were unable to reconcile the data. We have notified the Health and Human Services Office of Inspector General to take any actions it deems appropriate.

Examples of Medicaid Providers with Sizeable Outstanding Federal Tax Debt

We reviewed 40 Medicaid providers with unpaid federal taxes (20 with unpaid business taxes and 20 with unpaid individual taxes) and 10 additional cases where the provider did not have unpaid federal taxes, but one of its principals had unpaid federal taxes. In each case, the provider received significant reimbursement payments from Medicaid, including Recovery Act funds, while having unpaid federal taxes. These case studies are intended to illustrate the sizeable amounts of unpaid federal taxes owed by some Medicaid providers, are among the most egregious examples of Medicaid providers with unpaid federal taxes we identified, and cannot be generalized beyond the cases presented.

Business and Individual Providers with Tax Debt

In each of these 40 cases, the provider received significant reimbursement payments from Medicaid (which included Recovery Act funds) while owing at least \$100,000 in unpaid federal taxes. In many

cases, IRS records showed abusive or potentially criminal activity related to the federal tax system. For example, all 20 of the business providers we reviewed owed delinquent payroll taxes. As discussed previously, businesses and organizations with employees are required by law to collect, account for, and transfer income and employment taxes withheld from employees' wages to IRS; failure to do so may result in civil or criminal penalties. We also found instances of providers entering into and subsequently defaulting on installment agreements with IRS numerous times or sending IRS bad checks. Thirty of the 40 providers did not file a tax return or filed late at least one time in the last 10 years.²¹

These 40 providers received a total of \$235 million in Medicaid reimbursements. The case-study providers represent a broad range of provider types such as doctors, dentists, home care providers, hospitals, durable medical equipment suppliers, and social services providers. The amount of unpaid federal taxes associated with these case studies is about \$26 million in total, ranging from approximately \$100,000 (the minimum threshold used to draw our sample) to over \$6 million individually.²² IRS has taken collection or enforcement activities (e.g., levying assets, filing federal tax liens, assessing a TFRP) against all 40 of these recipients. We note that at least 13 of these recipients had scheduled Medicaid reimbursements subjected to onetime levy by IRS to pay delinquent taxes on at least one occasion. In one case, IRS collected hundreds of thousands of dollars from the taxpayer using these levies.

Law enforcement, regulatory bodies, and others have found abusive or criminal activity related to some of the providers' medical practices. IRS records indicate that at least two of the entities are currently, or have previously been, under criminal investigation. For example, one of the providers was involved in a large Medicaid fraud scheme. Another provider was found guilty of improperly prescribing controlled substances. Other providers took actions that were not overtly criminal, but raised concerns about the quality of care provided. For example, providers have

²¹We reviewed IRS records for each case and considered the case to have not filed a tax return or filed late at least one time in the last 10 years if we found evidence that explicitly described the taxpayer as a late or nonfiler, or if we found evidence that IRS appeared to file a substitute for return against the taxpayer.

²²These figures include all known unpaid debts for tax periods through 2010.

had actions taken against their professional licenses and have been fined by state oversight agencies for regulatory violations.

Table 1 highlights 10 Medicaid providers with unpaid federal taxes. Thirty additional cases can be found in appendix II. We have referred all 40 providers to IRS for further investigation, as appropriate.

Table 1: Examples of Medicaid Providers with Sizeable Delinquent Tax Debt

Case study and type of provider	Medicaid reimbursement received and delinquent taxes outstanding	Comments
Case 1 Dentist (Individual)	Medicaid: Over \$400,000 Taxes: Over \$400,000	<ul style="list-style-type: none"> • The dentist primarily owes individual income taxes from the mid-1990s. • IRS filed federal tax liens against this dentist. • The dentist filed for bankruptcy in the mid-1990s. • In the mid-1990s, a state licensing agency fined and suspended the dentist for actions including improperly prescribing controlled substances.
Case 2 Dentist (Individual)	Medicaid: Over \$400,000 Taxes: Over \$200,000	<ul style="list-style-type: none"> • The dentist primarily owes individual income taxes from the late 2000s. • Recently, the dentist was caught participating in a medical billing fraud. After a felony conviction, the dentist surrendered his/her license. • IRS filed federal tax liens against this dentist.
Case 3 Dentist (Individual)	Medicaid: Over \$100,000 Taxes: Over \$100,000	<ul style="list-style-type: none"> • The dentist primarily owes individual income taxes from the late 2000s. The dentist's business also owes over \$100,000 in outstanding federal tax debt (not included here) primarily for unpaid payroll taxes. • IRS levied the dentist's bank accounts on multiple occasions, but only received a nominal amount of money. IRS unsuccessfully attempted to levy the dentist's other assets and income sources multiple times. • IRS filed federal tax liens against this dentist. • The dentist attempted to enter an installment agreement with IRS. However, IRS could not approve the agreement until all required tax returns were filed, which did not happen. • Per IRS records, the dentist spent money on fine dining, trips, spas, shopping, and wine while owing substantial tax debt. • The dentist failed to respond to recent IRS attempts at contact. IRS records described his behavior as flagrant. • The dentist's business recently filed for bankruptcy.

Case study and type of provider	Medicaid reimbursement received and delinquent taxes outstanding	Comments
Case 4 Doctor (Individual)	Medicaid: Over \$200,000 Taxes: Over \$500,000	<ul style="list-style-type: none"> The doctor primarily owes individual income taxes from throughout the 2000s. The doctor entered into an installment agreement with IRS and subsequently defaulted. IRS records noted that the doctor was “clearly paying personal bills from his business checking account.” IRS unsuccessfully attempted to levy the doctor’s bank account and other sources. IRS also attempted to levy the doctor’s Medicaid payments on several occasions. Some attempts were successful, while in other instances the levy arrived at the state Medicaid agency after payment had already been made to the doctor. IRS records noted that the Medicaid payments were the doctor’s only sizable levy source. The doctor had filed for bankruptcy in the early 2000s. The state Board of Medicine disciplined the doctor for quality of care and record-keeping violations.
Case 5 Doctor (Individual)	Medicaid: Over \$100,000 Taxes: Over \$200,000	<ul style="list-style-type: none"> The doctor primarily owes individual income taxes from the early 2000s as well as TFRPs assessed for payroll taxes owed by the doctor’s business. IRS filed federal tax liens against this doctor. The doctor agreed to multiple installment agreements with IRS, but defaulted each time. The doctor’s spouse also entered into and defaulted on an installment agreement. IRS records stated that the doctor incurs significant expenses for private schooling and mortgage payments. IRS found that the doctor sold property to a holding company at a value well below market. IRS records expressed concern that the doctor was attempting to move the property out of the reach of the government. The responsible state professional board placed restrictions on the doctor’s ability to practice.
Case 6 Medical Transport (Business)	Medicaid: Over \$1,000,000 Taxes: Over \$6,000,000	<ul style="list-style-type: none"> The business primarily owes payroll taxes from the late 2000s. IRS levied the business’s bank accounts and receivables multiple times. IRS also continuously levied the provider’s Medicare payments. IRS assessed a TFRP against the business’s president. The business entered into an installment agreement with IRS, but eventually defaulted for noncompliance with filing requirements. When IRS tried to discuss the requirements with the business’s legal representative, the representative was described by IRS records as uncooperative, interruptive, and insulting toward IRS. IRS considered a seizure of the business’s assets, but for policy reasons it was deemed unworkable.

