



Comparison of the Current World Trade Center Medical Monitoring and Treatment Program and the World Trade Center Health Program Proposed by Title I of H.R. 847

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Summary

In the wake of the September 11, 2001, terrorist attack on New York City, Congress passed appropriations to provide limited health screening and treatment services to persons involved in rescue, recovery, and cleanup operations around the former site of the World Trade Center. This program, now known as the World Trade Center (WTC) Medical Monitoring and Treatment Program (MMTP), is not authorized in statute but rather relies on discretionary appropriations to provide services to eligible individuals. Since its inception in FY2002, the MMTP has received approximately \$475 million in federal funds, and over 57,000 responders and community members have met initial eligibility requirements for the program.

Title I of H.R. 847, as amended and passed by the House of Representatives, would eliminate the current MMTP and replace it with a program authorized in statute and financed through mandatory federal spending, partially matched by New York City. This program, proposed to be called the World Trade Center Health Program (WTCHP), would provide full medical screening and treatment benefits to eligible WTC responders and community members. In addition, Title I of H.R. 847 would establish formal eligibility requirements based on a person's activities after September 11, 2001, and his or her current health conditions. Health benefits would be provided by a national network of providers, and the program would be administered by the Department of Health and Human Services (HHS).

The proposed WTCHP would sunset at the end of FY2020, or in FY2019 if a federal spending cap is met. Total federal spending on the program would be capped at \$3.348 billion over the life of the program. New York City would contribute 10% of the program's costs until FY2019, after which its contribution would become equal to one-ninth of federal spending in the remaining fiscal years. In addition to persons already receiving services under the MMTP, the WTCHP would serve up to 25,000 new responders and 25,000 new community members.

The House of Representatives passed an amendment in the nature of a substitute to H.R. 847 on September 29, 2010.

The Senate version of the bill, S. 1334, was referred to the Senate Committee on Health, Education, Labor, and Pensions, where it was the subject of a hearing on June 29, 2010. The Senate bill has not otherwise advanced. However, on December 9, 2010, cloture on the motion to proceed to H.R. 847 was voted on but not invoked in the Senate.

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Brief Descriptions of Programs

This report compares the current federally supported medical screening and treatment program offered to various persons affected by the terrorist attack on New York City on September 11, 2001, with the federal program proposed to be established by Title I of H.R. 847, the James Zadroga 9/11 Health and Compensation Act of 2010, as amended and passed by the House of Representatives. The following specific programs are compared in this report:

- The World Trade Center (WTC) Medical Monitoring and Treatment Program (MMTP), financed through discretionary appropriations to the Centers for Disease Control and Prevention (CDC), National Institute for Occupational Safety and Health (NIOSH);¹ and
- The World Trade Center Health Program (WTCHP) proposed by Title I of H.R. 847, passed by the House of Representatives on September 29, 2010.

Related programs such as the World Trade Center Health Registry, administered by the CDC Agency for Toxic Substances and Disease Registry (ATSDR), and the September 11th Victim Compensation Fund of 2001 are not discussed in this report.² This report does not discuss the provisions of the Senate version of this bill, S. 1334, which was referred to the Senate Committee on Health, Education, Labor, and Pensions and has not been reported.

World Trade Center Medical Monitoring and Treatment Program

Following the September 11, 2001, terrorist attack on New York City, Congress provided appropriations to provide health care services for rescue, recovery, and cleanup workers and others, in what is now called the World Trade Center Medical Monitoring and Treatment Program.³ The MMTP is not explicitly authorized, but has received discretionary appropriations to pay for medical monitoring and health care services for eligible individuals. The MMTP funds medical screening, monitoring, and treatment services for eligible paid workers and volunteers who were involved in the rescue, recovery, and cleanup activities following the attack (referred to as “responders”), and more limited services for some residents and others in the vicinity of the WTC during and after the attack (referred to as “community members”). Services are provided through a limited network of providers.

As shown in **Table 1**, through the end of calendar year 2009, a total of 52,857 responders and 4,405 community members applied for and met the initial eligibility requirements for the MMTP.

¹ Information about this program is summarized in CRS Report RL33927, *Selected Federal Compensation Programs for Physical Injury or Death*, coordinated by Sarah A. Lister and C. Stephen Redhead.

