



AMERICAN
SPEECH-LANGUAGE-
HEARING
ASSOCIATION

Submitted online at <http://www.regulations.gov/>

October 22, 2018

Daniel R. Levinson
Inspector General
Office of the Inspector General
U.S. Department of Health and Human Services
Attention: OIG-0803-N
Room 5513, Cohen Building
330 Independence Avenue, SW
Washington, DC 20201

RE: Medicare and State Health Care Programs: Fraud and Abuse; Request for Information
Regarding the Anti-Kickback Statute and Beneficiary Inducements CMP

Dear Inspector General Levinson:

On behalf of the American Speech-Language-Hearing Association, I write to offer comments on the request for information regarding the impact of the anti-kickback and beneficiary inducement statutes on alternative payment model engagement.

The American Speech-Language-Hearing Association (ASHA) is the national professional, scientific, and credentialing association for 198,000 members and affiliates who are audiologists; speech-language pathologists; speech, language, and hearing scientists; audiology and speech-language pathology support personnel; and students.

ASHA supports efforts by the Office of the Inspector General (OIG) to remove obstacles to coordinated care and to deliver better value and quality of care for patients. ASHA understands that the anti-kickback and beneficiary inducement laws have been identified by OIG as potential barriers to alternative payment models (APMs), integrated delivery models, and efforts to incentivize improved outcomes and reduced cost. Although ASHA supports the concept of transforming the health care into a system that rewards value-based care, ASHA believes that it is unnecessary to add new safe harbors to the anti-kickback statute. Enough safe harbors related to APMs currently exist for select models and programs under the Centers for Medicare & Medicaid Services (CMS) to address value-based care and ensure innovation.¹ Therefore, **ASHA recommends that OIG enhance awareness, in coordination with CMS, of existing safe harbors through the issuance of guidance documents for APM entities and providers.**

ASHA further cautions OIG against unilaterally relieving or eliminating beneficiary cost-sharing obligations for APMs. Waiving beneficiary cost-sharing amounts for APMs could create an uneven playing field between accountable care organizations (ACO) and Medicare Advantage plans. Providers could persuade beneficiaries to join ACOs through cost-sharing reductions regardless of whether the ACO is the best value option for the patient. **To ensure parity between the programs and beneficiary protections, ASHA recommends that CMS expand the testing of the Value-Based Insurance Design nationwide. In addition, ASHA**

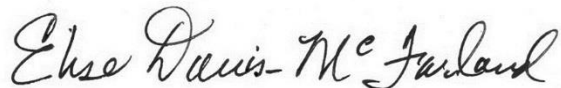
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recommends that OIG limit the cost-sharing waiver to beneficiaries with targeted conditions that have a high prevalence within the traditional Medicare population and a potential for high cost complications.

Thank you for the opportunity to provide comments on the impact of anti-kickback and beneficiary inducement rules on APM engagement. If you or your staff have any questions, please contact Daneen G. Sekoni, MHSA, ASHA's director of health care policy, health care reform, at dsekoni@asha.org.

Sincerely,

A handwritten signature in black ink that reads "Elise Davis-McFarland". The signature is written in a cursive, flowing style.

Elise Davis-McFarland, PhD, CCC-SLP
2018 ASHA President

¹ Centers for Medicare & Medicaid Services. (2018). *Fraud and Abuse Waivers*. Retrieved from <https://www.cms.gov/Medicare/Fraud-and-Abuse/physicianSelfReferral/Fraud-and-Abuse-Waivers.html>.