



DEC 21 2006

Mr. Bill Lockyer
Attorney General
Office of the Attorney General
State of California
1300 I Street
Sacramento, California 95814

Dear Mr. Lockyer:

The Office of Inspector General (OIG) of the U.S. Department of Health and Human Services (HHS) has received your request for review of the California False Claims Act, Cal. Gov't Code §§ 12650-12656, under the requirements of section 6031(b) of the Deficit Reduction Act (DRA). Section 6031 of the DRA provides a financial incentive for states to enact laws that establish liability to the state for individuals and entities that submit false or fraudulent claims to the state Medicaid program. For a state to qualify for this incentive, the state law must meet certain requirements enumerated under section 6031(b) of the DRA, as determined by the Inspector General of HHS in consultation with the Department of Justice (DOJ). Based on our review of the law and consultation with DOJ, we have determined that the California False Claims Act does not meet all of the requirements of section 6031(b) of the DRA.

Specifically, the California False Claims Act does not meet the requirements of section 6031(b)(4) of the DRA, which provides that the state law must contain a civil penalty that is not less than the amount of the civil penalty authorized under the Federal False Claims Act, 31 U.S.C. § 3729. The Federal False Claims Act provides for civil penalties of not less than \$5,000 and not more than \$10,000. See 31 U.S.C. § 3729(a)(7). In contrast, the California False Claims Act provides for civil penalties of up to \$10,000 for each false claim, but does not set a floor for civil penalties. See Cal. Gov't Code § 12651(a). Thus, OIG has determined that California's law is not at least as effective in rewarding and facilitating *qui tam* actions for false or fraudulent claims as the Federal False Claims Act.

If the California False Claims Act is amended to address the issue noted above, please notify OIG for further consideration of the California False Claims Act. If you have any questions regarding this review, please contact me, or have your staff contact Mark Wachlin at 202-205-6424 or mark.wachlin@oig.hhs.gov.

Sincerely,

A handwritten signature in cursive script that reads "Daniel R. Levinson".

Daniel R. Levinson
Inspector General

cc: Aaron Blight, CMS