² Additional information on the World Trade Center Health Registry can be found at <http://nyc.gov/html/doh/wtc/html/registry/registry.shtml>. Additional information on the September 11th Victim Compensation Fund of 2001 can be found in CRS Report RL33927, *Selected Federal Compensation Programs for Physical Injury or Death*.

³ The MMTP is one of a number of federal, state, and local programs that have funded or provided certain health care services to various groups affected by the WTC disaster. Information about some other programs may be found in GAO, *September 11: Problems Remain in Planning for and Providing Health Screening and Monitoring Services for Responders*, GAO-07-1253T, September 20, 2007, p. 7 ff. Additional information on the MMTP can be found in CRS Report RL33927, *Selected Federal Compensation Programs for Physical Injury or Death*.

Table I. Responders and Community Members Meeting Initial Eligibility Requirements of the WTC Medical Monitoring and Treatment Program (MMTP) through December 31, 2009

Category	Met Initial Eligibility Requirements
Fire Department (FDNY) responders	15,721
Responders living in New York City area	32,924
Responders living outside of New York City area	4,212
<i>Total all responders</i>	52,857
Community members	4,405
<i>Total</i>	57,262

Source: Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health, *Number of Participants in the WTC Health Programs*, <http://www.cdc.gov/niosh/topics/wtc/participants.html>.

Note: Includes all persons who have met the initial eligibility requirements of the program, whether or not they have received any program benefits.

World Trade Center Health Program

Title I of H.R. 847 proposes to establish the World Trade Center Health Program. The WTCHP, unlike the MMTP, provides for the program’s entitlement authority and financing through mandatory annual appropriations through FY2020. The WTCHP would provide medical monitoring and treatment services to WTC responders and community members (referred to as “survivors”) who meet statutory eligibility requirements. Services would be provided through clinical centers of excellence in the New York area and a national network of approved providers.

On July 29, 2010, an amendment in the nature of a substitute to H.R. 847 was considered by the House of Representatives under suspension of the rules and failed to gain the necessary two-thirds majority for passage. The House of Representatives passed a similar amendment in the nature of a substitute to H.R. 847 on September 29, 2010.⁴

Comparison of Program Elements

Authority

Current MMTP

The current MMTP is not authorized in statute. Rather, the program’s authority comes from discretionary appropriations to the Department of Health and Human Services (HHS), CDC,

⁴ The amendment in the nature of a substitute passed by the House of Representatives on September 29, 2010 included the same language for Title I as the amendment considered under suspension of the rules on July 29, 2010.

NIOSH. The FY2010 appropriation for this program was \$70.273 million.⁵ The President has requested \$150.137 million for this program in his FY2011 budget request.⁶

Proposed WTCHP

The WTCHP proposed by Title I of H.R. 847 would be authorized as Title XXXI of the Public Health Service Act.⁷ The Secretary of Health and Human Services would be authorized to appoint one or more persons to serve as administrators of the WTCHP and carry out the enrollment, payment, and secondary payer functions of the program. The bill does not specify which HHS entity would be responsible for program management.

Financing

Current MMTP

The current MMTP is financed through discretionary appropriations to the CDC. Following the September 11, 2001, terrorist attacks, Congress appropriated funds to the Federal Emergency Management Agency (FEMA) for various response and recovery activities. FEMA entered into agreements with NIOSH and other CDC centers to establish and carry out medical monitoring programs for WTC responders and others. Appropriations were provided directly to CDC thereafter. In FY2006, Congress authorized the use of appropriated funds for treatment services, in addition to screening and monitoring. **Table A-1**, in the **Appendix**, provides a funding history for the MMTP. In total, the program has received approximately \$475 million since its inception.

Proposed WTCHP

Benefits and administrative costs under the WTCHP proposed by Title I of H.R. 847 would be paid out of the World Trade Center Health Fund (the Fund) to be established by the legislation. The Fund would be authorized from the last quarter of FY2011 through FY2020, and it would be financed by capped mandatory federal spending and contributions from New York City. The federal spending cap would equal the lesser of 90% of actual program spending or annual spending limits provided in the legislation and described in **Table A-2**, in the **Appendix**. Total federal spending would be capped \$3.348 billion. Federal spending in FY2019 would be limited and no federal spending in FY2020 would be authorized once this cap is reached. Authorization of federal appropriations into the Fund would sunset after FY2020. H.R. 847 also stipulates maximum amounts that may be spent each year on certain specified program activities.

