EXHIBIT 2
DATE 1/9/09
HB 122

HOUSE BILL 122
MONTANA FALSE CLAIMS ACT

Jeff Buska, Administrator
Quality Assurance Division
Department of Public Health and Human Services

HB 122 would amend the Montana False Claims Act under Title 17 to include specific language that the Department of Justice (DOJ) believes will strengthen the Montana law.

Department of Public Health and Human Services (DPHHS) and concurs with this change as it will align the Montana law with requirements outlined by the U.S. Office of Inspector General (OIG).

How does this pertain to Medicaid?

DRA 2005 - Section 6031 of the Deficit Reduction Act of 2005. (Pub. L. No. 109-171)) provides an incentive to States that have enacted compliant State FCAs.

Amended Section 1903(d) of the Act (Social Security Act)

States compliant with section 1909 of the Act will have the: Federal medical assistance percentage (FMAP) with respect to any amounts recovered under a State action brought under such law . . . decreased by 10 percentage points.

Changing the Montana FCA - would qualify Montana for this financial incentive regarding Medicaid recoveries.

FMAP Examples

| | FMAP Percentage Applied on recoveries with current FCA | | FMAP Percentage Applied on recoveries with revised FCA | |
|---|---|---|---|---|
| | Federal % | State % | Federal % | State % |
| 2008 | 68.59% | 31.41% | 58.59% | 41.41% |
| 2009 | 68.08% | 31.92% | 58.08% | 41.92% |
| 2010 | 67.49% | 32.51% | 57.49% | 42.51% |
| 2011 | 67.06% | 32.94% | 57.06% | 42.94% |

This incentive decreases the Federal Medical Assistance Percentage (FMAP) by 10 percentage points for recoveries from legal actions brought pursuant to the Montana False Claim Act, resulting in an increased recovery for the state share.

This increased amount goes back to the general fund for Montana!