

General Information

Policy Name:	Stark Law Non-Monetary Compensation
Category:	Risk Management – Corporate Compliance
Applies To:	Physicians employed by Crouse Health & the responsible person(s) who approve funds and/or provide physicians with non-monetary gifts/benefits.
Key Words:	Stark, Gifts, Physicians, Anti-Kickback Statute
Associated Forms & Policies:	<u>Non-Monetary Compensation and Incidental Benefit Tracking Sheet (Doc #8933)</u>
Original Effective Date:	06/01/18
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Policy

It is the policy of Crouse Health to comply with federal laws related to giving gifts and other non-monetary compensation to physicians. Such laws include the Stark Law and Anti-Kickback Statute.

The purpose of this policy is to ensure no referrals are based on a financial relationship between the referring physician and Crouse Health. In order to achieve this Crouse Health has established the following policy:

- Non-monetary compensation (referred to as non-monetary gifts/benefits throughout this policy) will not be provided to any physician based on the volume or value of referrals to Crouse Health;
- Crouse Health prohibits referrals to accountable care organization (ACO) providers based on the organization's participation in such programs and shall not induce ACO beneficiaries with gifts or gratuities to keep participation active or receive certain services.
- All non-monetary benefits/gifts offered to physicians and/or their immediate family members, including but not limited to; meals, tickets to sporting events/concerts/cultural events, and small gifts, must be disclosed to Risk Management and must comply with the Stark Law and Anti-Kickback Statute.
- Non-monetary compensation given to physicians must not exceed the allowable amount established by the Centers for Medicare & Medicaid Services (adjusted annually).

Procedure

- A. When a physician, or group of physicians, is provided with a non-monetary benefit/gift, the benefit/gift will be documented and maintained by the Executive Administrative Assistant in conjunction with Risk Management. Responsible persons providing the benefit/gift will inform the Executive Administrative Assistant of the following:
1. The physician(s) in receipt of the benefit/gift.
 2. The reason for the benefit/gift.
 3. The monetary amount of the benefit/gift.
 - i. If a discount is given for group pricing to events such as; sport events, the fair market value must be used as the amount.
 - ii. How the value was determined.

4. The date the physician(s) received the gift/benefit.
 5. If a physician's immediate family member(s) were also given a non-monetary gift/benefit.
 - i. If so, the number of family members (value will be increased per recipient).
- B. Risk Management will track each non-monetary benefit/gift given to each individual physician. Should a physician be close to reaching the allowable amount, a warning will be sent out to that individual physician, their direct supervisor, and the responsible person(s).
- C. In the event physician should exceed the allowable amount of non-monetary compensation, the Compliance Officer may involve legal counsel to determine next steps. Such compensation is deemed to be in compliance with the Stark Law if:
1. The exceeded amount is valued at no more than 50% the annual limit; and,
 2. The physician returns the excess non-monetary compensation (or an equal amount to its value) back to Crouse Health (i) by the end of the calendar year (ii) within 180 consecutive days; whichever occurs first.
 3. The physician has not exceeded the annual limit more than once in a three year period.

References

Non-Monetary Compensation limit: https://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/CPI-U_Updates

Social Security Act (42 U.S.C. 1395nn): <https://www.cms.gov/medicare/fraud-and-abuse/physicianselfreferral/index.html>

Definitions

Non-Monetary Compensation (examples)- Off campus meals, event tickets, rounds of golf, wine, gift baskets, small items with logos, use of services/employees, holiday gifts, flowers, education, etc.

Incidental Benefits- Benefits that meet all of the following requirements: (1) Non-monetary compensation offered to all members of the medical staff practicing in the same specialty (not necessarily accepted by every member to whom it is offered) without regard to volume or value of referrals; (2) compensation provided only during periods when the medical staff are making rounds or engaged in other services or activities that benefit the hospital or its patients; (3) non-monetary compensation is provided and only used by the medical staff members, and only on the hospital's campus (i.e. internet access, devices that are used to access hospital medical records or information meets the requirement for 'on-campus'); (4) non-monetary compensation is reasonably related to the delivery or provision of medical services at the hospital, (5) non-monetary compensation must be of low value (as defined annually by the Centers for Medicare & Medicaid).

Responsible Person(s)- means any individual or department of Crouse Health that provides, directs, or approves the provision of items or services that qualify as non-monetary compensation or incidental benefits.

Immediate Family Members- Spouse, parent/child/sibling birth or adoptive, stepparent, stepchild, stepsibling, mother/father in-law, son/daughter in-law, brother/sister in-law, grandparent, grandchild, spouse of grand parent/child.

Accountable Care Organization (ACO) - A legal entity that is recognized and authorized under applicable State, Federal, or Tribal Law, is identified by a Taxpayer Identification Number (TIN). It is formed by networks of hospitals, physician practices and specialists that come together to contract with a payer to share medical and financial responsibility for coordinating care of a patient population. Caravan Health is the Crouse Health ACO.

Addendums, Diagrams & Illustrations

Not Applicable