

Personal Services and Management Contract Safe Harbor (“PSMC”) of the Federal Anti-Kickback Statute

42 C.F.R. § 1001.952(d)(1)

Below is a summary of the six (6) elements of the Personal Services and Management Contract Safe Harbor (“PSMC”) of the Federal Anti-Kickback Statute (“AKS”). If a contract meets each of these elements, it should be immune from prosecution under the AKS. If unable to do so, addressing as many of these elements as possible in a contract may help reduce AKS risk.

1	The agreement is set out in writing and signed by the parties.
2	The agreement covers all services provided and specifies the services provided.
3	Term of agreement is not less than one (1) year.
4	Compensation Methodology is: (i) Set in advance ; (ii) Consistent with fair market value in an arm’s-length transaction; and (iii) Not determined in a manner that takes into account the volume or value of any referrals or business otherwise generated between the parties.
5	Services do not involve the counseling or promotion of a business arrangement or other activity violating state or federal law.
6	Aggregate services do not exceed those with are reasonably necessary to accomplish the commercially reasonable business purpose of the services.

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