Case study and type of provider	Medicaid reimbursement received and delinquent taxes outstanding	Comments
Case 7 Medical Transport (Business)	Medicaid: Over \$300,000 Taxes: Over \$600,000	<ul style="list-style-type: none"> • The business primarily owes payroll taxes from the late 2000s. • The business had previously filed for bankruptcy in the early 2000s. • IRS successfully levied the business's bank accounts and income sources. IRS also assessed a TFRP against multiple officers. • IRS records expressed concern that the business was routing Medicaid claims through an intermediary to avoid an outstanding levy. • IRS observed a number of potentially fraudulent activities from the business including the omission of income, failure to file and pay taxes, tax evasion, and conspiracy to mislead the government. IRS referred the case to its Criminal Investigation unit.
Case 8 Nursing (Business)	Medicaid: Over \$200,000 Taxes: Over \$3,000,000	<ul style="list-style-type: none"> • The nursing business primarily owes payroll taxes from the 2000s. The business paid off or successfully pursued abatement of prior delinquent taxes from the 1990s after IRS began collection activities. • The business claimed the debt was caused by slow timing of government payments, but IRS records noted that the business was able to stay in business even when enforcement actions eliminated the government payments. • Per IRS, the business bounced checks, missed agreed-upon voluntary payments, and continued accumulating new tax liabilities while collection was occurring on older debts. IRS records further noted that the business only appeared to submit payments under direct threat of seizure. • IRS repeatedly levied the business's Medicaid payments, collecting hundreds of thousands of dollars. After the levies, the business reduced the amount of work done for Medicaid. • The business's officers, a married couple, purchased a new home while their business was accumulating debt. IRS records expressed concern that the officers were living above their means and borrowing from the business to pay for personal expenses. • IRS assessed TFRPs against the business's officers on multiple occasions. IRS eventually referred the case to the Department of Justice.
Case 9 Social Services (Business)	Medicaid: Over \$4,000,000 Taxes: Over \$1,000,000	<ul style="list-style-type: none"> • The business primarily owes payroll taxes from the early 2000s. • The business attempted to settle the outstanding debt using an offer-in-compromise, but IRS rejected it because it was determined to be insufficient. • The business alleged that it needed to have a large cash reserve under state regulations, complicating IRS efforts to enforce collection activities. • IRS filed federal tax liens against this business. • The business's owner also has a history of outstanding personal tax debt primarily for unpaid individual income taxes.

Case study and type of provider	Medicaid reimbursement received and delinquent taxes outstanding	Comments
Case 10 Social Services (Business)	Medicaid: Over \$200,000 Taxes: Over \$200,000	<ul style="list-style-type: none"> • The business primarily owes payroll taxes from the late 2000s. • The business claimed the debt was due to a family emergency and the economic downturn. • IRS records noted that the “[business] has established a pattern of noncompliance by continuing to fail to make deposits.” IRS also told business officers that even though the business was helping the community, it didn’t exempt the business from paying payroll taxes. • IRS successfully levied the business’s bank accounts multiple times. • IRS assessed a TFRP against multiple officers, who admitted that other creditors were paid while delinquent taxes were accruing. However, IRS records noted that the officers had little to no property or income to seize. These officers also failed to file their personal tax returns for the same period. • The business entered into and subsequently defaulted on multiple installment agreements with IRS.

Source: GAO analysis of IRS and Medicaid records.

Examples Where at Least One Principal Owes Delinquent Personal Taxes

We examined 10 additional cases of individuals who had unpaid federal taxes while appearing to serve as a principal for a Medicaid provider that did not have known tax debt.²³ For the principals that we examined, their known unpaid federal taxes ranged from \$4,000 to \$1.3 million. These individuals reported to IRS receiving from \$30,000 to \$300,000 in wages or other payments from a Medicaid provider, with 8 of the 10 cases involving total payments exceeding \$100,000. The providers they worked for received from \$1,000 to \$50 million in Medicaid reimbursements.

In three of these cases, medical professionals submitted their names as payees to the state Medicaid agency, along with a TIN other than their personal SSN. In all three cases, this secondary TIN did not have associated tax debt, but the doctors each had personal tax debt under their SSNs, ranging from about \$20,000 to over \$60,000. These doctors received between \$15,000 and \$150,000 from Medicaid through their secondary TIN. In another case, we identified two officers with unpaid

²³Of the 30 cases for whom we requested and received IRS records, we conducted further examinations when (1) we could confirm the principal’s relationship with the provider, (2) the provider received at least \$100 from Medicaid, (3) the principal in question owed at least \$3,000 in tax debt, and (4) the principal appeared to have a key role in the provider’s ownership structure or operations, or both (e.g., owners, primary shareholders, officer, or chairperson).

federal taxes totaling approximately \$370,000 at a nonprofit provider that received over \$6 million in Medicaid reimbursements. Each officer reported a salary in excess of \$100,000 for 2009. Finally, in one case, we identified a doctor who, according to IRS, “had a history of noncompliance ... and avoidance of payment of taxes” resulting in over \$1 million in delinquent personal income taxes (including fines and penalties), while the business he/she owned received under \$2,000 in Medicaid reimbursements. IRS collected a portion of the outstanding debt by garnishing the doctor’s wages at his company after the doctor defaulted on an installment agreement.

Increased Levy of Medicaid Reimbursements Would Likely Increase Federal Tax Debt Collection, but Further Study Is Required

Increased levy of Medicaid reimbursements could help IRS collect millions of dollars of unpaid federal taxes owed by Medicaid providers. IRS may levy a taxpayer’s property to satisfy a tax debt, but IRS currently may only subject Medicaid reimbursements to a onetime levy instead of a continuous levy, because Medicaid reimbursements are not considered “federal payments.”²⁴ We estimate that if IRS were able to continuously levy Medicaid reimbursements, it could collect from \$22 million to \$330 million from the three selected states for 2009, depending on the circumstances of the levy and certain provider behaviors. Alternatively, manual continuous levies (levies that are physically mailed by IRS at its discretion) targeted against providers that owed a significant amount of tax debt and received large Medicaid reimbursements may represent a lower-cost opportunity to collect unpaid federal taxes. The states that we spoke to expressed concerns over the use of continuous levies and also described problems related to the enforcement of onetime levies.

²⁴Federal law allows IRS to use different types of levies and levy programs that vary depending on the type of asset or income stream that IRS is seizing. Generally a levy only applies to possessed properties and existing obligations at the time the levy is issued, but IRS may issue successive levies if the proceeds received from the initial levy are not sufficient to satisfy the government’s claim. However, some levies are continuous from the date a levy is first made until it is released by IRS. Salary, wages, certain federal payments, annuities or pension payments under the Railroad Retirement Act or the Railroad Unemployment Insurance Act, unemployment benefits, workmen’s compensation, and certain public assistance payments all may be levied continuously, although there may be limitations for how much may be levied at one time. 26 U.S.C. § 6331(h).

IRS Cannot Currently Continuously Levy Medicaid Reimbursements to Collect Unpaid Federal Taxes

IRS may issue a onetime notice of levy to a state Medicaid agency to collect the receivable balance immediately due to a given provider, to the extent the provider owes federal taxes. However, IRS can only collect funds that are due to the provider at the moment that the levy is received by the state Medicaid agency. To the extent the initial levy does not collect the full amount of unpaid federal taxes due, IRS must issue subsequent onetime levy notices to collect a provider's Medicaid reimbursements due from the state Medicaid agency. In comparison, continuous levies are active until IRS agrees to release the levy and if allowed to apply to Medicaid payments can be automatically applied to any future requests for Medicaid reimbursement without additional levy notices. For example, one mechanism that IRS uses to implement continuous levies is an automated system referred to as the Federal Payment Levy Program (FPLP). Through FPLP, IRS collected \$614 million in fiscal year 2011 and has collected over \$3.26 billion since it was implemented in 2000 (including collection of Medicare payments made after fiscal year 2008).²⁵ Under the FPLP, each week IRS sends the Department of the Treasury's Financial Management Service (FMS) an extract of its tax debt files. These files are uploaded into the Treasury Offset Program.²⁶ FMS sends payment data to this offset program to be matched against unpaid federal taxes. If there is a match and IRS has updated the weekly data sent to the offset program to reflect that it has completed all statutory notifications, any federal payment owed to the debtor is reduced (levied) to help satisfy the unpaid federal taxes.

