

Client Alert

February 13, 2026

OIG Advisory Opinion Regarding Sign-On Bonuses to Caregivers

On January 5, 2026, the Office of Inspector General (OIG) posted an advisory opinion addressing a situation in which a home care agency would advertise sign-on bonuses to prospective caregivers. The agency advised OIG that they expected that the prospective caregivers primarily would be (i) be family members of the agency's patients for whom the caregivers would act as guardians and (ii) the decision-makers selecting the agency on behalf of the patient. OIG determined that the facts presented by this sign-on bonus arrangement would constitute a prohibited offer of remuneration under the Anti-Kickback Statute (AKS) and the Beneficiary Inducements Civil Monetary Penalty (CMP). The AKS prohibits the knowing or willful offer, payment, solicitation, or receipt of any remuneration, directly or indirectly, to induce or reward referrals for items or services reimbursable by a federal health care program. In addition, the CMP prohibits offering remuneration to a Medicare or Medicaid beneficiary that the offeror knows or should know is likely to induce a beneficiary's selection of a particular provider, practitioner or supplier. Violation of the AKS constitutes a felony punishable by a maximum fine of \$100,000, imprisonment up to 10 years, or both. Conviction also will lead to exclusion from Federal health care programs, including Medicare and Medicaid.

The opinion states that when there is an inextricable link between the employment of the caregiver and the referral of the client, advertising a sign-on bonus may be viewed as solicitation for a referral before the start of employment. As such, OIG concluded that the proposed bonuses would not qualify for protection under the AKS employment safe harbor or any applicable exception to the CMP. The OIG further expressed concern that such bonuses could result in unfair competition and divert resources away from patient care. Accordingly, arrangements structured in a similar manner may present heightened fraud and abuse risk.

While advisory opinions are limited to specific facts, this opinion signals heightened enforcement risk where sign-on bonuses are structured or advertised in a manner that directly or indirectly ties compensation to patient referrals or beneficiary choice. Providers should be aware that compensation arrangements involving caregivers who are in a position to influence beneficiary choice may implicate both the AKS and the CMP, even when structured as employment incentives.

Updated Policies and Procedures for LHCSA Licensure Amendments

On January 13, 2026, the Department of Health (DOH) issued a new Dear Administrator Letter (DAL) to update the procedure for processing Licensed Home Care Service Agency (LHCSA) Administrative Licensure Amendments. The DAL identifies the following amendment categories that may be processed as administrative license amendments and license reprint requests:

- Deleting or Adding a Service
- Deleting or Adding a County
- Adding an Additional Site
- Change of Address of Agency and/or Operator
- Change of Legal Entity (Corporate) Name, Change of Assumed Name (dba) or New Assumed Name (dba)
- License Reprint

Additionally, each amendment request requires:

- A written request on agency letterhead signed by the agency administrator or a letter from the agency's counsel or a consultant on behalf of the agency;
- A completed copy of the LHCSA Administrative Licensure Amendment Request Checklist; and
- All applicable corresponding information and documentation listed on the LHCSA Administrative Licensure Amendment Request Checklist.

Agencies are encouraged to consult counsel when preparing licensure amendment submissions to avoid processing delays.

DOH Proposes Rule Making Amending 18 NYCRR 505.14 and 505.28

On January 28, 2026, the Department of Health (DOH) issued a notice of proposed rulemaking which would amend 18 NYCRR 505.14 and 505.28. The comment period for the proposed rulemaking will end March 30, 2026, and there are currently no hearings scheduled. If adopted, the proposed amendment would allow for both Licensed Practical Nurses (LPNs) and Registered Professional Nurses (RNs) to perform the initial assessments for Personal Care Services (PCS) and the Consumer Directed Personal Assistance Program (CDPAP) in NYS Medicaid. If the amendment is adopted, the new regulation will become effective 60 days after publication of a Notice of Adoption in the New York State Register. This amendment is being proposed in an effort to allow the assessment and authorization process to move more quickly and to reduce the costs of assessments. If finalized, this change could significantly expand the pool of clinicians eligible to perform assessments and may help address workforce shortages.

Providers should note that no operational changes may be implemented unless and until a Notice of Adoption is published and the effective date has passed.