New York City would be required to enter into a contract with the WTCHP to pay its required share of program costs. For FY2011 through FY2018, New York City's contribution would be equal to 10% of total program expenditures. For FY2019 and FY2020, this contribution would be equal to one-ninth of federal expenditures for each calendar quarter.

⁵ Consolidated Appropriations Act, 2010, P.L. 111-117.

⁶ Department of Health and Human Services, Centers for Disease Control and Prevention, *Justification of Estimates for Appropriation Committees, FY2011*, Washington, DC, February 2010, pp. 231 and 235.

⁷ The Public Health Service Act is codified at 42 U.S.C. § 201 *et. seq.*

No money could be released from the Fund unless New York City has entered into such a contract. New York City would be charged interest, in a manner specified in the legislation, if it fails to make its contributions to the Fund on time. Provided New York City is making its required contributions to the Fund, the city would not be liable to pay for services provided by the WTCHP to its employees through city workers' compensation or line-of-duty injury programs.

Eligibility for Benefits

Current MMTP

The current MMTP is open to all workers and volunteers who participated in rescue, recovery, or other activities in response to the September 11, 2001, terrorist attack on the WTC as well as lower Manhattan and Brooklyn residents, students, and others who were affected by the WTC terrorist attacks. Because the MMTP is not authorized or established in statute, there are no formal requirements in the law regarding program eligibility and no formal definitions of the types or locations of activities that make a person eligible for the program.

The application form for the responder component of the MMTP indicates that, to be eligible, a person must have provided "rescue, recovery, demolition, debris removal and related support services" in the aftermath of the WTC attack.⁸ In addition, the application form requires applicants to provide information on their work south of Canal Street in Manhattan, in the Port Authority Trans-Hudson (PATH) transit tunnel, at the Staten Island landfill, on the barge loading piers, or at the Office of the Chief Medical Examiner (OCME) during the period between September 11, 2001, and July 2002.

The website of the community member component of the MMTP states that a person is eligible if he or she lived, worked, commuted to, or was a student in lower Manhattan or "areas of Brooklyn" on September 11, 2001, or participated in the cleanup of buildings in the "affected area."⁹

Proposed WTCHP

The WTCHP proposed by Title I of H.R. 847 would have eligibility requirements established by law. No person on a terrorist watch list maintained by the Department of Homeland Security would be eligible to participate in the WTCHP as a responder or survivor. Title I of H.R. 847 establishes the following groups of responders and survivors that would be eligible for the WTCHP:¹⁰

⁸ A copy of this application form is available online at http://www.wtcexams.org/pdfs/wtc_saef_v08.pdf.

⁹ The website of the community member component of the MMTP is available at <http://www.nyc.gov/html/hhc/html/services/wtc-qualifies.shtml>.

¹⁰ The proposed WTCHP uses the term "survivors" to refer to community members affected by the attack on the WTC but not involved in rescue or other operations.

Responders

A currently identified responder is an individual who has been identified as eligible for medical monitoring under the MMTP.

A responder who meets current eligibility criteria is an individual who meets one of the following conditions:

For members of the Fire Department of New York (FDNY) and associated persons:

- was a member, active or retired, of the FDNY who participated in at least one day in the rescue or recovery effort at Ground Zero, the Staten Island landfill, or the OCME during the period between September 11, 2001, and July 31, 2002; or
- is a surviving immediate family member of an FDNY member, retired or active, who was killed at the WTC on September 11, 2001, and who received any treatment for a WTC-related mental health condition on or before September 1, 2008.

