

Federal Government Allows Program to Pay Substance Abusers for Staying Clean

By Lenny Bernstein

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Contingency management is considered especially valuable for treatment of people addicted to stimulants such as methamphetamine and cocaine because there are no proven medications for that disorder. (Marharyta Marko/iStock/Getty Images)

A new legal opinion from the Biden administration appears to clear the way for wider use of an underutilized [harm reduction](#) technique: paying people addicted to drugs for staying clean.

Known as “contingency management,” the idea is supported by decades of research that shows providing repeated small payments for meeting goals in the recovery process has an outsized impact in helping people remain sober. The technique also has been used to help people quit smoking, [lose weight](#) and change other unwanted behaviors.

But until last week when the inspector general’s office for the Department of Health and Human Services posted [an advisory legal opinion](#), its use was sharply limited by concern that any such program would run afoul of a federal law that bars kickbacks to patients. At the request of a company

that has been using the method and conducting research on the effectiveness of payments to drug users, people addicted to alcohol and smokers, the government for the first time allayed those fears. In the nine-page opinion, Robert K. DeConti, an HHS assistant inspector general for legal affairs, said Boston-based [DynamiCare Health](#) would not face criminal or civil penalties for its payment plan.

“Although the arrangement would generate prohibited remuneration under the federal anti-kickback statute if the requisite intent were present, the OIG [Office of Inspector General] will not impose administrative sanctions on requestor in connection with the arrangement,” DeConti wrote.

The ruling allows the company to pay clients as much as \$599, a sharp increase from the \$75 limit the government had previously observed, which many experts considered too low to be effective. DynamiCare chose \$599 because it is the most a client can receive without having to pay taxes on the money.

The opinion and an HHS spokeswoman emphasized that the decision applies only to DynamiCare. Others who want to offer similar inducements would have to receive their own advisory from the OIG. But DynamiCare co-founder David Gastfriend and others who have tried to persuade HHS to allow higher-paying contingency management programs said they expected many others would move quickly to provide the therapy.

“This is a breakthrough,” Gastfriend said.

The Biden administration made eliminating barriers to contingency management a priority when it announced it was embracing [harm reduction](#) in April. The administration was embroiled in a minor controversy last month after conservatives launched an online furor erroneously [claiming](#) that the government would spend \$30 million on pipes for smoking crack cocaine.

Contingency management is considered especially valuable for treatment of people addicted to stimulants such as methamphetamine and cocaine because there are no proven medications for that disorder. Opioid abuse is best treated with medications such as [buprenorphine](#) and methadone, though far too few people receive them.

Deaths from stimulants are climbing along with the better-known rise in [opioid-induced fatalities](#). In 2020, the overdose death rate from stimulants such as methamphetamine was up 50 percent over 2019 and the cocaine overdose death rate rose 22 percent, according to the [National Center for Health Statistics](#).

Under a waiver from HHS, California is set to launch a \$58.5 million test of contingency management for people with stimulant use disorder in July, using Medicaid funds. So far, seven counties are enrolled in the first phase, and 20 other counties have signaled their intent to apply for a second phase, a participation rate that should yield thousands of clients, said Kelly Pfeifer, deputy director for behavioral health at the California Department of Health Care Services.

Under the plan, participants would agree to in-person urine tests twice a week for 24 weeks, and receive escalating rewards for each clean test. The payments would start at \$10 and escalate to \$26.50 in the 12th week, before declining for the second half of the program, and jumping to \$21 per test in the final week.

Evidence of drug use in the test would reset the program but clients could receive only \$599, Pfeifer said.

The money would be put on a gift card, with protections built into the program to prevent spending on alcohol, cigarettes, vaping material, marijuana and gambling, she said. But Pfeifer acknowledged that “no program we will set up will be 100 percent protected against misuse.”

Asked why taxpayer dollars should go to people who use illegal drugs, Pfeifer said: “The data is robust, unequivocal. There’s nothing else that works to move people toward recovery.”

Keith Humphreys, a psychiatry professor and drug policy researcher at Stanford University, said contingency management works because of its emphasis on immediate rewards. People with substance use disorders have even less ability to delay gratification than those who are not in the grip of drugs, he said.

“You’re interested in what’s going to happen right now, not what’s going to happen in a week or a year,” Humphreys said. “You can’t think that far ahead, about a larger, later award.”

Pfeifer said the incentives can “change the reward balance in the brain” [that has been altered by long-term drug use](#).

The [Department of Veterans Affairs has experience with such programs](#) at its hospitals, where it has offered discounts at canteens and other rewards for accomplishing steps toward recovery, Humphreys said.

An ongoing concern is how clients will fare once the incentives have run out. Coaching and other forms of therapy may well be needed.

DynamiCare, a digital health company, has moved contingency management onto a phone-based app. In its trials over the past few years, clients were required to carry saliva-based drug test kits at all times and selected for tests at random times.

The tests are conducted in front of the phone’s camera, watched by company personnel, according to Gastfriend, an addiction specialist at several treatment locales, including Massachusetts General Hospital, before he founded the company with his son in 2016. The video is uploaded to the company to verify the test was conducted properly.

Starting with tiny rewards for accomplishments such as making it to a meeting, the incentives escalate for finding a job or enrolling in a vocational program, he said. Like California’s program, the debit card that receives the funds is coded to block spending at liquor stores, casinos, bars and other locations, and to prevent the user from converting the credits to cash.

Gastfriend partnered with the [National Council for Mental Wellbeing](#) to develop DynamiCare’s strategy and legal approach to securing the inspector general’s advisory opinion. The ruling makes clear that the company uses the same contingency management plan for opioids, nicotine and alcohol.

“We are trying to eliminate every obstacle, every excuse, every inhibition so that we’re motivating people to go forward with the effort to stay clean,” Gastfriend said. “Because it takes a tremendous amount of effort to overcome addiction.”