

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Singleton</i>	DATE <i>9-21-06</i>
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DIRECTOR'S USE ONLY		ACTION REQUESTED	
1. LOC NUMBER <i>000263</i>	<input type="checkbox"/> I Prepare reply for the Director's signature DATE DUE _____ <input type="checkbox"/> I Prepare reply for appropriate signature DATE DUE _____ <input type="checkbox"/> I FOIA DATE DUE _____ <input checked="" type="checkbox"/> Necessary Action		
2. DATE SIGNED BY DIRECTOR <i>cc: Mr. Ferr, Wells, Bowling</i>			

APPROVALS (Only when prepared for director's signature)	APPROVE	* DISAPPROVE (Note reason for disapproval and return to preparer.)	COMMENT
1.			
2.			
3.			
4.			

Center for Medicaid and State Operations

SMDL #06-021

SEP 19 2006

Dear State Medicaid Director:

We are writing to encourage your State to implement a State False Claims Act. Section 6031 of the Deficit Reduction Act of 2005 (DRA) encourages and provides incentive for adoption of State False Claims Acts by decreasing the Federal medical assistance percentage by 10 percentage points for recoveries from legal actions brought pursuant to such laws. Section 6031, which will become effective January 1, 2007, also equally rewards those already in place that meet the specified requirements.

To be eligible for the increased recovery rate, States must enact (or have already in effect) a law that the Health and Human Services' Office of Inspector General (HHS OIG), in consultation with the Department of Justice, determines to meet several criteria, including:

- (1) establishes liability to the State for false or fraudulent claims described in 31 U.S.C. section 3729, with respect to any expenditure described in section 1903(a) of the Social Security Act;
- (2) contains provisions that are at least as effective in rewarding and facilitating qui tam actions for false or fraudulent claims as those described in 31 U.S.C. sections 3730 through 3732;
- (3) contains a requirement for filing an action under seal for 60 days with review by the State Attorney General; and
- (4) contains a civil penalty that is not less than the amount of the civil penalty authorized under 31 U.S.C. section 3729.

The CMS strongly supports State program integrity measures and wants States to be aware that State False Claims Acts may enhance the recovery of falsely or fraudulently obtained Medicaid dollars.

The HHS OIG published guidelines in the August 21, 2006, *Federal Register* (71 Fed. Reg. 48552) it will use in the review of State False Claims Acts. If you have questions related to these guidelines, please contact Mr. Roderick Chen, Office of Counsel to the Inspector General at

Dr. Sangster
11/16/06. Return
cc: Kern
Wells

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(202) 619-2078. If you have questions regarding section 6031 of the DRA that relate to CMS' policy or procedures, please contact Mr. Robb Miller, Acting Director, Division of Field Operations, Medicaid Integrity Group, at (312) 353-0923.

Sincerely,

Shawn A. Miller

Dennis G. Smith
Director

cc:

CMS Regional Administrators

CMS Associate Regional Administrators
for Medicaid and State Operations

Martha Roherty
Director, Health Policy Unit
American Public Human Services Association

Joy Wilson
Director, Health Committee
National Conference of State Legislatures

Matt Salo
Director of Health Legislation
National Governors Association

Jacalyn Bryan Carden
Director of Policy and Programs
Association of State and Territorial Health Officials

Christie Raniezewski Herrera
Director, Health and Human Services Task Force
American Legislative Exchange Council

Lynne Flynn
Director for Health Policy
Council of State Governments