

# ACO Waivers

*Linda Cohen, Asst. General Counsel for Contracting and Clinical Innovation*



**OneCare Vermont**

[onecarevt.org](http://onecarevt.org)

# What are these Fraud and Abuse Waivers?

- Fraud and Abuse Waivers are part of the ACO Innovation Toolkit

Benefit  
Enhancements



Fraud  
and  
Abuse  
Waivers



Claims  
Data



Fixed  
Payments

# What is Being Waived?

- Enforcement of laws that are focused on preventing increased utilization, not the value of that utilization
  - Anti-Kickback & Stark – effect financial relationships between providers
    - prohibit medical providers and/or entities from making health service referrals in exchange for compensation of any kind
    - Example – rent free office space between referring providers
  - Civil Monetary Penalties – effect financial relationships with patients
    - prohibit providers from giving Beneficiaries things of value if likely to induce the Beneficiary to use their services with carve out permissions
    - Example - free medical supplies

# Opportunities to Drive Change

From Foundation of  
Regulatory Safety –  
Drive Benefit and  
System Design  
Changes

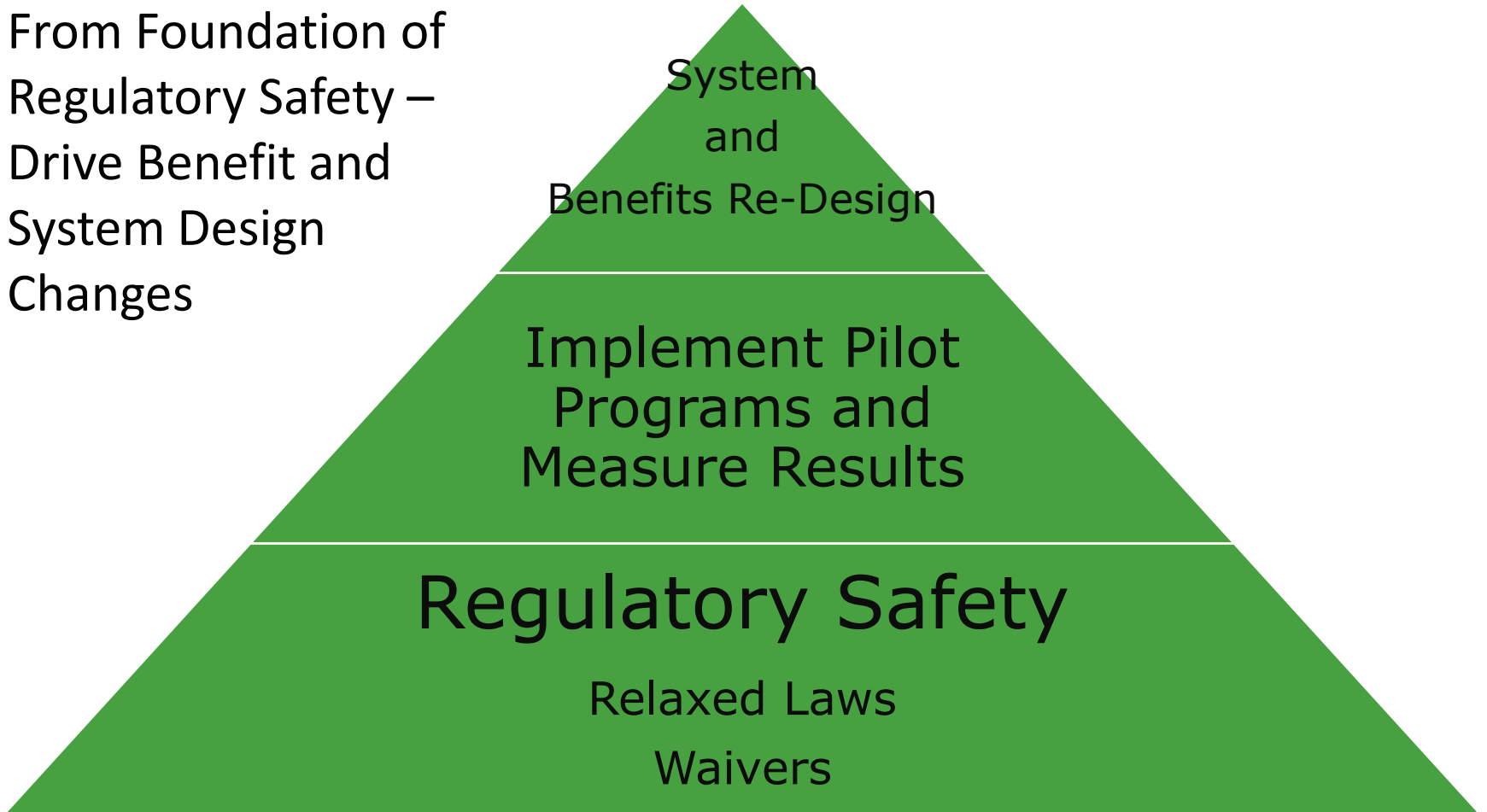
System  
and  
Benefits Re-Design

Implement Pilot  
Programs and  
Measure Results

**Regulatory Safety**

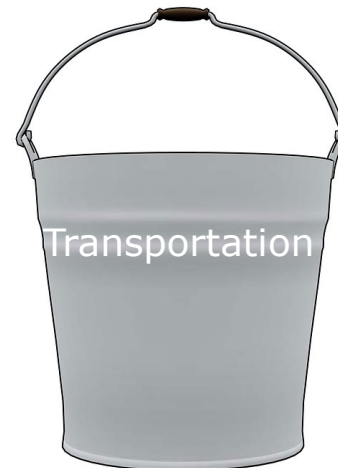
Relaxed Laws

Waivers



# Immediate Opportunity

- Discharge needs



# Forms and Summaries

<https://www.onecarevt.org/providers/>

## Resources and Forms For Providers

---



### Fraud And Abuse Waivers

#### Contents:

- Participation Waiver Information Sheet
- Patient Engagement Incentives waiver Sheet
- Participant Waiver Use Application

