

Personal Services and Management Contracts Safe Harbor (42 C.F.R. § 1001.952(d)(1))

(d)(1) As used in section 1128B of the Act, “remuneration” does not include any payment made by a principal to an agent as compensation for the services of the agent, as long as all of the following standards are met:

- (i) The agency agreement is set out in writing and signed by the parties.
- (ii) The agency agreement covers all of the services the agent provides to the principal for the term of the agreement and specifies the services to be provided by the agent.
- (iii) The term of the agreement is not less than 1 year.
- (iv) The methodology for determining the compensation paid to the agent over the term of the agreement is set in advance, is consistent with fair market value in arm's-length transactions, and is not determined in a manner that takes into account the volume or value of any referrals or business otherwise generated between the parties for which payment may be made in whole or in part under Medicare, Medicaid, or other Federal health care programs.
- (v) The services performed under the agreement do not involve the counseling or promotion of a business arrangement or other activity that violates any State or Federal law.
- (vi) The aggregate services contracted for do not exceed those which are reasonably necessary to accomplish the commercially reasonable business purpose of the services.