

April 1, 1999

June Gibbs Brown
Inspector General
Department of Health and Human Services
Washington, D.C. 20201

Dear Ms. Brown:

On behalf of the American College of Physicians-American Society of Internal Medicine (ACP-ASIM), I am writing to express our deep dismay about the apparent unwillingness of your office to engage in a continued dialogue with us on the OIG's efforts to reduce fraud, waste and abuse.

Mr. McCarty Thornton, your chief counsel, recently declined an invitation to meet with our Medical Services Committee during their May meeting. (The invitation was for the purpose of continuing a dialogue that began in January, when Mr. Thornton did accept an invitation to meet with our Medical Services Committee). What was disturbing was the reason that he gave our staff for declining the latest invitation. Mr. Thornton expressed the view that unless ACP-ASIM had specific evidence of physicians being improperly investigated for fraud and abuse, nothing would be gained by a meeting. He also suggested that the concerns that physicians have about the OIG are the result of misleading statements by some physician-leaders and their professional organizations—rather than anything the OIG has said or done. Mr. Thornton also stated that he would recommend against you or anyone else from the OIG attending our committee meeting.

When Mr. Thornton met with our Medical Services Committee in January of this year, there was a candid - but constructive - exchange of views. Mr. Thornton emphasized that the OIG was not interested in prosecuting physicians for honest mistakes or differences of opinion. The members of the committee expressed concern that they were hearing a very different message from the OIG and other government officials, one that implied that the billings of *all* physicians were suspect. It was apparent that a single meeting would not be sufficient to resolve the wide differences of opinion over the government's intentions.

In the months since we met with Mr. Thornton, our members' concerns about the OIG's intentions have increased, not diminished. The "Who Pays, You Pay" campaign with AARP sent the unfortunate message to elderly patients that their physicians are not to be trusted. In our opinion, the 1999 Financial Audit of HCFA made questionable assertions about the extent of waste, fraud and abuse. We are concerned that the report labels one-level differences of opinion between a physician and the OIG's medical review staff on the complexity of a billed code as "incorrect coding". Our members believe that such examples might more appropriately be called *legitimate* differences of opinion over which code to use out the thousands of codes in a highly complex coding system.

Had Mr. Thornton accepted our invitation to meet again, we would have discussed *why* the OIG's recent actions have created such consternation among physicians. We would have discussed what we might do *together* to improve the relationship between the OIG and physicians. Yes, the OIG would have heard some criticism, but it would have been constructive criticism.

The irony is that just eight months ago, *you* wrote to us to commend ACP-ASIM for our policy paper entitled "Reducing Waste, Fraud and Abuse Without Increasing the Hassle Factor for Physicians and Their Patients". Your letter said that you "enjoyed reading the paper and believe that it is a very comprehensive and thoughtful look at issues relating to fraud, waste and abuse" and that "your organization should be commended for putting it together." You also expressed an interest in continuing to work with us and other industry groups on issues of importance to beneficiaries and your programs. (A copy of your letter is attached).

We are still interested in working with you on the positive recommendations for reducing fraud, waste and abuse that our detailed in that paper. But without a commitment from the OIG to meet us halfway, there is nothing that we can do or say to reduce the prevailing distrust that physicians have in the OIG's stated intentions.

With a membership of over 115,000 members, ACP-ASIM is the largest specialty society--and the second largest medical organization--in the country. We are therefore in a position to help you reach a very large constituency of physicians with a constructive message on how physicians and the government can work together to reduce waste, fraud and abuse—without making honest physicians feel that they are at risk. Unfortunately, all that we can report now is that one of the highest-ranking officials in the OIG has told us that nothing is gained by meeting to hear physicians' views and concerns.

Sincerely,

Walter J. McDonald, MD, FACP
Executive Vice President