



DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL
WASHINGTON, DC 20201



December 28, 2016

The Honorable Ken Paxton
Office of the Attorney General
P.O. Box 12548
Austin, TX 78711-2548

Attn: Raymond C. Winter, Chief, Medicaid Fraud Division

Dear Mr. Attorney General:

The Office of Inspector General (OIG), U.S. Department of Health and Human Services (HHS), previously received your request to review the Texas Medicaid Fraud Prevention Act, Tex. Hum. Res. Code Ann. §§ 36.001 through 36.132, under the requirements of section 1909 of the Social Security Act (the Act) and determined that the Texas Medicaid Fraud Prevention Act met those requirements. Section 1909 of the Act provides a financial incentive for a State to enact a law imposing liability for the submission of 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).

Section 1909(b)(4) of the Act requires the State law to contain a civil penalty that is not less than the amount of the civil penalty authorized under section 3729 of the Federal False Claims Act. The Federal False Claims Act expressly provides for an adjustment of civil penalties under the Federal Civil Penalties Inflation Adjustment Act of 1990. See 31 U.S.C. § 3729(a). The Federal Civil Penalties Inflation Adjustment Improvements Act of 2015 amended the Federal Civil Penalties Inflation Adjustment Act of 1990 and mandated an increase in the civil penalties authorized under the Federal False Claims Act. Effective August 1, 2016, the civil penalties authorized under the Federal False Claims Act increased from a range of \$5,500 to \$11,000 per false claim to a range of \$10,781 to \$21,563 per false claim. The increased civil penalty applies to civil penalties assessed after August 1, 2016, and for violations occurring after November 2, 2015. After consulting with DOJ, we have determined that the Texas Medicaid Fraud Prevention Act continues to meet the requirements of section 1909 of the Act with respect to the increase in civil penalties authorized under the Federal False Claims Act.

Page 2 – The Honorable Ken Paxton

Any amendment to the Texas Medicaid Fraud Prevention Act could affect OIG's determination that it meets the requirements of section 1909 of the Act. Therefore, please notify OIG of any amendment to the Texas Medicaid Fraud Prevention Act within 30 days after such amendment.

If you have any questions regarding this review, please contact me or have your staff contact Lisa Veigel or Susan Gillin at 202-619-0335.

Sincerely,

Daniel R. Levinson
Inspector General