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MEMORANDUM

TO: RHCF and Community Services Members

FROM: Patrick Cucinelli, Senior Financial Policy Analyst

DATE: December 17, 2008

SUBJECT: **Reminder on Annual False Claims Act Certification**

ROUTE TO: Administrator, CFO, Compliance Officer

ABSTRACT: OMIG requires providers to certify employee education compliance by 1/1/09.

Introduction

The federal Deficit Reduction Act of 2005 (DRA) mandates that health care entities which receive or make \$5 million or more in Medicaid payments during a federal fiscal year (October 1 to September 30) establish written policies and procedures informing and educating their employees, contractors, and agents about federal and state false claims acts and whistleblower protections. Authority for enforcement of these DRA provisions in New York is delegated to the Office of Medicaid Inspector General (<http://www.omig.state.ny.us/>).

Annual Certification

As part of its efforts to comply with the federal requirements, OMIG has instituted a process by which affected agencies must certify as to their compliance. According to the OMIG Web site:

Each applicable health care entity is required to submit to OMIG on or before October 1, 2007 and on or before January 1, every year thereafter a certification:

- *That it maintains the written policies, and*
- *That any employee handbook includes materials, required under the above mandates and that they have been properly adopted and published by the health care entity, and disseminated among employees, contractors and agents.*

The written policies and any employee handbook shall be retained for a period of six years from the latter of the due date or the actual date of submission of the certification. During audits, OMIG will review the certifications of the health care entity, the written policies and any employee handbook maintained by the health care entity, for compliance with the Social Security Act and any additional requirements of which health care entities are notified. The Centers for Medicare and Medicaid Services may, at its discretion, independently determine health care entity compliance with this regulation.

A general information guide on the false claims act is available on the OMIG Web site at: http://www.omig.state.ny.us/data/images/stories/dra_employee_education_requirements.pdf.

The required certification form is available from the OMIG Web site at: http://www.omig.state.ny.us/data/images/stories//dra_certification.pdf.

Please contact me with any questions at pcucinelli@nyahsa.org or call 518-449-2707 ext. 145.