



New Anti-Kickback & Stark Rules Proposed **Intended to Facilitate Value-Based Payments and Care Coordination**

On October 9, the U.S. Centers for Medicare and Medicaid Services ([CMS](#)) and Department of Health and Human Services Office of Inspector General ([OIG](#)) both proposed [new rules](#) to update their enforcement of anti-kickback, civil monetary penalty, and physician self-referral laws.

The proposed rule would add safe harbor protections under the Federal anti-kickback statute for certain coordinated care and associated value-based arrangements between or among clinicians, providers, suppliers, and others. It also would add protections under the anti-kickback statute and civil monetary penalty law that prohibits inducements offered to patients for certain patient engagement and support arrangements to improve quality of care, health outcomes, and efficiency of care delivery. The proposed rule would add a new safe harbor for donations of cyber-security technology and amend the existing safe harbors for electronic health records arrangements, warranties, local transportation, and personal services and management contracts.

As examples of the types of arrangements that could be acceptable, CMS suggested that a hospital could potentially donate free cyber-security software to physicians referring patients to that hospital in order to improve cyber-security of patients' data, and that a physician practice could potentially give patients a free "smart" pillbox so that they would take medication when and as directed, and doctors would be alerted to contact a patient about any missed dosage.

Comments on both rules may be submitted through December 31.

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