Current federal law does not allow IRS to subject Medicaid reimbursements to continuous levy. At a 2007 hearing held by the Senate Homeland Security & Governmental Affairs Committee, IRS and Department of the Treasury officials testified that the FPLP could not be used to offset Medicaid reimbursements because such payments do not meet the criteria established to be considered "federal payments." In

²⁵The Medicare Improvements for Patients and Providers Act of 2008, enacted by Congress in July 2008, requires CMS to take all necessary steps to participate in the FPLP as soon as possible. Pub. L. No. 110-275, § 189 (July 15, 2008).

²⁶The Treasury Offset Program is an automated process administered by the Department of the Treasury's FMS in which certain federal payments are withheld or reduced (offset) to collect delinquent tax and nontax debts owed to federal agencies, including IRS. For the FPLP, FMS matches federal payments to the tax-debt records sent to it by IRS, and when a match occurs, FMS offsets (levies) the federal payments and transmits the amount levied to IRS to reduce the tax debtor's outstanding debt and sends the residual to the debtor.

addition, they noted that, unlike Medicare payments, which are disbursed by the federal government, Medicaid reimbursements to providers are issued by the states, introducing additional legal and operational complexities not present under Medicare. A joint task force of IRS, CMS, and Department of the Treasury officials studied the matter, and concurred with the IRS assertion that since Medicaid is not a “federal payment” it cannot be subject to continuous levy. The task force considered, but did not conduct, a comprehensive cost-benefit analysis considering the potential impact of a change in legislation defining Medicaid as a “federal payment.” Since a comprehensive study was not conducted, the full costs associated with implementing a continuous levy program for Medicaid payments are unknown. Several bills have since been introduced that would add Medicaid to the definition of “federal payment,” but none have become law.²⁷

Estimates Show Implementing Continuous Levy on Medicaid Reimbursements Could Allow IRS to Collect Additional Tax Debt

For the 7,000 delinquent Medicaid providers we identified in three states, if there had been such an automated continuous levy system in place, we estimate that between \$22 million and \$55 million could have been collected to offset unpaid federal taxes in 2009.²⁸ These estimates exclude providers who are identified by IRS as currently precluded from continuous levy for statutory or policy reasons. Cases excluded from the FPLP for statutory reasons include those with tax debt that had not completed IRS’s notification process, or tax debtors who filed for bankruptcy protection or other litigation, who agreed to pay their tax debt through monthly installment payments, or who requested to pay less than the full amount owed through an offer in compromise. Cases excluded from the FPLP for policy reasons include those tax debtors whom IRS has determined to be in financial hardship, those filing an amended return, certain cases under criminal investigation, and those cases in which IRS has determined the specific circumstances of the cases warrant excluding it from the FPLP.

²⁷Tax Gap Act of 2011, S. 1289, 112th Cong. (2011); Tax Gap Act of 2010, S. 3795, 111th Cong. (2010); Medicaid Levy Enhancement Act, S. 2843, 110th Cong. (2008); Medicaid Levy Enhancement Act, H.R. 5764, 110th Cong. (2008).

²⁸We compared the outstanding tax debt to the Medicaid reimbursements received in 2009 for tax modules that were listed as actively referred to FMS for FPLP collections, per IRS.

The low-end estimate presumes each Medicaid reimbursement to be levied at a 15 percent rate; the high-end estimate presumes a 100 percent levy rate.²⁹ However, this estimate does not account for potential changes in provider participation after receipt of a notice of levy. For instance, officials at one state we spoke to noted that it had seen individual providers discontinue services after a levy of a large portion of an expected reimbursement. Under ideal circumstances (i.e., 100 percent levy with no statutory or policy exclusions and no decrease in provider participation), the absolute maximum that IRS could have offset for these 7,000 providers in 2009 would be about \$330 million. These estimates do not account for the potential costs associated with implementing a large-scale automated continuous levy program for Medicaid reimbursements. Because such an estimate is not currently available, while potential for extensive collections may exist, further study would be required to determine the feasibility of a large-scale automated collection program.

Alternatively, if federal law permitted continuous levy of Medicaid payments, manual continuous levies (levies that are physically mailed by IRS at its discretion) targeted against only high-reimbursement, high-debt Medicaid providers may represent an opportunity to cost-effectively increase federal tax collections. We found that a small number of providers owed a significant amount of unpaid federal taxes and received large Medicaid reimbursements. Specifically, 32 providers each received over \$1 million in Medicaid reimbursements and had over \$1 million in total unpaid federal taxes.³⁰ All five of the states we spoke with already have processes to enforce onetime levies on Medicaid reimbursements on behalf of IRS and several enforce continuous levies on other state payments. These existing processes could potentially be adapted to handle enhanced onetime or manual continuous levy programs targeted at high-reimbursement, high-debt Medicaid providers with lesser

²⁹Congress authorized IRS to collect delinquent tax debt by continuously levying up to 15 percent of certain federal payments made to tax debtors in the Taxpayer Relief Act of 1997. Subsequent legislation increased the maximum allowable levy amount to 100 percent for payments to federal contractors and other vendors for goods or services sold or leased to the federal government.

³⁰The cumulative 2009 Medicaid payments received by these 32 providers were about \$310 million and the cumulative unpaid federal taxes were about \$241 million.

investment by state and federal entities than a continuous levy of all providers.³¹

Selected States Expressed Concerns about the Effects of Continuous and Onetime Levies

It is not clear what effect a large-scale systematic program for continuously levying Medicaid reimbursements would have on Medicaid provider participation. When we asked selected states how current onetime federal levy or continuous state levy activities affect provider participation, four of the five states told us that they did not believe that their current levy activities had a broad effect on Medicaid provider participation. However, these states also noted that it would be difficult to judge based on the infrequency with which such levies are occurring. One state suggested that providers could begin billing in another state where payments are not offset, or that they may change their TIN to avoid levies. As noted previously, one state did note that it had seen individual providers discontinue services after a levy of a large portion of an expected reimbursement. Two of the states also mentioned that they levy Medicaid reimbursements for the collection of state debts without seeing a broad effect on provider participation.

Several of the states we spoke with described a trend towards using Managed Care Organizations (MCO) to administer Medicaid benefits.³² Since states pay the MCO instead of the provider that performs the services, the only entity that the state could enforce an IRS levy against would be the MCO. This would limit the population of Medicaid providers eligible for a levy to MCOs and to providers who are paid directly by the state. The states expressed concern over the idea of levying Medicaid

³¹The states we spoke to also showed support for the Department of the Treasury's State Reciprocal Program (SRP) as another tool for coordinating federal and state debt-collection efforts. SRP allows participating states to submit state debtor information to federal collection programs for offset in exchange for using equivalent state collection programs to collect for federal debts. However, SRP specifically excludes federal tax debts due to disclosure issues, and therefore could not be used as an alternative automated continuous levy program at this time. In addition, there is no legal authority to use the SRP to levy any state payments to collect federal delinquent tax debts. Some states we spoke to also had implemented state-level automated continuous levy programs, similar to FPLP, which are used to process Medicaid reimbursements to offset state debts, though these systems would likely require further upgrades in order to interface directly with federal systems.

³²An MCO is a health care provider or group of medical service providers who contract with insurers or self-insured employers to provide a wide variety of managed health care services to enrolled individuals through participating panel providers.

reimbursements to pay an MCO's debt when the reimbursement is truly meant for services provided by treating providers that have no association with the MCO's tax debt.

