



DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL

WASHINGTON, DC 20201



MAR 12 2014

The Honorable Catherine Cortez Masto
Nevada Department of Justice
100 North Carson Street
Carson City, NV 89701

Dear Madam Attorney General:

The Office of Inspector General (OIG) of the U.S. Department of Health and Human Services (HHS) has received your office's request to review the amended Nevada False Claims Act, Nev. Rev. Stat. §§ 357.010 through 357.250, under the requirements of section 1909 of the Social Security Act (the Act). Section 1909 of the Act provides a financial incentive for a State to enact a law relating to 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). We have determined, after consulting with DOJ, that the amended Nevada False Claims Act does not meet the requirements of section 1909(b) of the Act.

Section 1909(b)(2) of the Act requires the State law to contain provisions that are at least as effective in rewarding and facilitating *qui tam* actions for false and fraudulent claims as those described in sections 3730 through 3732 of the Federal False Claims Act. The Federal False Claims Act, as amended by the Fraud Enforcement and Recovery Act of 2009 and the Dodd-Frank Wall Street Reform and Consumer Protection Act, provides that "any employee, contractor, or agent shall be entitled to all relief necessary to make that employee, contractor, or agent whole, if that employee, contractor, or agent is . . . discriminated against in the terms or conditions of employment because of lawful acts done by the employee, contractor, agent or associated others in furtherance of an action under this section or other efforts to stop 1 or more violations of this subchapter." 31 U.S.C. § 3730(h)(1). In contrast, Nevada's retaliation section, Nev. Rev. Stat. § 257.250, does not provide relief for acts done by "associated others" in furtherance of an action, or for "other efforts to stop 1 or more violations of this subchapter." Because Nevada's retaliation provision provides relief in fewer situations than under the Federal False Claims Act, Nevada's amended False Claims Act is less effective in rewarding and facilitating *qui tam* actions.

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If the Nevada False Claims Act is amended to address the issues noted above, please notify OIG for further consideration of Nevada's law. If you have any questions regarding this review, please contact me or your staff may contact Tamara Forys or Lisa Veigel at 202-619-0335.

Sincerely,

/Daniel R. Levinson/

Daniel R. Levinson
Inspector General