Government of the District of Columbia
Office of the Chief Financial Officer

Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: **The Honorable Kwame R. Brown**
Chairman, Council of the District of Columbia

FROM: **Natwar M. Gandhi**
Chief Financial Officer

DATE: **March 22, 2011**

SUBJECT: **Fiscal Impact Statement – "Medicaid Estate Recovery Amendment Approval Resolution of 2011"**

REFERENCE: **Draft Legislation Shared with the OCFO on March 15, 2011**

Conclusion

Funds are sufficient in the FY 2011 through FY 2014 budget and financial plan to implement the provisions of the proposed legislation.

Background

The proposed legislation would amend[1] the District of Columbia State Plan for Medical Assistance ("State Plan") to prohibit the recovery of Medicare cost-sharing benefits[2] paid under the Medicare Savings Programs (MSPs) from a Medicaid beneficiary's estate when that beneficiary is dual eligible (Medicare/Medicaid). This change is necessary in order to conform to federal law.

MSPs include four Medicaid-administered programs available to individuals who are eligible for both Medicaid and Medicare, and who meet asset and low-income requirements. While the federal government initially sets these requirements, states have the option to lower them. MSPs pay for certain Medicare cost-sharing benefits based on an individual's monthly income as described in the

[1] Pursuant to section 1(a) of An Act to Enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02).
[2] These include Part A and B premiums, deductibles, coinsurance, and co-payments.

table below. The current asset limit established by the federal government for each program is $6,680/single and $10,020/married. [3]

Federal Criteria for Medicare Savings Programs		
Program Name	**Monthly Income Limit (Amount for 2011)**	**Costs Paid by Medicaid**
Qualified Medicare Beneficiary (QMB)	At or below 100 percent of FPL* ($907.50/single;$1,225.83/married)	• Part A premiums • Part B premiums • Deductibles, coinsurance and copayments
Specified Low Income Medicare Beneficiary (SLMB)	Between 100 and 120 percent of FPL ($1,089/single; $1,471/married)	• Part B premiums
Qualifying Individual (QI)	Between 121 and 135 percent of FPL ($1,225/single; $1,655/married)	• Part B premiums
Qualified Disabled and Working Individuals (QDWI)	No more than 200 percent of the FPL ($1,815/ individual; $2,452/married)	• Part A premiums

* Federal Poverty Level

The District has opted to lower these requirements. None of the District's MSPs has an asset limit. Moreover, the monthly income limit for QMBs is at or below *300* percent of the FPL. As a result, the SLMB and QI programs are not relevant in the District: everyone eligible for those two programs is enrolled in the QMB program, and thus gets the maximum benefits allowed.

The federal Omnibus Budget Reconciliation Act of 1993[4] required each state to seek estate recovery for services provided to a person of any age in a nursing facility, intermediate care facility for the mentally retarded, or another medical institution. It allowed, but did not require, states to seek estate recovery for Medicare cost-sharing benefits paid under MSPs.

This changed under the federal Medicare Improvements for Patients and Providers Act of 2008[5], which prohibited states from seeking estate recovery Medicare cost-sharing benefits paid under MSPs as of January 1, 2010. The goal of exempting these benefits was to encourage dual eligible beneficiaries to more fully utilize MSPs and allay concerns that Medicaid would, through estate recovery, lay claim to recover the value of cost-sharing benefits from their estates.

The District has never sought estate recovery for Medicare cost-sharing benefits paid under MSPs and thus, this amendment would not change current practices.

Financial Plan Impact

Funds are sufficient in the FY 2011 through FY 2014 budget and financial plan to implement the provisions of the proposed legislation. Amending the State Plan to prohibit the recovery of

[3] It is important to note that a house, a car, burial fund, household goods and personal belongings are not considered as assets under this limit.
4 Pub.L. 103-66, August 10, 1993.
5 Pub.L. 110-275, July 15, 2008.

Medicare cost-sharing benefits paid under MSPs from a beneficiary's estate would have no fiscal impact since the District has never sought estate recovery for such benefits.