

WILLIAM H. SORRELL
ATTORNEY GENERAL

SUSANNE R. YOUNG
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY
GENERAL



TEL: (802) 828-5511
FAX: (802) 828-3188

<http://www.atg.state.vt.us>

**STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
MEDICAID FRAUD & RESIDENTIAL ABUSE UNIT
109 STATE STREET
MONTPELIER, VT 05609-1001**

August 24, 2016

BY E-Mail

Judy Henkin, General Counsel
Green Mountain Care Board
89 Main Street
Montpelier, VT 05620

Dear Judy,

The Medicaid Fraud and Residential Abuse Unit ("MFRAU") has reviewed the Letter of Intent and Request for Emergency Review regarding the Acquisition of Burlington Labs received by the Green Mountain Care Board on August 19, 2016. We wanted to clarify the facts regarding certain representations in that document about an MFRAU investigation related to Medicaid claims filed by Burlington Labs.

For background, MFRAU opened an investigation of Burlington Labs in late October 2015 after Medicaid claims data showed that Burlington Labs had received an unusual level of claims reimbursement in the first six months of 2015. The amount for those six months was more than the total reimbursement that Burlington Labs had received in calendar years 2010, 2011, 2012, 2013, and 2014 combined. Our investigation focused on whether Burlington Labs had submitted improper or incorrect claims during 2015.

We believe four points require clarification:

1. The Attorney General's Office Has Not Reached Settlement with Burlington Labs

While negotiations have been ongoing since May 2016 and continue to progress, the State and Burlington Labs have not reached any settlement to this date.

2. Vermont Medicaid Payment Withholding Did Not Begin in January 2016

In accordance with federal law, MFRAU notified the Department of Vermont Health Access ("DVHA") in February 2016 that they should evaluate the case under 42 C.F.R. § 455.23 for a payment suspension. As a result of DVHA's independent investigation, and pursuant to federal regulations, DVHA imposed a partial payment suspension for 50% of all claims reimbursement that was due to Burlington Labs. The partial payment suspension was initiated on March 25, 2016, not January as reported in the Letter of Intent.

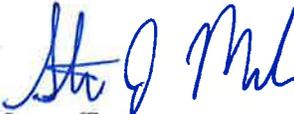
3. Burlington Labs Cash Flow Problems Predated the Medicaid Fraud Investigation

We understand that the financial difficulties at Burlington Labs predate the partial payment suspension. We note that the suspension started on March 25, 2016, and was for 50% of Medicaid claims reimbursement for Burlington Labs. We also note that the monthly shortfall noted in the Letter of Intent far exceeds the average monthly withhold by DVHA.

4. The Board's Decision has no Bearing on the State of Vermont's Financial Risk to Make Repayment to the Federal Government as Articulated in the Letter of Intent

We are not sure why the Letter of Intent suggests that "if the Applicant is not able to complete the purchase of Burlington Labs ... the State of Vermont will owe the federal government approximately \$1.3 million" We do not believe that the Board's decision regarding a Certificate of Need has any bearing on potential state liability to the federal government.

Regards,


for Jason Turner
Director, MFRAU