

Unique Opportunity to Influence Anti-Kickback Statute Rules



Article By
[Kevin M. Coffey](#)
[Meredith E. Eng](#)
[Polsinelli PC](#)
[Intelligence](#)

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Starting October 17, the industry has 75 days to provide input on the proposed rules published in the Federal Register regarding the future enforcement of the Anti-Kickback Statute (AKS). In an effort to facilitate the transition to value-based and coordinated care, the Office of the Inspector General (OIG) proposes the following changes to AKS:

New AKS Safe Harbors

- **Value-Based Arrangements:** Three new safe harbors for certain remuneration exchanged among eligible participants in value-based arrangements for coordinated and managed patient care. These safe harbors differ by the types of remuneration protected, level of financial risk assumed by the parties, and the types of safeguards included as safe harbor conditions.
- **Patient Engagement:** A new safe harbor permitting furnishing certain resources to patients to improve quality, health outcomes and efficiency.
- **CMS-Sponsored Models:** A new safe harbor allowing certain remuneration provided in the context of certain CMS-sponsored models. This safe harbor is intended to reduce the need for individualized fraud and abuse waivers for each

new model.

- **Cybersecurity Technologies and Services:** A new safe harbor protecting the donation of cybersecurity technology and services.

Changes to Existing AKS Safe Harbors

- **Electronic Health Records Items and Services:** Adding protections for certain related cybersecurity technology, updating provisions on interoperability and removing the sunset date.
- **Outcomes-Based Payments and Part-Time Arrangements:** Adding flexibility for outcomes-based payments and part-time arrangements in personal services and management contracts.
- **Local Transportation:** Increasing mileage limits for rural areas and removing mileage limits on transportation for patients discharged from inpatient facilities.
- **Accountable Care Organization (ACO) Beneficiary Incentive Programs:** Codifying the statutory exception to the definition of “remuneration” for ACO Beneficiary Incentive Programs for the Medicare Shared Savings Program.

New CMPL Exception

- **Telehealth for In-Home Dialysis:** Changing the definition of “remuneration” in the CMP rules by including a new exception to the prohibition on beneficiary inducements for providing certain in-home dialysis patients with telehealth technology.

If your business is affected by AKS, do not miss this critical opportunity to shape the future of AKS enforcement and value-based and coordinated care.

The deadline for the submission of comments to OIG on the proposed AKS rule is December 31, 2019.

The proposed rule can be found [here](#).

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