



DEC 21 2006

Mr. Wallace T. Hart
Director, Michigan Medicaid Fraud Control Unit
P.O. Box 30218
Lansing, Michigan 48909

Dear Mr. Hart:

The Office of Inspector General (OIG) of the U.S. Department of Health and Human Services (HHS) has received your request to review the Michigan Medicaid False Claims Act, Mich. Comp. Laws § 400.601 – 400.613, 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. See 42 U.S.C. § 1396h. 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 Michigan Medicaid False Claims Act does not meet the requirements of section 6031(b) of the DRA.

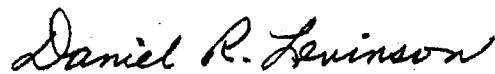
Section 6031(b)(1) of the DRA requires the state law to establish liability to the state for false or fraudulent claims to the Medicaid program similar to the liability described in the Federal False Claims Act, 31 U.S.C. § 3729. Among other things, the Federal False Claims Act liability for any person who “knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government.” 31 U.S.C. § 3729(a)(7). The Michigan Medicaid False Claims Act does not appear to create a cause of action for such conduct, and therefore does not appear to meet the requirements of the DRA.

In addition, section 6031(b)(4) of the DRA requires that the state law must contain a civil penalty that is not less than the civil penalty authorized under 31 U.S.C § 3729, which authorizes treble damages and civil penalties of at least \$5,000 per false claim. In contrast, the Michigan Medicaid False Claims Act permits the state to recover treble damages, but does not permit the state to recover a penalty for each false claim. See Mich. Comp. Laws § 400.612(1). Therefore, the Michigan Medicaid False Claims Act does not meet the requirement of section 6031(b)(4) of the DRA.

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If the Michigan Medicaid False Claims Act is amended to address the issues noted above, please notify OIG for further consideration of the Michigan Medicaid 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 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



DEC 21 2006

Mr. Brett Visner
Legislative Director
Representative David Law
S0888 House Office Building
P.O. Box 30014
Lansing, Michigan 48909

Dear Mr. Visner:

The Office of Inspector General (OIG) of the U.S. Department of Health and Human Services (HHS) has received your request to review the Michigan Medicaid False Claims Act, Mich. Comp. Laws § 400.601 – 400.613, 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. See 42 U.S.C. § 1396h. 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 Michigan Medicaid False Claims Act does not meet the requirements of section 6031(b) of the DRA.

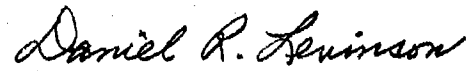
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Daniel R. Levinson
Inspector General

cc: Aaron Blight, CMS