For law enforcement, rescue, recovery, and cleanup workers:

- worked or volunteered in rescue, recovery, or cleanup services in lower Manhattan below Canal Street, the Staten Island landfill, or the barge loading piers, for at least four hours between September 11 and September 14, 2001; for at least 24 hours between September 11, 2001, and September 30, 2001; or for at least 80 hours between September 11, 2001, and July 31, 2002;
- was a member, active or retired, of the Police Department of New York City (NYPD) or the Port Authority of New York and New Jersey Police, and participated in rescue, recovery, or cleanup services in lower Manhattan below Canal Street, the Staten Island landfill, or the barge loading piers, for at least four hours between September 11, 2001, and September 14, 2001;
- was a member, active or retired, of the NYPD or the Port Authority of New York and New Jersey Police, and participated in rescue, recovery, or cleanup services at Ground Zero, the Staten Island landfill, or the barge loading piers for at least one day between September 11, 2001, and July 31, 2002;
- was a member, active or retired, of the NYPD or the Port Authority of New York and New Jersey Police, and participated on-site in rescue, recovery, debris cleanup, or related services in lower Manhattan (south of Canal Street) for at least 24 hours between September 11, 2001, and September 30, 2001;
- was a member, active or retired, of the NYPD or the Port Authority of New York and New Jersey Police, and participated in rescue, recovery, or cleanup services in lower Manhattan below Canal Street for at least 24 hours between September 11, 2001, and September 30, 2001, or for at least 80 hours between September 11, 2001, and July 31, 2002;
- was an employee of the OCME involved in the examination and handling of human remains from the WTC attacks, or other morgue worker who performed similar functions, between September 11, 2001, and July 31, 2002;

- was a worker in the PATH transit tunnel for at least 24 hours between February 1, 2002, and July 1, 2002; or
- was a vehicle maintenance worker who was exposed to debris from the former WTC while working on vehicles contaminated by airborne toxins from the September 11, 2001, attacks during work between September 11, 2001, and July 31, 2002.

For responders to the Pentagon and Shanksville, Pennsylvania, aircraft crash sites:

- was an active member of a fire or police department, or performed rescue, recovery, demolition, debris cleanup, or other related services at the terrorist-related aircraft crash site at the Pentagon or in Shanksville, Pennsylvania, beginning on September 11, 2001, and ending on a date established by the administrator; and is determined by the administrator to be at an increased risk of developing a WTC-related condition as a result of exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 11, 2001, terrorist attacks, and meets such eligibility criteria related to such exposures, as the administrator determines are appropriate, after consultation with the WTC Scientific/Technical Advisory Committee.

A responder who meets modified eligibility criteria is an individual who performed rescue, recovery, or cleanup services in the “New York City disaster area” in response to the September 11, 2001, attacks on the WTC, regardless of whether such services were performed by a state or federal employee or member of the National Guard; and who meets eligibility criteria established by the WTCHP administrator in consultation with the WTC Scientific/Technical Advisory Committee established by the legislation.¹¹

There would be a limit of 25,000 responders, not counting currently identified responders, that may participate in the WTCHP, of which no more than 2,500 may be responders who meet modified eligibility criteria.

Survivors

A currently identified survivor is a person, including a responder, who has been identified as eligible for treatment and monitoring by the community component of the MMTP.

A survivor who meets current eligibility criteria is an individual who is not a WTC responder, who claims symptoms of a WTC-related health condition, and who meets one of the following criteria:

- was present in the NYC disaster area in the dust or dust cloud on September 11, 2001;
- worked; resided; or attended school, child care, or adult day care in the New York City disaster area for at least 4 days between September 11, 2001, and January 10, 2002; or at least 30 days between September 11, 2001, and July 31, 2002;

¹¹ Title I of H.R. 847 defines the “New York City disaster area” as the area of Manhattan that is south of Houston Street and the area of Brooklyn that is wholly or partially contained within a 1.5 mile radius of the former WTC site.

- worked as a cleanup worker in the New York City disaster area between September 11, 2001, and January 10, 2002, and had extensive exposure to WTC dust as a result of such work;
- was deemed eligible to receive a grant from the Lower Manhattan Development Corporation Residential Grant Program, who possessed a lease for a residence or purchased a residence in the New York City disaster area, and who resided in such residence during the period between September 11, 2001, and May 31, 2003; or
- worked at a place of employment that at any time between September 11, 2001, and May 31, 2003, was in the New York City disaster area, and that place of employment was deemed eligible for a grant from the Lower Manhattan Development Corporation WTC Small Firms Attraction and Retention Act program, or similar program to revitalize the lower Manhattan economy.

