

March 30, 2026

The Honorable Robert F. Kennedy Jr.
Secretary of Health and Human Services
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

The Honorable Christi A. Grimm
Inspector General
U.S. Department of Health and Human Services
330 Independence Avenue, SW
Washington, DC 20201n Services

Re: **Medicare and State Health Care Programs: Fraud and Abuse; Request for Information (RFI) Regarding the Federal Anti-Kickback Statute and Beneficiary Inducements CMP, OIG-2601-N**

Dear Secretary Kennedy and Inspector General Grimm:

The Association for Behavioral Health and Wellness (ABHW) appreciates the opportunity to submit comments to the U.S. Department of Health and Human Services (HHS) and the Office of Inspector General (OIG) Regarding the Federal Anti-Kickback Statute and Beneficiary Inducements CMP and safe harbor regulations.

ABHW is the national voice for payers managing behavioral health insurance benefits. ABHW member companies provide coverage to 200 million people in the public and private sectors for the treatment of mental health (MH), substance use disorders (SUDs), and other behaviors that impact health and wellness. Our organization works to increase access to care, promote integration between physical and behavioral health, support prevention, reduce stigma, and advance evidence-based treatment and quality outcomes. ABHW is committed to improving whole-person care and ensuring better behavioral health outcomes for individuals and communities nationwide.

The Federal Anti-Kickback Statute is a criminal law that prohibits knowingly and willfully offering, paying, soliciting, or receiving anything of value to induce or reward referrals for items or services reimbursable by Medicare, Medicaid, or other federal health care programs. Safe harbor regulations play an important role in ensuring that the statute does not unintentionally discourage innovative, evidence-based approaches that improve patient outcomes while maintaining strong protections against fraud, waste, and abuse.

ABHW encourages HHS and OIG to update guidance under the Federal Anti-Kickback Statute to establish a safe harbor for contingency management (CM). Clarifying safe harbor protections for appropriately structured CM interventions would help ensure that providers and payers can implement these evidence-based programs without unnecessary legal uncertainty.

CM is a clinically appropriate, evidence-based behavioral therapy for a variety of SUDs. Patients

typically receive something of monetary value to incentivize abstinence from substance use. While CM has been successfully implemented nationwide by the U.S. Department of Veterans Affairs (VA) and is permitted under several HHS grant programs and Medicaid demonstrations in California and Washington, it remains underutilized. In 2025, the Substance Abuse and Mental Health Services Administration (SAMHSA) issued new guidelines that increased the grant funds available to recipients for motivation incentives from \$75 to \$750 per patient per year for SUD treatment providers.ⁱ Several barriers limit the uptake, including concerns about the potential application of certain federal fraud and abuse laws.

Establishing a clear safe harbor framework would allow broader adoption of these effective interventions while maintaining appropriate safeguards to protect federal health care programs from fraud, waste, and abuse.

Thank you for the opportunity to provide feedback on this RFI. ABHW looks forward to continuing to work with HHS, OIG, and other stakeholders to identify policy solutions that improve access to effective behavioral health care and strengthen outcomes for individuals. If you have questions, please contact Kathryn Cohen, Senior Director of Regulatory Affairs, at cohen@abhw.org.

Sincerely,

A handwritten signature in black ink that reads "Debbie H. Withey". The signature is written in a cursive, flowing style.

Debbie Withey, MHA
President and CEO

ⁱ <https://library.samhsa.gov/product/using-samhsa-funds-implement-evidence-based-contingency-management-services/pep24-06-001>