



## Gifts, Meals, and Entertainment to Referral Sources & Medical Staff Incidental Benefits for Physicians

### PURPOSE

Federal and state laws prohibit the Company from offering or paying anything of value to induce a person to refer, order or arrange a health care item or service provided by the Company. This policy establishes guidelines for providing (i) gifts, meals, entertainment, and other items of value to referral sources; and (ii) incidental benefits to physicians on a Company hospital's medical staff.

### SCOPE

This policy applies to all Company employees and agents acting on behalf of the Company.

### DEFINITIONS

**"GME"** - means gifts, meals, entertainment and any other item or service of value. GME does not include items or services provided pursuant to a signed contract (for example, a Medical or Program Medical Director Agreement that reimburses the director for meal and travel costs related to their administrative duties as a director).

**"Annual GME Limit"** - the limit for GME spending to or for a Physician Referral Source is **\$429** per year. The limit for GME spending to or for a Non-Physician Referral Source is (i) **\$75** per recipient per event, not to exceed \$200 per recipient per year in the aggregate, for an individual; and (ii) **\$429** per year for an entity or organization, as described in more detail below.

#### Policy Details

Policy ID

CMP-200

Audience

All

Effective Date

2/1/2013

Last Review Date

12/31/2020

**“Medical Staff Incidental Benefits”**—are certain items and services that are provided to all physician medical staff of a Company hospital during working hours, subject to the conditions described in Procedures 1.b below.

**“Medical Staff Incidental Benefits Limit”** - spending on Medical Staff Incidental Benefits does not count against the Annual GME Limit, but is subject to a separate limit of **\$37** per item per physician.

**“Physician Referral Source”** -- means a physician (or an “immediate family member” of a physician) who (i) refers patients to the Company, (ii) orders items or services for patients of a Company hospital; or (iii) is on the medical staff of a Company hospital. (An **“immediate family member”** of a physician means the physician’s husband or wife; birth or adoptive parent, child, or sibling; stepparent, stepchild, stepbrother, or stepsister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; grandparent or grandchild; and spouse of a grandparent or grandchild of the physician.)

**“Non-Physician Referral Source”** - means any person or entity (including employees of such entity) that refers a patient to the Company, or that may arrange, recommend, or order a referral to the Company. Examples include, but are not limited to, an acute care hospital and its employees, such as discharge planners, case managers, and social workers.

## **ROLES & RESPONSIBILITIES**

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N/A

## **POLICY**

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### **1. Physician Referral Sources.**

- a. A Company hospital may provide up to \$429 of GME to a Physician Referral Source per year. A Company hospital may not provide GME to a Physician Referral Source in excess of the Annual GME Limit of \$429.
- b. In addition, a Company hospital may provide up to \$37 per item of Medical Staff Incidental Benefits to a Physician Referral Source, so long as all of the requirements of Procedure 1.b below are met.

### **2. Non-Physician Referral Sources.** The Company may provide GME to a Non-Physician Referral Source as long as the value of the GME does not exceed the following:

- a. For an individual (e.g., an employee of a Non-Physician Referral Source, such as a case manager or discharge planner employed by an acute care hospital; or a nurse practitioner (NP) or physician assistant (PA)): \$75 per individual recipient per event, not to exceed \$200 per individual recipient per year in the aggregate.

- b. For an entity or organization (e.g., a Non-Physician Referral Source that is an acute care hospital or other health care provider): \$429 per year per acute care hospital/provider recipient. This Section 2.b applies to collective GME provided to an entity or organization (i.e., a food basket or holiday wreath), and does not apply to individual GME provided to individuals employed by or otherwise affiliated with the entity or organization.
3. **Tracking GME.** Each Company hospital must track GME provided to Physician Referral Sources and Non-Physician Referral Sources in accordance with the Referral Source Spend Tracking of Gifts, Meals, and Entertainment Procedures to ensure compliance with applicable limits. Any GME for a Physician Referral Source or a Non-Physician Referral Source that exceeds the Annual GME Limit must be immediately reported to the Ethics & Compliance Department.
4. **Limitations.**
- a. The Company can provide GME only based on its own initiative. GME may not be provided at the request of a Physician or Non-Physician Referral Source. (This limitation does not restrict a Company hospital from accepting requests to sponsor a charitable or community service event that is otherwise consistent with Charitable Giving, Fundraising, and Sponsorship Agreement Policy HRS-132).
  - b. Under no circumstances may GME be related to the number, volume, value or amount of referrals from, or services or items ordered by, any person or entity.

These policies are explained in more detail below.

## PROCEDURES

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### 1. Physician Referral Sources.

- a. Gifts, Meals and Entertainment (GME). A Company hospital may provide GME to a Physician Referral Source, as long as the Annual GME Limit of \$429 is not exceeded. This limit applies collectively to all GME provided to the Physician Referral Source.
  - i. GME should be linked to an opportunity to educate the Physician Referral Source regarding Company services and the benefits of inpatient and outpatient rehabilitation services to patients. However, GME can also include certain modest social events sponsored or hosted by the Company such as meals, sporting events, and receptions.
  - ii. No cash or cash equivalents may be provided to any Physician Referral Source (e.g., no gift certificates, store-branded gift cards, debit or credit cards, frequent flyer miles, checks, bonds or stock certificates).