A survivor who meets modified eligibility criteria is an individual who is not an eligible WTC responder and who meets such eligibility criteria as determined by the WTCHP administrator in consultation with the Data Centers, Advisory Committee, and steering committees established by the legislation.

There would be a limit of 25,000 survivors, not counting currently identified survivors, that may participate in the WTCHP.

Covered Conditions

Current MMTP

Responders

The current MMTP provides benefits to eligible responders with covered medical conditions. The list of covered medical conditions for responders is established by NIOSH and provided in **Table 2**.

Community Members

There is no formal list of covered medical conditions for eligible community members. However, the website of the community member component of the MMTP provides the following list of “common symptoms” for community members: (1) coughing, (2) wheezing, (3) shortness of breath, (4) sinus congestion, (5) stomach problems, (6) depression, (7) anxiety, and (8) other symptoms.¹²

¹² New York City Health and Hospitals Corporation, *WTC Environmental Health Center: Common Symptoms*, <http://www.nyc.gov/html/hhc/html/services/wtc-symptoms.shtml>.

Table 2. Covered Conditions for Eligible Responders Under the WTC Medical Monitoring and Treatment Program (MMTP)

Category	Conditions
Aerodigestive disorders	(1) Interstitial lung diseases; (2) Chronic Respiratory Disorder –Fumes/Vapors; (3) Asthma; (4) Reactive Airways Dysfunction Syndrome (RADS); (5) WTC-exacerbated chronic obstructive pulmonary disease (COPD); (6) Chronic Cough Syndrome; (7) Upper airway hyperreactivity; (8) Chronic rhinosinusitis; (9) Chronic nasopharyngitis; (10) Chronic laryngitis; (11) Gastro-esophageal Reflux Disorder (GERD); and (12) Sleep apnea exacerbated by or related to the above conditions.
Mental health conditions	(1) Post Traumatic Stress Disorder (PTSD); (2) Major Depressive Disorder; (3) Panic Disorder; (4) Generalized Anxiety Disorder; (5) Anxiety Disorder (not otherwise specified); (6) Depression (not otherwise specified); (7) Acute Stress Disorder; (8) Dysthymic Disorder; (9) Adjustment Disorder; (10) Substance Abuse; and (11) “V codes” (treatments not specifically related to psychiatric disorders, such as marital problems, parenting problems etc.). ^a
Musculoskeletal disorders	(1) Low back pain; (2) Carpal Tunnel Syndrome (CTS); and (3) Other musculoskeletal disorders. ^a

Source: Congressional Research Service (CRS). Information taken from the website of the MMTP at <http://www.wtcexams.org/>.

Note: Clinical findings or other information must suggest that conditions are related to injury or exposure due to the WTC attacks to be covered by the MMTP.

- a. “V code” conditions would not be covered by the proposed WTCHP. In addition, only those musculoskeletal conditions that manifested on or before September 11, 2003, would be covered.

Proposed WTCHP

Title I of H.R. 847 provides lists of conditions covered by the responder and survivor component of the proposed WTCHP. For all eligible responders and survivors, the list of covered conditions includes all of the aerodigestive and mental health conditions currently covered by the MMTP and listed in **Table 2**, with the exception that the proposed WTCHP would not cover mental health conditions identified by “V codes.”¹³ In addition, only those eligible responders who received any treatment for a WTC-related musculoskeletal condition on or before September 11, 2003, would be eligible to have these conditions covered by the WTCHP.

Title I of H.R. 847 also provides administrative procedures for the WTCHP administrator to add to the list of covered conditions for responders and survivors and provide coverage in the case of a responder who has a WTC-related medical condition that is not on the list of covered conditions. The WTCHP administrator would also be required to periodically review scientific and medical evidence to determine if any type of cancer should be added to the list of covered conditions for responders or survivors.

¹³ “V codes” include treatments not specifically related to psychiatric disorders, such as marital problems and parenting problems.

Benefits

Current MMTP

The current MMTP provides medical monitoring to all eligible responders and community members, and medical treatment for covered conditions for eligible responders. Medical monitoring includes initial screenings and annual exams. Medical treatment for covered conditions is provided at no cost to the responder and includes in-patient and out-patient services, medical procedures, and pharmaceuticals.