The states also expressed concerns related to the existing process for the enforcement of IRS onetime levies. For example, several states experienced customer service–related challenges when working with IRS including difficulty using the IRS customer service hotline, difficulty reaching the IRS revenue officer, or problems with IRS sending levies to the wrong address. Another state commented that IRS does a poor job of releasing levies in a timely manner, especially for uncollectible levies. One state noted that it had concerns with applying a levy when the provider name or TIN in the state's Medicaid provider database doesn't exactly match what is provided by IRS. For example, the state explained that associating a Medicaid reimbursement with an appropriate tax debtor can be a challenge since the state's system may include more than one TIN for a given provider. Should IRS expand levy collection efforts for Medicaid, increased centralized coordination with states could ease the process.

Conclusions

Available data indicate that the vast majority of Medicaid providers appear to fully pay their federal taxes. However, our work has shown that in 2009 about 7,000 Medicaid providers in three states had delinquent federal taxes while receiving billions of dollars in Medicaid reimbursements, including Recovery Act funds. Even though Medicaid providers are relied on to deliver significant medical services to those most in need, payment of billions of federal dollars to those who do not pay their fair share of federal taxes raises questions about the integrity and fairness of the tax system. Our cases provide illustrative examples where IRS was able to, in some instances, collect delinquent taxes by using onetime levies on Medicaid reimbursements, but the process is highly inefficient. While current federal law does not permit the continuous levy of Medicaid payments, our estimates suggest that expanded use of levies against Medicaid providers, specifically an aggressive automated program, has the potential to help IRS collect millions of dollars of unpaid federal taxes, though the effect on provider participation is largely unknown. Enhanced onetime or manual continuous levy programs targeted at high-reimbursement, high-debt Medicaid providers could also potentially yield increased tax collections. Given that we found over \$6 billion of payments made to tax delinquent Medicaid providers in just three states, a more rigorous review of the potential costs and financial benefits of implementing enhanced continuous and other levies of Medicaid payments is warranted.

Recommendations for Executive Action

We recommend that the Commissioner of Internal Revenue do the following:

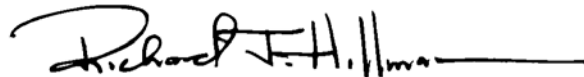
- Explore further opportunities to enhance collection of unpaid federal taxes from Medicaid providers. This should include conducting a cost-benefit analysis of the implementation of a continuous levy program and expanded use of levies against providers with large Medicaid payments and significant unpaid federal taxes. Where appropriate, IRS should seek legislation to modify existing law to allow for more efficient collection of outstanding tax debts from Medicaid providers (i.e., consider taking steps to modify 26 U.S.C. § 6331(h)(2)). In addition, IRS should coordinate with CMS and FMS as necessary in exploring these opportunities.

Agency Comments and Our Evaluation

We provided a draft of our report to IRS, CMS, and FMS for review and comment. In its written comments (see app. III), IRS concurred with our recommendation to explore opportunities to enhance collection of unpaid federal taxes from Medicaid providers and noted that previous efforts have revealed significant operational challenges. Similarly, in its written comments (see app. IV), CMS noted that the structure of the Medicaid program (wherein the federal government does not have a direct relationship with providers or pay them directly) provides a programmatic basis for excluding Medicaid from the levy program, and may result in significant challenges to the implementation of an FPLP-style levy expansion. CMS further noted that any potential legislation related to the collection of outstanding tax debts from Medicaid providers may impact the basic structure of the Medicaid program. FMS provided technical comments by e-mail, which were incorporated into this report. Both CMS and FMS noted that they are prepared to coordinate with IRS in exploring opportunities to enhance levy collections from Medicaid providers. We recognize the challenges expressed by IRS and CMS, and are encouraged by the willingness of all parties to work in coordination toward an enhanced Medicaid provider levy program that is beneficial to all affected agencies.

As agreed with your offices, unless you publicly release this report's contents earlier, we plan no further distribution of it until 6 days from its date. At that time, we will send copies of this report to interested congressional committees, the Secretary of the Treasury, the Commissioner of the Financial Management Service (FMS), the Commissioner of Internal Revenue, the Acting Administrator of the Centers for Medicare & Medicaid Services (CMS), and other interested parties.

The report is also available at no charge on the GAO website at <http://www.gao.gov>. If you have any questions concerning this report, please contact Richard J. Hillman at (202) 512-6722 or hillmanr@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report.

A handwritten signature in black ink that reads "Richard J. Hillman" followed by a horizontal line.

Richard J. Hillman
Managing Director
Forensic Audits and Investigative Service

Appendix I: Objectives, Scope, and Methodology

Our objectives were to: (1) determine the magnitude of unpaid federal taxes owed by Medicaid providers receiving reimbursements during 2009 in selected states, (2) provide examples of Medicaid providers who have significant unpaid federal taxes, and (3) evaluate opportunities and challenges related to collecting unpaid federal taxes through a levy process designed to offset Medicaid reimbursements.

To determine the magnitude of unpaid federal taxes owed by Medicaid providers in selected states receiving reimbursements during 2009, we obtained and analyzed annual Medicaid reimbursement information from the states of New York, Texas, and Florida. We attempted to obtain data from the state of California, but the data we received were determined to be unreliable for the purposes of this report. We selected these states because they received the most American Recovery and Reinvestment Act of 2009 (Recovery Act)–related Medicaid money.¹

We also obtained federal tax debt data from Internal Revenue Service (IRS) as of September 30, 2011. To determine the extent to which Medicaid providers in the selected states who received payment in 2009 had unpaid federal taxes, we used the taxpayer identification number (TIN) as a unique identifier and electronically matched IRS’s tax debt data to the population of Medicaid providers.² We included only those unpaid federal taxes from 2009 and before to eliminate tax debt that may involve matters that are routinely resolved between the taxpayers and IRS, with the taxes paid or abated within a short time. To avoid overestimating the amount owed by Medicaid providers with unpaid federal taxes and to capture only significant unpaid federal taxes, we excluded from our analysis tax debts meeting specific criteria to establish a minimum threshold in the amount of tax debt to be considered when determining whether a tax debt is significant. The criteria we used to exclude tax debts are as follows:

¹New York, California, Texas, and Florida reported a combined \$126.5 billion (35.1 percent) in Medicaid reimbursements for 2009, of which \$12.1 billion was paid with Recovery Act funds. New York, California, Texas, and Florida accounted for 13.55 percent, 11.74 percent, 6.11 percent, and 5.46 percent of the Recovery Act Medicaid funds for 2009, respectively.

²For the purposes of this report, the term “provider” refers to any individual, business, or other entity that received at least one Medicaid reimbursement (e.g., doctors, hospitals, home care providers) from at least one of the three selected states.

- unpaid federal taxes IRS classified as compliance assessments or memo accounts for financial reporting,³
- unpaid federal taxes from 2010 and 2011 tax periods, and
- recipients with total unpaid federal taxes of \$100 or less.

The criteria above were used to exclude unpaid federal taxes that might be under dispute or generally duplicative or invalid, and unpaid federal taxes that are recently incurred. Specifically, compliance assessments or memo accounts were excluded because these taxes have neither been agreed to by the taxpayers nor affirmed by the court, or these taxes could be invalid or duplicative of other taxes already reported. We excluded known unpaid federal taxes from 2010 and 2011 tax periods to both eliminate tax debt that may involve matters that are routinely resolved between the taxpayers and IRS with the taxes paid or abated within a short time, and tax debts accrued after the Medicaid reimbursement period under review. We excluded tax debts of \$100 or less because they are insignificant for the purpose of determining the extent of known taxes owed by Medicaid providers. Using these criteria, we identified about 7,000 Medicaid providers with known unpaid federal taxes. Our final estimate of tax debt may include some debt that is covered under an active IRS installment plan or beyond normal statutory limits for debt collection. Our analysis determined the magnitude of known unpaid federal taxes owed by 2009 Medicaid providers in only New York, Texas, and Florida and cannot be generalized to other states or periods.