- iii. Each Company hospital must track and aggregate all GME provided to a Physician Referral Source in accordance with the Referral Source Spend Tracking of Gifts, Meals, and Entertainment Procedures.
  - iv. The Annual GME Limit is per physician per Company hospital, regardless of the number of Company hospitals that may provide GME to that Physician Referral Source.
  - v. Any GME related to a Physician Referral Source's immediate family member must be applied toward the Physician Referral Source's Annual GME Limit. For example, if an immediate family member attends a meal or event provided by the Company, then the immediate family member's pro rata share of the total cost of the meal or event must be applied toward the Physician Referral Source's Annual GME Limit.
  - vi. The spending associated with meals provided during medical executive and governing body meetings do not need to be included in the Annual GME Limit for the physician members of the committees. However, if a Physician Referral Source who is not a member of the committees participates, the cost associated with that physician's meal must be included in his Annual GME Limit.
  - vii. The spending associated with GME provided to a Company Medical Director or Program Medical Director, who is participating in the GME as part of the director's administrative duties pursuant to a signed contract with a Company hospital, do not need to be included in the Medical Director's or Program Medical Director's Annual GME Limit.
  - viii. In addition to the Annual GME Limit of \$429, the Company hospitals may provide one annual, local medical staff appreciation event (e.g., a holiday party or appreciation function) for the entire medical staff. This annual appreciation event does not count against the Annual GME Limit; however, any gifts or gratuities provided in connection with such an event do count against the Annual GME Limit and should be tracked.
- b. Medical Staff Incidental Benefits. In addition to the GME described above, the Company may also provide Medical Staff Incidental Benefits to a Physician Referral Source.

Medical Staff Incidental Benefits are items and services that may be provided from a Company hospital to a medical staff physician member as long as ALL of the following requirements are met:

- i. The item or service is offered to all members of the medical staff practicing in the same specialty and is not offered in a manner that takes into account the volume or value of referrals or other business generated between the parties.
- ii. The item or service is provided only during periods when the medical staff members are making rounds or are engaging in other services or activities that benefit the hospital or its patients.

- iii. The item or service is provided by the hospital and used by the medical staff members only on the hospital's campus.
  - 1. "On campus" includes internet access, pagers, and devices used away from the campus only to access hospital medical records or information, or to access patients or personnel who are on the hospital campus.
- iv. The item or service is reasonably related to the provision of (or designed to facilitate directly or indirectly, the delivery of) medical services at the hospital.
- v. The value of each item or service to each physician does not exceed the Medical Staff Incidental Benefits Limit of \$37 per item per physician. A hospital is not required to aggregate annually the value of each Medical Staff Incidental Benefit. Therefore, a hospital may provide its medical staff with multiple Medical Staff Incidental Benefits as long as each benefit does not exceed the Medical Staff Incidental Benefits Limit. The value of Medical Staff Incidental Benefits does not count toward the Physician Referral Source's Annual GME Limit. Therefore, it does not need to be tracked.

## 2. Non-Physician Referral Sources

- a. The Company may provide GME to a Non-Physician Referral Source as long as the value of the GME does not exceed the following:
  - i. For an individual (e.g., an employee of a Non-Physician Referral Source, such as a case manager or discharge planner employed by an acute care hospital, or a nurse practitioner (NP) or physician assistant (PA)): \$75 per individual recipient per event, not to exceed \$200 per individual recipient per year in the aggregate.
  - ii. For an entity or organization (e.g., a Non-Physician Referral Source that is an acute care hospital or other health care provider): \$429 per year per acute care hospital/provider recipient. This Section 2.a.ii applies to collective GME provided to an entity or organization (i.e., a food basket or holiday wreath) and does not apply to individual GME provided to individuals employed by or otherwise affiliated with the entity or organization.
- b. All GME provided to Non-Physician Referral Sources MUST be in conjunction with an educational opportunity or a purpose reasonably related to the promotion Company's services and business except as set forth in Procedures 2.e and 2.f below.
- c. No cash or cash equivalents may be provided to any Non-Physician Referral Source (e.g., no gift certificates, store-branded gift cards, debit or credit cards, frequent flyer miles, checks, bonds or stock certificates).

- d. Each Company hospital must track and aggregate all GME provided to a Non-Physician Referral Source in accordance with the Referral Source Spend Tracking of Gifts, Meals, and Entertainment Procedures to ensure compliance with the Annual GME Limits of \$75 per individual recipient per event/\$200 per individual recipient per year in the aggregate; and \$429 per year per acute care hospital/provider recipient.
- e. In addition to the Annual GME Limit described above, Company hospitals may provide one annual local appreciation event (e.g., a holiday party or appreciation function) for an acute care hospital's non-physician employed staff. This annual appreciation event does not count against the Annual GME Limit; however, any gifts or gratuities provided in connection with such an event do count against the Annual GME Limit and should be tracked pursuant to Procedure 2.d above.
- f. Company hospitals may provide GME without an accompanying in-service or educational event only during these recognition periods:
  - i. Hospital Week
  - ii. Social Worker Week/Month
  - iii. Case Manager Week/Month
  - iv. National Nurses Week
  - v. Doctor Day
  - vi. Therapy recognition periods (i.e., PT/OT/ST Week/Month)

The value of GME provided to physician and non-physician referral sources as part of these recognition week activities must be tracked.

### 3. Use of Employee's Personal Funds

Company employees may not use personal money for GME for Physician or Non-Physician Referral Sources. All GME should be submitted to the Company for reimbursement. In addition, benefits (or offers of benefits) a Company employee receives from a vendor or third-party may not be "passed through" to any Physician or Non-Physician Referral Source (i.e., vendor discounts).

### 4. Examples

See Attachment A for examples of how to account for GME and Medical Staff Incidental Benefits for Physician Referral Sources and Non-Physician Referral Sources.

## GUIDELINES

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## REFERENCES

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42 CFR 411.357(k) and (m)

## NOTES

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**Contact Person:** National Director - Compliance Audit and Investigations