Governor Hochul Budget Proposal for FY 2027

On January 20, 2026, Governor Hochul released her Executive Budget Proposal (the "Budget") for FY 2027 totaling \$260 billion. This is a 0.7% increase from the current fiscal year to account for federal cuts, primarily in healthcare. The Budget credits the increase in spending to continued high levels of enrollment in the Medicaid program, as well as prior years' expansion of benefits, increases in reimbursement rates, and expanded utilization of the State's Managed Long-Term Care (MLTC) program by the State's aging population. In her remarks, Governor Hochul noted that due to the Consumer Directed Personal Assistance Program (CDPAP) reforms, the State projects approximately \$1.2 billion in savings that went towards stabilizing Medicaid; however, she has not clarified how the money was distributed among the programs. Total Medicaid and Essential Plan (EP) spending is expected to be \$122.9 billion in FY 2027. This includes \$65 billion in Federal spending and \$48.5 billion in State spending.

As with all Budgets, the proposal is subject to legislative negotiation and revision prior to enactment.

The Budget proposes as follows:

- To repeal the FY 2023 Long-Term Services and Supports (LTSS) benefits in the EP because it never received federal approval and its implementation would significantly accelerate the spend down of available EP resources.
- Limiting the personal care fee-for-service administrative reimbursement rate at 15% of total costs and normalizing the direct care component of rates in an effort to standardize administrative reimbursement for all personal care services. This proposal would apply to Medicaid Fee-for-services and would not directly affect reimbursement structures under Managed Long-Term plans.
- To provide \$35 million in additional support for non-medical in-home services provided through the Office for the Aging to reduce the number of older adults waiting for services.
- To provide \$4 million each for Naturally Occurring Retirement Communities (NORCs) and Neighborhood Naturally Occurring Retirement Communities (NNORCS), to allow more older adults to age in place, to improve health outcomes, reduce social isolation, and reduce the institutionalization and hospitalization of older adults.
- To provide funding for healthcare training programs under the Increasing Training Capacity in Statewide Healthcare Facilities grant program, with a distinct focus on nursing training programs.
- To invest \$1.5 billion in additional funds into hospitals and nursing homes.
- Investing \$694 million for the implementation of two workforce programs to support training and education for new health, behavioral health, and social care workers as well as support career advancement for existing workers through tuition payments and student loan repayment.

Our firm will continue to monitor the situation and provide updates.

Reminder to Review Sexual Harassment and Anti-Retaliation Policies

As a reminder, New York Law requires employers to conduct annual sexual harassment prevention training for all employees. Employers should ensure that training is up to date and properly documented. Additionally, your sexual harassment and anti-retaliation policies should be reviewed to ensure compliance with state and federal regulations. New York State requires that sexual harassment prevention policies:

- Prohibit sexual harassment consistent with guidance issued by the Department of Labor in consultation with the Division of Human Rights;
- Provide examples of prohibited conduct that would constitute unlawful sexual harassment;
- Include information concerning the federal and state statutory provisions concerning sexual harassment, remedies available to victims of sexual harassment, and a statement that there may be applicable local laws;
- Include a complaint form;
- Include a procedure for the timely and confidential investigation of complaints that ensures due process for all parties;
- Inform employees of their rights of redress and all available forums for adjudicating sexual harassment complaints administratively and judicially;
- Clearly state that sexual harassment is considered a form of employee misconduct and that sanctions will be enforced against individuals engaging in sexual harassment and against supervisory and managerial personnel who knowingly allow such behavior to continue;
- Clearly state that retaliation against individuals who complain of sexual harassment or who testify or assist in any investigation or proceeding involving sexual harassment is unlawful.

Please contact our office about any questions regarding reviewing your sexual harassment and anti-retaliation policies.

OMIG Releases 2026 Work Plan

The New York State Office of the Medicaid Inspector General (OMIG) has released its 2026 work plan ("Work Plan"). While the Work Plan is not a comprehensive list of all the activities that OMIG conducts over the course of the year, it acts as a guide to OMIG's program integrity initiatives planned for the year. Key focus areas of the work plan are:

- Streamlining the Compliance Program Review (CPR) process;
- Streamlining and enhancing the self-disclosure submission process, while increasing awareness of self-disclosure requirements;
- Conducting provider outreach and education to address inability to maintain Medicaid record maintenance requirements;
- Providing oversight of home health and community-based services providers with a focus on Home Health (Episodic Payment), Personal Care Services (PCS), Private Duty Nurses, Nursing Home Transition and Diversion (NHTD), Consumer Directed Personal Assistance Program (CDPAP), and Traumatic Brain Injury Services; and
- Ensuring that CDPAP services are delivered effectively, funds are used appropriately, and recipients' health and safety are protected.

OMIG work plans often signal future audit activity. Providers should consider proactively reviewing internal compliance programs, documentation practices and billing processes.

Please contact our office with any questions regarding the OMIG 2026 work plan.

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