To provide examples of Medicaid providers who have significant unpaid federal taxes, we selected 20 Medicaid providers with unpaid federal taxes in the IRS Business Master File (BMF) and 20 Medicaid providers with unpaid federal taxes listed in the IRS Individual Master File (IMF) for a detailed review. These nonrepresentative selections of providers were chosen by using a random sample of the 113 entities in the BMF and 26 individuals in the IMF with at least \$100,000 in Medicaid reimbursements

³Compliance assessments are unpaid assessments for which neither the taxpayer nor a court has affirmed that the taxpayer owes amounts to the federal government. Memo accounts are balance-due accounts in IRS records that should not be reported in any of the three unpaid assessment categories of taxes receivable, compliance assessments or write-offs (e.g., fraudulent/frivolous assessments, assessments clearly made in error, and others).

during 2009, \$100,000 in outstanding unpaid federal taxes, and 5 years of accumulated unpaid federal taxes (noncontinuous) in or before 2010. In addition, we also used open-source information to identify the Social Security Number (SSN) for owners and other principals for 600 randomly selected known Medicaid providers in the selected states (a random selection of 200 per state for New York, Texas, and Florida). We electronically matched these individuals with IRS's tax debt data to identify their outstanding tax debts and to confirm their professional relationship with a nondebtor Medicaid provider. For these providers, we reviewed IRS and public records to develop 10 additional case studies. These 50 case studies serve to illustrate the sizeable amounts of taxes owed by some Medicaid providers, are among the most egregious examples of Medicaid providers with unpaid federal taxes, and cannot be generalized beyond the cases presented.

To evaluate opportunities and challenges related to collecting unpaid federal taxes through a levy process designed to offset Medicaid reimbursements, we interviewed officials from relevant federal agencies and from selected states (chosen based on the size of their Medicaid programs or their participation in federal debt-collection programs, or both).⁴ We also reviewed applicable laws, regulations, and reports related to the issues of subjecting Medicaid reimbursements to tax levies, including the Federal Payment Levy Program.

We conducted this audit from July 2010 through July 2012.⁵ We performed this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our audit findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

⁴We interviewed officials from California, Florida, Kentucky, Maryland, and Texas.

⁵Initiation of our review was delayed significantly because California did not comply with our request for Medicaid provider payment data for over 8 months. What California ultimately provided was not sufficiently reliable for the purposes of our report.

Data Reliability Assessment

For the IRS unpaid assessments data, we reviewed the work we performed during our annual audit of IRS's financial statements and used a copy of the financial record file reviewed under that audit. While our financial statement audits have identified some data reliability problems associated with tracing IRS's tax records to source records and including errors and delays in recording taxpayer information and payments, these reliability issues are not relevant to our review. On the basis of the extensive testing for accuracy, existence, completeness, and timeliness of relevant variables, we determined that the IRS data were sufficiently reliable to address this report's objectives.⁶

For the selected states' Medicaid reimbursement databases from New York, Florida, and Texas, we interviewed officials in the selected states responsible for their respective databases. In addition, we performed electronic testing of specific data elements in the databases that we used to perform our work. On the basis of our discussions with agency officials, review of agency documents, and our own testing, we concluded that the data elements used for this report were sufficiently reliable for our purposes. We did not include data received from California because we were unable to conclude that the data elements we intended to use were sufficiently reliable for our purposes. We reached this conclusion because we were unable to reconcile the total balance of Medicaid reimbursements to the amount of reimbursements published in the state's quarterly expense report filed with CMS.⁷ When we asked California officials why the amounts in the data they provided did not reconcile externally published sources, officials told us that they were unable to reconcile the data.

⁶GAO, *Financial Audit: IRS's Fiscal Years 2011 and 2010 Financial Statements*, [GAO-12-165](#) (Washington, D.C.: Nov. 10, 2011).

⁷We compared the amount of total payments listed in files sent to us by California officials to the annual Net Expenditures Reported for 2009 on the CMS-64 Quarterly Expense Report and found a \$3.4 billion difference.

Appendix II: Additional Cases of Medicaid Providers with Sizeable Outstanding Federal Tax Debt

The following table provides 30 additional examples of 2009 Medicaid providers who received American Recovery and Reinvestment Act of 2009 (Recovery Act) funds, with sizeable outstanding federal tax debt.

Table 2: Additional Cases of Medicaid Providers with Sizeable Outstanding Federal Tax Debt

Case study and type of provider	Medicaid reimbursement received and delinquent taxes outstanding	Comments
Case 11 Dentist (Individual)	Medicaid: Over \$200,000 Taxes: Over \$400,000	<ul style="list-style-type: none"> The dentist owes primarily individual income taxes from the 1990s and 2000s. The dentist has submitted multiple offers in compromise which were cancelled after that dentist failed to make the payments required by the agreement or failed to comply with filing requirements. Per Internal Revenue Service (IRS) records, the dentist “may be using [offers in compromise] to delay collection.”
Case 12 Dentist (Individual)	Medicaid: Over \$200,000 Taxes: Over \$300,000	<ul style="list-style-type: none"> The dentist owes primarily individual income taxes from throughout the 2000s. IRS records noted that the “Taxpayer appears to have history of changing business entities and keeping assets out of his/her personal name.” The dentist attempted to negotiate an offer in compromise with IRS multiple times, but IRS rejected the offers due to compliance issues or because the proposed payments were insufficient considering the dentist’s wages and assets. IRS successfully levied a portion of the dentist’s Medicaid payments. IRS unsuccessfully attempted to levy the dentist’s assets and other receivables. IRS filed federal tax liens against this dentist.
Case 13 Dentist (Individual)	Medicaid: Over \$100,000 Taxes: Over \$200,000	<ul style="list-style-type: none"> The dentist owes primarily individual income taxes from the early 2000s. IRS filed federal tax liens against this dentist. The dentist filed for bankruptcy in the mid-2000s.
Case 14 Dentist (Individual)	Medicaid: Over \$300,000 Taxes: Over \$200,000	<ul style="list-style-type: none"> The dentist owes primarily individual income taxes from the late 2000s. The dentist has missed multiple deadlines for filing tax returns. Per IRS records, the dentist owned waterfront property and luxury motor vehicles. The dentist filed for bankruptcy in the mid-1990s.
Case 15 Doctor (Individual)	Medicaid: Over \$100,000 Taxes: Over \$900,000	<ul style="list-style-type: none"> The doctor owes primarily individual income taxes from throughout the 2000s. IRS filed federal tax liens against this doctor.
Case 16 Doctor (Individual)	Medicaid: Over \$200,000 Taxes: Over \$200,000	<ul style="list-style-type: none"> The doctor owes primarily individual income taxes from the late 2000s. The doctor failed to file tax returns for multiple years. IRS unsuccessfully attempted to levy the doctor’s bank accounts. The doctor filed for bankruptcy in the late 2000s. The doctor’s medical business was dissolved involuntarily by state officials. The business also owes outstanding tax debt.