 **DOWNLOAD: Fraud And Abuse Waivers (Fillable PDF)**

---

# OneCare Fraud & Abuse Waivers

## Participation Waiver Sheet

### What does the Participation Waiver provide?

This waiver offers broad, intentional, and purposeful flexibility provided by Medicare and Medicaid to allow OneCare Vermont and its participants to **create financial and clinical arrangements** that promote success in the All-Payer Model without risking regulatory sanctions; in other words, giving providers more flexibility in improving the value of care.\*

**The Participation Waiver allows participating providers to create clinical pathways of their own design and exchange funds without detailed requirements.**

### Laws waived:

**Anti-Kickback Statute & Stark Law:** these laws govern financial relationships between providers for Medicare and VT Medicaid patients

### Eligible population:

Medicare, VT Medicaid, Commercial\*

### Eligible ideas:

Arrangements for *inter alia*, clinical services, IT, social services, can be made between OneCare and/or OneCare participant with or without other parties.

### Conditions:

- OneCare in participation agreement with Medicare and Medicaid and meeting their governance requirements
- To meet governance terms of participation agreement with Medicare, OneCare board determines the arrangement is "reasonably related to ACO Activities," which are activities that further the All-Payer Model
- The arrangement and board approval are documented
- Description of the arrangement is posted on OneCare website

### How to Utilize This Waiver:

Providers must partner with the ACO in order to take advantage of the **Participation Waiver**.

(\*Note: Fraud and abuse laws generally do not apply to commercial insurance arrangements.)



### Examples of arrangements:

- To promote discharge from an inpatient facility to a skilled nursing facility (SNF), the hospital pays for and arranges patient transport to and from the SNF for dialysis not available at SNF
- Hospital pays for room and board for patient discharged to hospice

### Board Endorsed Uses - Purpose to Promote Discharges\*

- Payment for post-discharge drugs at SNF
- Provide sitters, personal care in SNF
- Payment of hospice room and board
- Payment for home infusion drugs or staff to provide post discharge transportation

*\*(still subject to final approval of board)*

### Questions?

Please contact Linda Cohen, MHCDS at [waivers@onecarevt.org](mailto:waivers@onecarevt.org) for more information.





# — OneCare Fraud & Abuse Waivers —

## Patient Engagement Incentives Waiver Sheet

### What does the Patient Engagement Incentives Waiver provide?

The fraud and abuse waivers offer broad, intentional, and purposeful flexibility provided by Medicare and Medicaid to allow OneCare Vermont and its participants to **create financial and clinical arrangements** that promote success in the All-Payer Model without risking regulatory sanctions, in other words, giving providers more flexibility in improving the value of care.\* **The Patient Engagement Incentives Waiver allows participating providers to give their patients services and items that advance clinical goals without dollar limits.**

### Eligible ideas:

- ACO participants or their contracted agents provide in kind items or services to patients in furtherance of treatment conditions

### Laws Waived:

Civil Monetary Penalties and Anti-Kickback Statute for Medicare and VT Medicaid patients.

### Eligible Populations:

Medicare, VT Medicaid, Commercial\*

### Conditions:

- OneCare in participation agreement with Medicare & Medicaid
- Reasonable connection to patient's medical care
- Actual in kind items or services (no gift cards, coupons, cash or cash equivalents; no copay or deductible waivers).
  - Items or services are:
    1. Preventive, or
    2. Advance one or more of following clinical goals
      - I. Adherence to treatment regimen;
      - II. Adherence to drug regimen;
      - III. Adherence to follow up care plan;
      - IV. Management of chronic disease or condition
  - Records to show conditions met is available to Office of Inspector General (OIG)
  - Beneficiary reasonably perceives the item or service to be from ACO or participant

### How to Utilize This Waiver:

Providers must partner with the ACO in order to take advantage of the **Patient Engagement Incentives Waiver.**

(\*Note: Fraud and abuse laws generally do not apply to commercial insurance arrangements.)



### Examples of arrangements:

- Provide bariatric scale to CHF monitoring patient
- Provide healthy food to manage a chronic condition

### Board Endorsed Uses - Purpose to Promote Discharges\*

- Provide sitters, personal care at home
- Payment of hospice room and board
- Payment for home infusion drugs or staff to administer post discharge
- Provide for patient needs at home - accessibility needs
- Prepaid gas, public transportation, taxi pre-paid vouchers
  - From SNF for dialysis and back to SNF

*\*(still subject to final approval of board)*

### Questions?

Please contact Linda Cohen, MHCDS at [waivers@onecarevt.org](mailto:waivers@onecarevt.org) for more information.



QUESTIONS?

Linda Cohen

Assistant GC Contracting and Innovation

[Linda.Cohen@onecarevt.org](mailto:Linda.Cohen@onecarevt.org)

[waivers@onecare vt.org](mailto:waivers@onecare vt.org)