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# NATIONAL COUNCIL for Mental Wellbeing

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# HHS-OIG Issues Favorable Advisory Opinion on App-based Incentives for Substance Use Disorders

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*Federal agency permits app-based program  
that offers addiction patients financial incentives for staying sober.*

**WASHINGTON, D.C. (March 8, 2022)** — The Office of Inspector General (OIG) within the Department of Health and Human Services (HHS) has issued a favorable **advisory opinion** regarding contingency management, an evidence-based approach for treating substance use disorders that uses financial incentives to reward healthy behavior, such as abstinence and treatment retention.

The OIG's advisory opinion concluded that an app-based contingency management program developed by DynamiCare Health Inc., a digital therapeutics and telehealth company dedicated to helping people overcome addiction, will not incur a risk of sanctions under the federal Anti-Kickback Statute (AKS) and Beneficiary Inducement Prohibition (BIP). This is the first time the OIG has issued such an opinion for a nationally accessible contingency management program that offers patients the full-value, direct monetary rewards that research has shown to be effective.

Contingency management (CM) has been shown to be an effective approach for those with a substance use disorder in more than 100 **randomized controlled trials** over 50 years. Evidence shows it can double abstinence rates across opioids, stimulants, alcohol, tobacco and nicotine, compared to usual care alone. It is the most effective and most evidence-based **treatment for stimulant use disorders**. In 2021, the Biden Administration declared advancing CM among its **drug policy priorities**.

However, CM remains deeply **underutilized** by addiction treatment providers in the U.S. due to a number of barriers, including a widespread perception that monetary incentives in excess of \$75 per patient per year may violate federal laws such as the AKS or BIP. Although such a low ceiling was **deemed ineffective** by CM experts, the HHS Substance Abuse and Mental Health Administration (SAMHSA) applied **the \$75 limit** on CM incentives to its State Opioid Response (SOR) grantees. This new OIG advisory opinion approves DynamiCare's protocol, which allows up to \$599 in monetary incentives per patient, overcoming a major obstacle for evidence-based care in addiction treatment.

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March 09, 2022

The advisory opinion was issued in response to a submission by DynamiCare and is limited to DynamiCare's app-based CM protocol. DynamiCare's technology incorporates multiple protective features against fraud, waste and abuse. Protective features include: allocating 70% of incentives to negative results for random breath & saliva tests performed remotely and directly observed over selfie video; delivering incentives via a smart debit card that blocks use at bars and liquor stores, and cash withdrawals; and assuring accountability and auditability by logging the delivery of each incentive and healthy behavior.

"The nation's overdose crisis and the new stimulant crisis are driving unabated record-high overdose death rates. With no FDA-approved medication for methamphetamine or cocaine use disorder, organizations that provide substance use treatment need to be able to adopt contingency management, which represents the most effective evidence-based approach available," said National Council for Mental Wellbeing President and CEO Chuck Ingoglia. "We are pleased with HHS-OIG's advisory opinion, and we're proud to have played a role in breaking down this barrier to evidence-based care."

"Providers, Medicaid managed care vendors and even public health administrators often have the misconception that federal rules always prohibit contingency management. This advisory opinion puts that myth to rest," said Eric Gastfriend, CEO of DynamiCare Health. "Contingency management is not a kickback – it's a foundation for treatment. We can now say with confidence that DynamiCare's rigorous, research-based contingency management protocol, which includes accountable and protective measures, fits squarely within federal healthcare regulations."

OIG Advisory Opinions are issued only to the Opinion's requestors and cannot be relied upon by third parties. These Opinions are contingent on the accuracy of representations made by the requestors. Advisory Opinions provide important guidance and insight into the OIG's approach to evaluating regulatory issues.

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### About the National Council

Founded in 1969, the **National Council for Mental Wellbeing** is a membership organization that drives policy and social change on behalf of nearly 3,200 mental health and substance use treatment organizations and the more than 10 million children, adults and families they serve. We advocate for policies to ensure equitable access to high-quality services. We build the capacity of mental health and substance use treatment organizations. And we promote greater understanding of mental wellbeing as a core component of comprehensive health and health care. Through our **Mental Health First Aid** (MHFA) program, we have trained more than 2.5 million people in the U.S. to identify, understand and respond to signs and symptoms of mental health and substance use challenges.

### About DynamiCare Health

DynamiCare Health is a digital therapeutics and telehealth company dedicated to helping people overcome addiction. The company's digital health platform automates contingency management to drive the brain's reward circuitry from substance use toward motivation for self-assessment, treatment attendance, cognitive behavioral therapy effort, medication adherence, support group activity and certified peer recovery coaching. In a series of studies funded by the National Institutes of Health (NIH), DynamiCare has been shown to help



President Biden's State of the Union address on March 1 represented a historic moment for the White House and substance use in d

members achieve healthy goals with stimulants, opioids, alcohol, tobacco and vaping. For more information, visit [www.dynamicarehealth.com](http://www.dynamicarehealth.com).



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