**Appendix II: Additional Cases of Medicaid
Providers with Sizeable Outstanding Federal
Tax Debt**

Case study and type of provider	Medicaid reimbursement received and delinquent taxes outstanding	Comments
Case 17 Durable Medical Equipment Provider (Business)	Medicaid: Over \$200,000 Taxes: Over \$300,000	<ul style="list-style-type: none"> • The business owes primarily payroll taxes from throughout the 2000s. • The business went years without filing necessary tax returns. • IRS records noted that the business appeared to be filing delinquent returns piecemeal as a delaying tactic. • IRS assessed a trust fund recovery penalty (TFRP) against one of the company's officers. • The business' owner was previously involved with another business that also failed to pay withheld payroll taxes to IRS. • GAO's review found that the business appears to be using multiple TINs, names, and Medicaid ID Numbers to bill Medicaid and accumulate payroll taxes. We found nominal 2009 Medicaid payments and over \$600,000 in debt associated with one of these alternate identities.
Case 18 Home Care Provider (Business)	Medicaid: Over \$700,000 Taxes: Over \$1,000,000	<ul style="list-style-type: none"> • The business owes primarily payroll taxes from the early 2000s. • GAO's review found that the business appears to be using multiple TINs and Medicaid ID Numbers, but the same name and National Provider Identification number to bill Medicaid and accumulate payroll taxes. The provider billed a state Medicaid agency using a different TIN for an additional amount in excess of \$700,000 (not included in the figure above). This second TIN also had over \$900,000 in outstanding tax debt. • IRS filed federal tax liens against this company.
Case 19 Home Care Provider (Business)	Medicaid: Over \$3,000,000 Taxes: Over \$1,000,000	<ul style="list-style-type: none"> • The business owes primarily payroll taxes from the late 2000s. • According to IRS records, the business's officers told IRS that they were unaware of the total outstanding tax balances due. They said they used payroll processing companies to manage the company's payroll. • The business missed multiple return filings over the course of several years. • The business entered into and defaulted on an installment agreement. • IRS filed federal tax liens against this business. • IRS recently began pursuing assessed a TFRP against the business's responsible officers.
Case 20 Home Care Provider (Business)	Medicaid: Over \$200,000 Taxes: Over \$600,000	<ul style="list-style-type: none"> • The business owes primarily payroll taxes from throughout the 2000s. • Per IRS records, the business appears to lose money each month; its only stated sources of revenue are government funded. • The business was not compliant with filing and deposit requirements for payroll taxes. • IRS filed federal tax liens against this business. • The owner of this business is also one of the cases listed in this report.

**Appendix II: Additional Cases of Medicaid
Providers with Sizeable Outstanding Federal
Tax Debt**

Case study and type of provider	Medicaid reimbursement received and delinquent taxes outstanding	Comments
Case 21 Home Care Provide (Business)	Medicaid: Over \$300,000 Taxes: Over \$100,000	<ul style="list-style-type: none"> • The business owes primarily payroll taxes from the late 2000s. • The business entered into an installment agreement with IRS and subsequently defaulted. • IRS successfully levied the business's bank account and an insurance company. • IRS moved to assess a TFRP against the company's sole officer, but ceased the collection activity after the officer showed significant hardship. • IRS filed federal tax liens against this business. • The business is currently noncompliant with filing and deposit requirements. IRS records noted that the business recently bounced checks and missed a meeting with IRS. • A state regulatory body fined the home care provider for violations related to the quality of care.
Case 22 Home Care Provider (Individual)	Medicaid: Over \$600,000 Taxes: Over \$100,000	<ul style="list-style-type: none"> • The taxpayer owes primarily individual income taxes from throughout the 2000s. • The taxpayer's businesses also have tax issues, including owing payroll taxes and the improper use of the same EIN for multiple businesses. The taxpayer also failed to file required informational returns for a charity that he/she runs. • The taxpayer entered into and defaulted on an installment agreement.
Case 23 Hospital (Business)	Medicaid: Over \$600,000 Taxes: Over \$500,000	<ul style="list-style-type: none"> • The hospital owes primarily payroll taxes from the late 2000s. • A hospital representative told IRS that the services it provides are in limited supply in its service area. • IRS assessed a TFRP against responsible company officers. • IRS filed federal tax liens against this hospital. • The hospital filed for bankruptcy in the late 2000s.
Case 24 Hospital (Business)	Medicaid: Over \$100,000,000 Taxes: Over \$200,000	<ul style="list-style-type: none"> • The hospital owes primarily payroll taxes and miscellaneous penalties from the late 2000s. • The hospital filed for bankruptcy twice during the 2000s. • IRS records show IRS appears to have initiated a TFRP investigation, which ceased when the underlying debts were paid.
Case 25 Management (Individual)	Medicaid: Over \$200,000 Taxes: Over \$300,000	<ul style="list-style-type: none"> • The taxpayer owes primarily individual income taxes from the early 2000s. • The taxpayer admitted to IRS that he/she simply failed to comply with all filing and payment requirements. • The taxpayer's business owed payroll taxes and IRS considered assessing a TFRP, but decided against it because of the taxpayer's minimal income and lack of assets available for seizure. • This individual's business is also one of the cases listed in this report.
Case 26 Management (Individual)	Medicaid: Over \$200,000 Taxes: Over \$100,000	<ul style="list-style-type: none"> • The taxpayer owes primarily individual income taxes from the early 2000s. • The taxpayer has missed multiple deadlines for filing tax returns. • IRS filed federal tax liens against this individual.

**Appendix II: Additional Cases of Medicaid
Providers with Sizeable Outstanding Federal
Tax Debt**

Case study and type of provider	Medicaid reimbursement received and delinquent taxes outstanding	Comments
Case 27 Nurse (Individual)	Medicaid: Over \$100,000 Taxes: Over \$100,000	<ul style="list-style-type: none"> The nurse owes primarily individual income taxes from throughout the 2000s. IRS filed federal tax liens against this nurse. IRS attempted to levy the nurse's bank account and Medicaid payments in the late 2000s with negative results. The nurse missed multiple deadlines for filing tax returns. IRS records noted that IRS recently decided that the debt could not be collected due to hardship.
Case 28 Nurse (Individual)	Medicaid: Over \$100,000 Taxes: Over \$100,000	<ul style="list-style-type: none"> The nurse owes primarily individual income taxes from the 2000s. IRS filed federal tax liens against this nurse. IRS successfully levied the nurse's bank account and a portion of the nurse's Medicaid payments. The nurse submitted an offer in compromise in the late 2000s, but IRS rejected the offer because of the nurse's failure to remain current with estimated tax payments. The nurse filed for bankruptcy in the early 2000s.
Case 29 Nurse (Individual)	Medicaid: Over \$100,000 Taxes: Over \$100,000	<ul style="list-style-type: none"> The nurse primarily owed individual income taxes from the mid 2000s. The nurse failed to file tax returns in a timely manner. IRS filed federal tax liens against this nurse. The nurse passed away in 2010. IRS successfully levied the nurse's bank account after her death.
Case 30 Nursing (Business)	Medicaid: Over \$1,000,000 Taxes: Over \$400,000	<ul style="list-style-type: none"> The business owes primarily payroll taxes from throughout the 2000s. IRS observed that the company had a history of financial problems, specifically instances of bounced checks and a bankruptcy filing in the early 2000s. IRS assessed TFRPs against an officer. IRS levied the business's bank accounts. IRS filed federal tax liens against the company. IRS records noted that this business claimed to have closed, but a new business offering similar services began operating in the same location.
Case 31 Nursing (Business)	Medicaid: Over \$2,000,000 Taxes: Over \$200,000	<ul style="list-style-type: none"> The business owes primarily payroll taxes from the late 2000s. IRS assessed a TFRP against an officer, who also failed to file personal income tax returns. IRS levied the business's bank accounts and other assets multiple times to help collect outstanding tax debt. The business entered into and ultimately defaulted on multiple installment agreements. IRS did not allow the business to enter into a third installment agreement because of the prior defaults. The business recently submitted an offer in compromise which was rejected due to compliance issues.