For eligible community members, the MMTP provides medical screening; however, medical care for covered conditions is not necessarily provided. Rather, the MMTP provides assistance in filling gaps when an eligible community member's private or public insurance or other benefits are not able to fully cover the costs of medical care for WTC-related conditions.

Proposed WTCHP

The WTCHP proposed by Title I of H.R. 847 would provide medical monitoring for eligible responders, initial health evaluations for eligible survivors, and medical treatment for covered conditions for all eligible responders and survivors. Medical treatment would include in-patient and out-patient services, medical procedures, pharmaceuticals, and transportation to distant medical appointments. For conditions that are work-related, the WTCHP would seek recoupment of its costs from workers' compensation programs. For conditions that are not work-related, the WTCHP would be a secondary payer to any medical insurance, Medicaid, or the State Children's Health Insurance Program (SCHIP) that covers the participant, however, the WTCHP would be primary payer for individuals covered by Medicare. Eligible responders and survivors would not have any out-of-pocket costs for covered medical monitoring or treatment services. Beginning in July 2014, responders and survivors would be required to have the minimum health insurance coverage required under Section 5000A of the Internal Revenue Code of 1986.¹⁴

Provision of Medical Services

Current MMTP

The current MMTP uses four systems to provide medical services to eligible program participants. For FDNY members and retired members, medical services are provided by the FDNY Bureau of Health Services. For responders in the New York area, medical services are provided by a network of clinics in New York City, Long Island, and New Jersey.¹⁵ Responders who live outside of the New York area are provided services through a national network of

¹⁴ 26 U.S.C. § 5000A. For additional information on the minimum health insurance coverage requirements of Section 5000A of the Internal Revenue Code of 1986, as established by the recently enacted health reform law, see CRS Report R40942, *Private Health Insurance Provisions in the Patient Protection and Affordable Care Act (PPACA)*, by Hinda Chaikind, Bernadette Fernandez, and Mark Newsom.

¹⁵ These clinics are located in Manhattan (Mt. Sinai Medical Center and New York University School of Medicine-Bellevue Hospital Center); Queens (Queens College); Staten Island (Richmond University Medical Center); Nassau County, New York (State University of New York (SUNY)-Stony Brook); Suffolk County, New York (SUNY-Stony Brook); and Piscataway, New Jersey (University of Medicine and Dentistry of New Jersey).

providers managed by Logistic Health Incorporated. Medical benefits for community members are provided by the New York City Health and Hospitals Corporation.

Proposed WTCHP

Medical benefits under the WTCHP proposed by Title I of H.R. 847 would be provided to all eligible responders and survivors in the New York area through a network of clinical centers of excellence determined by the program administrator to meet requirements provided in the legislation. Eligible responders and survivors living outside of the New York area would receive medical services through a national network of providers determined by the program administrator to meet statutory requirements.

Appendix. Funding Data for the WTC Medical Monitoring and Treatment Program and the Proposed World Trade Center Health Fund

Table A-1. Funding for the WTC Medical Monitoring and Treatment Program
dollars in millions

Fiscal Year	FY2002	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011 request
Amount	12.0	90.0	a	a	75.0	50.0	108.1	70.0	70.3	150.1

Source: Compiled by CRS. Appropriations acts that provided the funding amounts are provided in CRS Report RL33927, *Selected Federal Compensation Programs for Physical Injury or Death*, coordinated by Sarah A. Lister and C. Stephen Redhead, section on “World Trade Center Medical Monitoring and Treatment Program.”

- a. Funding for the WTC MMTP was not provided in FY2004 or FY2005. During these FYs, the program was financed with appropriations from previous fiscal years.

Table A-2. Maximum Contributions to the Proposed World Trade Center Health Fund
dollars in millions

Fiscal Year	FY2011 ^a	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020	Total May Not Exceed
Federal spending	71	318	354	382	431	481	537	601	173	0	3,348
Additional federal spending (may only be spent if total federal contribution has not exceeded 3,348)									499	743	

Source: CRS analysis of Title I of H.R. 847, the James Zadroga 9/11 Health and Compensation Act of 2010, as amended.

Note: Numbers may not add due to rounding.

- a. Amount is for the last calendar quarter of FY2011 only.

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