



DEC 21 2006

Mr. L. Timothy Terry
Chief Deputy Attorney General
Nevada Department of Justice
100 North Carson Street
Carson City, Nevada 89701

Dear Mr. Terry:

The Office of Inspector General (OIG) of the U.S. Department of Health and Human Services (HHS) has received your request to review the Nevada False Claims Act, Nev. Rev. Stat. §§ 357.010-357.250, 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 Nevada False Claims Act does not meet the requirements of section 6031(b) of the DRA.

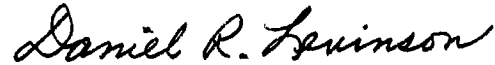
Section 6031(b)(1) of the DRA provides that a state law must contain provisions that are at least as effective in rewarding and facilitating *qui tam* actions for false or fraudulent claims as those described in the Federal False Claims Act, 31 U.S.C. §§ 3730-3732. Among other things, the Federal False Claims Act permits a civil action to be filed no more than six years after the date on which the violation is committed, or no more than three years after the date when facts material to the right of action are known or reasonably should have been known by a federal government official charged with responsibility to act in the circumstances, but in no event more than ten years after the date on which the violation is committed. See 31 U.S.C. § 3731(b). In contrast, the Nevada False Claims Act requires an action to be filed no more than three years after the date of discovery of the fraudulent activity by the Attorney General or no more than five years after the fraudulent activity occurred, whichever is earlier. See Nev. Rev. Stat. § 357.170(1). Therefore, Nevada's law does not appear to be at least as effective in facilitating *qui tam* actions for false or fraudulent claims as the Federal False Claims Act, as required by section 6031(b)(1) of the DRA.

In addition, section 6031(b)(4) of the DRA 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, which permits penalties of not less than \$5,000 and not more than \$10,000. See 31 U.S.C. § 3729(a)(7). In contrast, the Nevada False Claims Act provides for civil penalties of not less than \$2,000 or more than 10,000 for each false claim. See Nev. Rev. Stat. § 357.040(1). Nevada's law does appear to meet the requirements of section 6031(b)(4) of the DRA.

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If the Nevada False Claims Act is amended to address these issues, please notify OIG for further consideration of a revised Nevada False Claims Act. If you have any questions regarding this review, please contact me, or have your staff contact Lisa Re at 202-205-9213 or lisa.re@oig.hhs.gov.

Sincerely,

A handwritten signature in black ink that reads "Daniel R. Levinson". The signature is written in a cursive, flowing style.

Daniel R. Levinson
Inspector General

cc: Aaron Blight, CMS