**Appendix II: Additional Cases of Medicaid
Providers with Sizeable Outstanding Federal
Tax Debt**

Case study and type of provider	Medicaid reimbursement received and delinquent taxes outstanding	Comments
Case 32 Psychologist (Individual)	Medicaid: Over \$100,000 Taxes: Over \$100,000	<ul style="list-style-type: none"> • The psychologist owes primarily individual income taxes from the late 2000s. • Per IRS records, the psychologist had significant alimony and child support payments and purchased two expensive vehicles while accruing the tax debt. The psychologist also paid for private schooling for his/her children. • The psychologist had a current installment agreement combining personal tax debt and tax debts of his/her business. • IRS filed federal tax liens against this psychologist. • The psychologist filed for bankruptcy in the late 1990s.
Case 33 Social Services (Business)	Medicaid: Over \$100,000 Taxes: Over \$700,000	<ul style="list-style-type: none"> • The social services business owes primarily payroll taxes from the late 2000s. • IRS assessed multiple TFRPs against the business's officers beginning in the late 1990s for prior debts. • IRS levied the business's bank accounts and income sources (including Medicaid payments) multiple times. • The social services business entered into and subsequently defaulted on multiple installment agreements with IRS. • IRS filed federal tax liens against this business. • IRS records stated that this business "does not have a very good record of meeting [his/her] commitments."
Case 34 Social Services (Individual)	Medicaid: Over \$100,000 Taxes: Over \$300,000	<ul style="list-style-type: none"> • The taxpayer owes primarily individual income taxes from throughout the 1990s and 2000s. • IRS filed federal tax liens against this individual. • The taxpayer filed for bankruptcy multiple times in the 1990s and 2000s.
Case 35 Social Services (Business)	Medicaid: Over \$200,000 Taxes: Over \$300,000	<ul style="list-style-type: none"> • The business owes primarily payroll taxes from throughout the 2000s. • The business's owner also owes self-employment taxes. • IRS assessed a TFRP against responsible parties. • IRS unsuccessfully attempted to levy the business's bank accounts, but successfully levied the business's Medicaid payments. • The business entered into an installment agreement, made payments under it for over 2 years, and defaulted on it.
Case 36 Social Services (Business)	Medicaid: Over \$1,000,000 Taxes: Over \$300,000	<ul style="list-style-type: none"> • The business owes primarily payroll taxes from the late 2000s. • IRS assessed a TFRP against multiple officers. • IRS filed federal tax liens against this business.

**Appendix II: Additional Cases of Medicaid
Providers with Sizeable Outstanding Federal
Tax Debt**

Case study and type of provider	Medicaid reimbursement received and delinquent taxes outstanding	Comments
Case 37 Social Services (Business)	Medicaid: Over \$200,000 Taxes: Over \$100,000	<ul style="list-style-type: none"> • The business owes primarily payroll taxes from throughout the 2000s. • IRS levied the business's bank account multiple times as well as the business's Medicaid payments. IRS records noted that the "state will not honor a continuous levy so levy will be required daily" in regard to the levy of state payments. • The business entered into and subsequently defaulted on multiple installment agreements. The business submitted an offer in compromise, but IRS rejected it as insufficient in consideration of the business' ability to pay. • IRS assessed a TFRP against the president of the business, who also owed personal taxes. • IRS filed federal tax liens against this business.
Case 38 Social Services (Business)	Medicaid: Over \$400,000 Taxes: Over \$100,000	<ul style="list-style-type: none"> • The business owes primarily payroll taxes from the late 2000s. • IRS noted that the business was filing late tax returns and made insufficient deposits to cover expected payroll taxes due. • IRS issued multiple levies against multiple sources including the business's bank, Medicaid payments, and other business associates. • The business entered into and subsequently defaulted on an installment agreement. The business appeared to fully pay prior tax debts through an earlier installment agreement. • IRS filed federal tax liens against this company.
Case 39 Therapy (Business)	Medicaid: Over \$600,000 Taxes: Over \$300,000	<ul style="list-style-type: none"> • The business owes primarily payroll taxes from the late 2000s. • IRS successfully levied the business's bank account multiple times. • IRS filed federal tax liens against this company. • IRS recently delayed an installment agreement because the business was noncompliant with current tax filings and payments.
Case 40 Therapy (Individual)	Medicaid: Over \$800,000 Taxes: Over \$300,000	<ul style="list-style-type: none"> • The taxpayer owes primarily individual income taxes from the early 2000s. • The taxpayer went over a decade without filing or paying taxes. • The taxpayer did not agree with the assessed taxes once the returns were filed and stated that the tax amount should be substantially reduced.

Source: GAO analysis of IRS and Medicaid records.

Appendix III: Comments from the Internal Revenue Service



DEPUTY COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D. C. 20224

July 17, 2012

Mr. Gregory D. Kutz
Director, Forensic Audits and Investigative Service
United States Government Accountability Office
Washington, DC 20548

Dear Mr. Kutz:

Thank you for the opportunity to review your draft report entitled, "*Medicaid: Providers in Three States with Unpaid Federal Taxes Received Over \$6 Billion in Medicaid Reimbursements*" (GAO-12-857). The IRS is very focused on combating non-compliance with the tax law, and recovering taxes that are owed, but not paid. We are pleased that your report notes that for each of the 40 cases of non-compliance identified in your report, the IRS has taken aggressive collection or enforcement actions. We will continue to pursue these cases, and others like them.

The IRS also recognizes the importance and benefits that we have seen from the continuous levy program that applies to federal payments. As your report notes, Medicaid reimbursements – do not qualify as federal payments therefore are not eligible by law for the continuous levy program. The IRS has previously explored options with the Federal Contractor Tax Compliance task force (FCTC). This task force included the Centers for Medicare & Medicaid Services (CMS) and Financial Management Service (FMS).

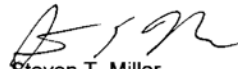
With respect to legislative change, your report notes that legislation addressing this issue has already been introduced on multiple occasions for Congress to consider, but has never been enacted. The IRS will confer with Treasury's Office of Tax Policy to determine whether any additional legislative analysis is needed on our part.

2

The enclosed response addresses your recommendation.

If you have questions, please contact me, or members of your staff may contact
Scott D. Reisher, Director, Collection Policy, Small Business/Self-Employed Division at
202-283-7361.

Sincerely,



Steven T. Miller
Deputy Commissioner for Services and
Enforcement

Enclosure

Enclosure

GAO Recommendations and IRS Responses to GAO Draft Report
Medicaid: Providers in Three States with Unpaid Federal Taxes Received Over
\$6 Billion in Medicaid Reimbursements (GAO-12-857)

Recommendation 1

Explore further opportunities to enhance collection of unpaid federal taxes from Medicaid providers. This should include conducting a cost-benefit analysis of the implementation of a continuous levy program and expanded use of levies against providers with large Medicaid payments and significant unpaid federal taxes. Where appropriate, IRS should seek legislation to modify existing law to allow for more efficient collection of outstanding tax debts from Medicaid providers (i.e., consider taking steps to modify 26 U.S.C. § 6331(h)(2)). In addition, IRS should coordinate with CMS and FMS as necessary in exploring these opportunities.

Comment

The IRS will continue to explore opportunities to enhance collection of unpaid federal taxes from Medicaid providers. Previous analyses have revealed significant operational challenges. For example, most states do not have a centralized system to manage Medicaid payments such as the CMS Healthcare Integrated General Ledger Accounting System (HIGLAS), which is used for the offset and levy of Medicare payments. Based upon cost information from CMS and a few states, there would be significant costs to the federal and state governments associated with developing a centralized system and offset process as well as establishing connectivity with FMS. Having studied this issue in recent years, IRS will confer with CMS to determine whether any new information is available that would warrant revisiting this issue. We will continue to support Treasury's Office of Tax Policy in any of their efforts to analyze whether legislation is needed.

