



DEC 21 2006

Mr. Allen K. Pope
Director, Indiana Medicaid Fraud Control Unit
8005 Castleway Drive
Indianapolis, Indiana 46250

Dear Mr. Pope:

The Office of Inspector General (OIG) of the U.S. Department of Health and Human Services (HHS) has received your request to review the Indiana False Claims Act, Ind. Code §§ 12-15-23-1 – 12-15-23-10, 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 Indiana's False Claims Act does not meet the requirements of section 6031(b) of the DRA.

Section 6031(b) of the DRA requires the state law to establish liability to the state for false or fraudulent claims to the Medicaid program similar to the liability described in the Federal False Claims Act. Among other things, the Federal False Claims Act defines "knowing" and "knowingly" to include when a person, with respect to information, (1) acts in deliberate ignorance of the truth or falsity of the information, and (2) acts in reckless disregard of the truth or falsity of the information. See 31 U.S.C. § 3729(b). Because the Indiana False Claims Act does not define "knowing" and "knowingly" to include such intent standards, Indiana's law does not appear to meet the requirements of section 6031(b) of the DRA.

If the Indiana False Claims Act is amended to address the issue noted above, please notify OIG for further consideration of the Indiana False Claims Act. If you have any questions regarding this review, please contact me, or have your staff contact Susan Elter at 202-205-9426 or susan.elter@oig.hhs.gov.

Sincerely,

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

Daniel R. Levinson
Inspector General

cc: Aaron Blight, CMS