



AUG 31 2011

Ms. Joan Henneberry
Executive Director
Colorado Department of
Health Care Policy and Financing
1570 Grant Street
Denver, CO 80203-1818

Dear Ms. Henneberry:

This letter supplements the March 21, 2011, letter from the Office of Inspector General (OIG) of the U.S. Department of Health & Human Services (HHS) regarding OIG's review of the Colorado Medicaid False Claims Act, Colo. Rev. Stat. §§ 25.5-4-303.5 through 25.5-4-310, under the requirements of section 1909 of the Social Security Act (the Act). Section 1909 of the Act 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 1909(b) of the Act, as determined by the Inspector General of HHS in consultation with the U.S. Department of Justice (DOJ). As explained in the March 21, 2011, letter, we have determined, after consulting with DOJ, that the Colorado Medicaid False Claims Act does not meet the requirements of section 1909 of the Act.

On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act amended the Federal False Claims Act by, among other things, establishing a 3-year statute of limitations for retaliation actions. See 31 U.S.C. § 3730(h)(3). The Colorado Medicaid False Claims Act does not provide at least a 3-year statute of limitations for retaliation actions. Therefore, the Colorado Medicaid False Claims Act is not at least as effective in rewarding and facilitating *qui tam* actions as the Federal False Claims Act.

If the Colorado Medicaid False Claims Act is amended to address the issues identified in this letter and the March 21, 2011, letter, please notify OIG for further consideration of the Colorado Medicaid False Claims Act. If you have any questions, please contact me or have your staff contact Katie Arnholt, Senior Counsel, at 202-205-3203 or Susan Gillin, Deputy Chief, Administrative and Civil Remedies Branch, at 202-205-9426.

Sincerely,

/Daniel R. Levinson/

Daniel R. Levinson
Inspector General