

STATE OF COLORADO

OFFICE OF THE GOVERNOR

136 State Capitol
 Denver, Colorado 80203
 Phone (303) 866-2471
 Fax (303) 866-2003



John W. Hickenlooper
 Governor

September 25, 2012

Kathleen Sebelius, Secretary
 U.S. Department of Health and Human Services
 200 Independence Avenue, S.W.
 Washington, D.C. 20201

RE: Modification of Agreement between the Secretary of Health and Human Services and the State of Colorado to Carry Out Provisions of Section 1864 and Related Provisions of the Social Security Act

Secretary Sebelius,

This letter serves as a request to modify the Agreement between you and the State of Colorado to carry out provisions of Section 1864 and related provisions of the Social Security Act.

On May 29, 2012, I signed Colorado House Bill 12-1268 into law, which concerns the transfer of certain functions pertaining to health facility compliance with building, fire and life safety standards from the Department of Public Health and Environment (CDPHE) to the Division of Fire Safety (which was subsequently renamed the Division of Fire Prevention and Control), in the Colorado Department of Public Safety.

Under HB12-1268, the CDPHE would retain authority for the licensure and certification of health facilities; however, the authority to conduct plan reviews and inspections to ensure compliance with building, fire and life safety standards would be transferred to the Division of Fire Prevention and Control, in the Colorado Department of Public Safety (CDPS/DFPC).

It is expected that the CDPHE would remain the designated state agency ("SA") for administration of the Section 1864 Agreement and the CDPS/DFPC would carry out its responsibilities pursuant to an Interagency Agreement ("IA") between it and CDPHE. Said IA will set forth all duties, responsibilities, and obligations of the respective agencies and will specify that all work done by the CDPS/DFPC will be in accordance with the provisions of:

- a. The Social Security Act, Section 1864.
- b. Agreement between the Secretary of Health and Human Services and the State of Colorado ("Agreement")
- c. The Centers for Medicare and Medicaid Services' State Operations Manual
- d. The Centers for Medicare and Medicaid Services' issued Survey and Certification Letters and other "General Instructions" as defined in the Agreement

- e. The Centers for Medicare and Medicaid Services' State Performance Standards for the current federal fiscal year.

Other than the transfer of responsibility for conducting plan reviews and inspections for compliance with building, fire and life safety standards, the only significant departure from the current agreement is that HB12-1268 authorizes the use of third-party inspectors, under certain conditions:

- a. CDPS/DFPC may contract with qualified and certified third-party inspectors to perform inspections; and/or
- b. a health facility may hire and compensate third-party inspectors under contract with the CDPS/DFPC or hire and compensate other third-party inspectors who are qualified and certified to perform inspections.

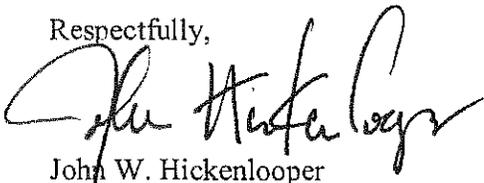
While subagreements with non-public entities is addressed in the State Operations Manual (Paragraph 4006.1), it is not clear if this type of contractual arrangement was contemplated.

This and any other conditions of the modified Agreement between the Secretary of Health and Human Services and the State of Colorado will be specified in the IA between CDPHE and CDPS/DFPC.

Please direct any questions you have concerning this request to Paul Cooke, Interim Director, CDPS Division of Fire Prevention and Control; and Nancy McDonald, BS RN, Director, CDPHE Health Facilities and Emergency Medical Services Division.

Your favorable action on this request is appreciated.

Respectfully,



John W. Hickenlooper
Governor



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

December 10, 2012

The Honorable John W. Hickenlooper
Governor
136 State Capitol
Denver, CO 80203

Dear Governor Hickenlooper:

Thank you for your letter concerning the modification of the agreement between the Secretary of Health and Human Services and the State of Colorado. As you noted in your letter, section 1864 of the Social Security Act grants the Secretary of Health and Human Services the authority to grant such a modification regarding licensure and certification of health facilities.

I reviewed your proposal to enter into an Interagency Agreement (IA) with the Colorado Division of Fire Prevention and Control and shift the authority to conduct the Life Safety Code portion of surveys to them. Under the revised agreement dated October 1, 1985, section F3, and pursuant to section 4006A of the State Operations Manual, state agencies are authorized to utilize other agencies within the state to carry out the functions of the agreement with the Secretary's approval. I am pleased to approve your IA with the Division of Fire Prevention and Control.

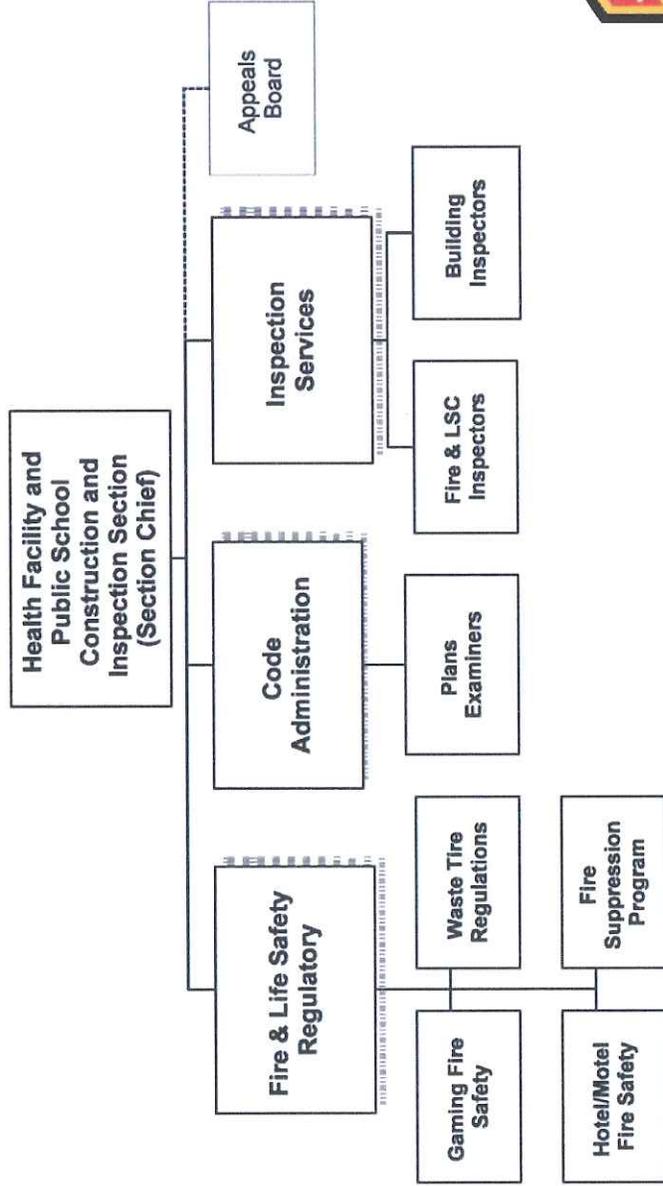
Thank you for contacting me about this matter. Please do not hesitate to contact me if you have any further thoughts or concerns.

Sincerely,

Kathleen Sebelius

Division of Fire Prevention & Control

Health Facility and Public School Construction and Inspection Section



COLORADO DEPARTMENT OF PUBLIC SAFETY

OVERSIGHT OF HEALTH CARE FACILITY (HCF) CONSTRUCTION AFTER PASSAGE OF HB 1268