Appendix IV: Comments from the Centers for Medicare & Medicaid Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF THE SECRETARY

Assistant Secretary for Legislation
Washington, DC 20201

JUL 16 2012

Gregory D. Kutz, Director
Forensic Audits and Investigative Service
U.S. Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Mr. Kutz:

Attached are comments on the U.S. Government Accountability Office's (GAO) report entitled: "MEDICAID: Providers in Three States with Unpaid Federal Taxes Received Over \$6 Billion in Medicaid Reimbursements" (GAO-12-857).

The Department appreciates the opportunity to review this report prior to publication.

Sincerely,

A handwritten signature in black ink that reads "Jim R. Esquea".

Jim R. Esquea
Assistant Secretary for Legislation

Attachment

GENERAL COMMENTS OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) ON THE GOVERNMENT ACCOUNTABILITY OFFICE'S (GAO) DRAFT REPORT ENTITLED, "MEDICAID: PROVIDERS IN THREE STATES WITH UNPAID FEDERAL TAXES RECEIVED OVER \$6 BILLION IN MEDICAID REIMBURSEMENTS" (GAO-12-857)

The Department appreciates the opportunity to comment on this draft report.

As indicated in the Highlight section and the body of the report, the report is the third in a series of reports regarding recipients of federal Recovery Act funds who have unpaid taxes. This report "focuses on Medicaid providers who benefitted from Recovery Act provisions that increased federal medical assistance percentage (FMAP) for Medicaid." The specified objectives of the report were to:

- (1) Determine the magnitude of unpaid federal taxes owed by Medicaid providers receiving reimbursements during 2009 in selected states;
- (2) Provide examples of Medicaid providers who have sizeable unpaid federal taxes; and
- (3) Evaluate opportunities and challenges related to collecting unpaid federal taxes through a levy process designed to offset Medicaid reimbursements.

First, we agree with the primary objective underlying this report and support the Internal Revenue Service's (IRS) efforts to ensure that amounts owed the federal government by delinquent tax payers are recovered. Therefore, in reference to the "Recommendations for Executive Action" contained in the report, we will work with the Department of the Treasury and the IRS to explore appropriate ways to enhance collection of unpaid federal taxes from Medicaid providers in ways that are administratively feasible, cost effective, and will not inappropriately impact the structural relationship states have with Medicaid providers. We also wish to reiterate concerns that we have expressed previously and were also referenced in prior GAO reports on this subject.

In that the stated focus of the report is the increased FMAP for Medicaid under the Recovery Act, it is important to note that the FMAP rate (which varies by state) determines the amount of federal funds provided to a state for matching the state's aggregate Medicaid expenditures for medical assistance claimed by the state to the federal government. Federal funds are provided to states through a grant process, which provides authority for states to draw down federal matching funds as it relates to states' Medicaid expenditures. Under this process, the federal government does not have a direct relationship with providers nor does it pay providers directly. Rather, each state establishes and maintains the direct relationship with the Medicaid providers that participate in the state's Medicaid program. Under that mechanism, the state makes (state) payments to the participating Medicaid providers.

This basic structure and payment principle of the Medicaid program is described in this and previous GAO reports on this subject, and provides a programmatic, not just legal, basis for precluding the consideration of a (state's) Medicaid payments to Medicaid providers as "federal payments," particularly in the context of the various IRS tax levy programs.

GENERAL COMMENTS OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) ON THE GOVERNMENT ACCOUNTABILITY OFFICE'S (GAO) DRAFT REPORT ENTITLED, "MEDICAID: PROVIDERS IN THREE STATES WITH UNPAID FEDERAL TAXES RECEIVED OVER \$6 BILLION IN MEDICAID REIMBURSEMENTS" (GAO-12-857)

In general the FMAP rate is determined for each state in accordance with a formula specified in Medicaid statute. The Recovery Act provided for a temporary increase in the FMAP for each state; it did not revise the basic nature of the Medicaid program as it relates to the underlying structure under which each state, not the federal government, makes payments to the Medicaid providers. While raising the FMAP rate at the federal level increased the federal share of payments made in each state, it did not necessarily result in increased payments to providers and did not affect the relationship or payment mechanism between states and Medicaid providers.

Again, we agree with the primary objective underlying this report and the IRS mission, which is to ensure that amounts owed the federal government by delinquent tax payers should be recovered. There are a number of existing Department of Treasury programs and processes under current law that permit the IRS to work with each state to offset payments made to Medicaid providers; these mechanisms are described in this and prior GAO reports. In that regard, the final recommendation of the report is for the Commissioner of the IRS to:

"Explore further opportunities to enhance collection of unpaid federal taxes from Medicaid providers. This should include conducting a cost-benefit analysis of the implementation of a continuous levy program and expanded use of levies against providers with large Medicaid payments and significant unpaid federal taxes. Where appropriate, IRS should seek legislation to modify existing law to allow for more efficient collection of outstanding tax debts from Medicaid providers (i.e., consider taking steps to modify 26 U.S.C. §6331(h)(2)). In addition, IRS should coordinate with CMS and FMS as necessary in exploring these opportunities."

Although the GAO report does not contain any direct recommendations for Department, we wish to note that potential legislation could have an impact on the basic structure of the Medicaid program.

In coordination with the IRS and FMS, CMS has established a national tax levy program with respect to the Medicare program under the IRS continuous levy program (the FPLP). The Medicare program is considered a federal program for this purpose, and, as such the singular national nature of the Medicare program permitted a positive cost-benefit result, which clearly was due to the more direct and simplified relationship between the federal government and providers and suppliers under the Medicare program. Furthermore, to the degree that Medicare providers and suppliers are also dual Medicaid providers, any recovered delinquent taxes through this Medicare program would address the same tax delinquents.

In contrast to the Medicare related levy program, the Medicaid program is separately administered by each state. As has been recognized in previous GAO reports and in this report, states are concerned that there could be operational and systems issues, which may not be feasible to overcome with respect to the FPLP. There are other mechanisms that may be applied for the Medicaid program and to the extent that such mechanisms are developed for use with the

GENERAL COMMENTS OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) ON THE GOVERNMENT ACCOUNTABILITY OFFICE'S (GAO) DRAFT REPORT ENTITLED, "MEDICAID: PROVIDERS IN THREE STATES WITH UNPAID FEDERAL TAXES RECEIVED OVER \$6 BILLION IN MEDICAID REIMBURSEMENTS" (GAO-12-857)

Medicaid program, we would work closely with the IRS and the states to respect the role of the state-provider relationship and work to ensure that state operational and system issues are addressed.

While we wish to ensure that the clarifications posed here are incorporated in GAO's final report, we reiterate that we are prepared to work with the IRS to ensure that providers in the Medicaid program are current on their federal tax obligations. We appreciate the effort that went into this report and look forward to working with GAO on this and other issues.

Related GAO Products

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Recovery Act: Thousands of Recovery Act Contract and Grant Recipients Owe Hundreds of Millions in Federal Taxes. [GAO-11-485](#). Washington, D.C.: April 28, 2011.

Federal Tax Collection: Potential for Using Passport Issuance to Increase Collection of Unpaid Taxes. [GAO-11-272](#). Washington, D.C.: March 10, 2011.

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Internal Revenue Service: Procedural Changes Could Enhance Tax Collections. [GAO-07-26](#). Washington, D.C.: November 15, 2006.

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Debt Collection: Barring Delinquent Taxpayers From Receiving Federal Contracts and Loan Assistance, [GAO/T-GGD/AIMD-00-167](#), Washington, D.C.: May 9, 2000.

Unpaid Payroll Taxes: Billions in Delinquent Taxes and Penalty Assessments Are Owed. [GAO/AIMD/GGD-99-211](#). Washington, D.C.: August 2, 1999.

Tax Administration: Federal Contractor Tax Delinquencies and Status of the 1992 Tax Return Filing Season. [GAO/T-GGD-92-23](#). Washington, D.C.: March 17, 1992.

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