

Congress of the United States

Washington, DC 20515

December 12, 2023

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human
Services
200 Independence Ave SW
Washington D.C. 20201

The Honorable Dr. Rahul Gupta
Director
Office of National Drug Control Policy
1800 G Street, NW
Washington, D.C. 20006

Dear Secretary Becerra and Director Gupta,

As you know, illicit drug use is escalating and growing in complexity. Stimulant use, alone and in combination with fentanyl, is a significant contributing element of this changing crisis. We write to request information regarding the efforts taking place at the Department of Health and Human Services (HHS) and the Office of National Drug Control Policy (ONDCP) to expand access to contingency management (CM) services—the only evidence-based treatment available to treat stimulant use disorder.

According to the NIH, overdose is the leading cause of death for Americans aged 18-45, and drug overdose deaths increasingly involve stimulants such as cocaine and methamphetamines.¹² Recent research found a 50-fold increase in the methamphetamine mortality rate in 2021.³ That year, stimulants alone or in combination with fentanyl were detected in 47.1% of overdose deaths.⁴

There are no FDA-approved medications for the treatment of stimulant use disorder. However, CM is a highly effective and underused behavioral intervention that reduces stimulant use. It is one of the most researched interventions in SUD treatment, with decades of research and peer-reviewed literature validating the effective use of CM.⁵ The intervention uses positive reinforcement, including financial incentives, to encourage abstinence from stimulant use.

¹ National Institutes of Health, *Impact of NIH Research: Improving Health, Substance Use* (online at:

www.nih.gov/about-nih/what-we-do/impact-nih-research/improving-health/substance-use) (accessed Dec. 14, 2023).

² Centers for Disease Control and Prevention National Center for Health Statistics, *Drug Overdose Deaths in the United States 2001-2021* (online at: <https://www.cdc.gov/nchs/products/databriefs/db457.htm>) (accessed Dec. 14, 2023).

³ Hoopsick, R. A., & Andrew Yockey, R. (2023). Methamphetamine-Related Mortality in the United States: Co-Involvement of Heroin and Fentanyl, 1999-2021. *American Journal of Public Health*, 113(4), 416–419. <https://doi.org/10.2105/AJPH.2022.307212>

⁴ Friedman, J., & Shover, C. (2022). Charting the Fourth Wave: Geographic, Temporal, Race/Ethnicity, and Demographic Trends in Polysubstance Fentanyl Overdose Deaths in the United States, 2010-2021. *medRxiv*, 2022-11. <https://doi.org/10.1101/2022.11.04.22281945>

⁵ Bolívar, H. A., Klemperer, E. M., Coleman, S. R., DeSarno, M., Skelly, J. M., & Higgins, S. T. (2021). Contingency management for patients receiving medication for opioid use disorder: a systematic review and meta-analysis. *JAMA Psychiatry*, 78(10), 1092-1102. <https://doi.org/10.1001/jamapsychiatry.2021.1969>

Recognizing the need to offer treatment to individuals with stimulant use disorder, HHS has permitted the use of grant funds to provide financial incentives. Despite a rule from the Office of the Inspector General that permits CM financial incentives, with appropriate safeguards and no specified dollar limit, the amount of HHS grant funds for incentives has been restricted to a total of \$75.00 for an individual participating in CM. There is no research to support incentives at this low level of funding—meaning that HHS dollars may not be supporting effective CM protocols.⁶

Further, this restriction leads states to implement a non-evidence-based practice that could result in poor outcomes and undermine public faith in the CM, while jeopardizing clinical and scientific integrity.

We were pleased to see a provision included in the 2023 Consolidated Appropriations Act requiring HHS OIG to review adding a safe harbor to federal anti-kickback statutes for evidence-based CM by December 2024 and recommendations to Congress by 2025 for improving access to CM.⁷ A November 7, 2023, HHS Report, *Contingency Management for the Treatment of Substance Use Disorders: Enhancing Access, Quality, and Program Integrity for an Evidence-Based Intervention*, echoes the call for examining and issuing guidance or other clarifications that explain permissible CM activities under potentially applicable federal fraud and abuse laws to ensure maximum access to CM.

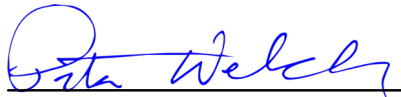
Our communities, however, do not have years to wait to access evidence-based CM services. As the overdose crisis worsens, we must do more to expand access to CM now. Therefore, we request a briefing on this topic and answers to the following questions no later than January 12, 2024:

1. What existing authorities are available to the Administration to increase the \$75 incentive limit within the Substance Abuse and Mental Health Services Administration State Opioid Response grant without congressional action?
2. Which federal substance use disorder and overdose prevention programs can currently be used to support CM interventions?
3. What specific actions have HHS and ONDCP taken to-date to encourage the uptake of evidence-based CM services, and what additional actions—if any—does the Administration plan to take and in what timeframe?

⁶ Petry, N. M., Tedford, J., Austin, M., Nich, C., Carroll, K. M., Rounsaville, B.J. *Prize Reinforcement contingency management for treating cocaine users: how low can we go, and with whom?* *Addiction*, 99(3), 349-360. (2004) (online at <https://doi.org/10.1111/j.1360-0443.2003.00642.x>).

⁷ Consolidated Appropriations Act of 2023, Pub. L. No. 117-328.

Sincerely,



Peter Welch
United States Senator



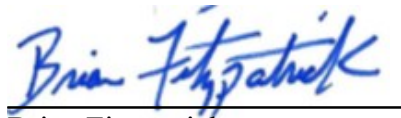
David J. Trone
Member of Congress



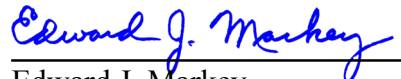
Lisa C. McClain
Member of Congress



Ann McLane Kuster
Member of Congress



Brian Fitzpatrick
Member of Congress



Edward J. Markey
United States Senator



Adam B. Schiff
Member of Congress



Becca Balint
Member of Congress



Terri A. Sewell
Member of Congress



Barbara Lee
Member of Congress