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 All Departments

Policy : Non-Monetary Compensation and Medical Staff Incidental Courtesies and Exceptions

I. SUMMARY:

The purpose of this procedure is to provide guidance with respect to how compensation in the form of certain items and services provided to physicians and their immediate family members.

II. DEFINITIONS:

- A. **Business courtesies** include gifts, entertainment and professional courtesy discounts. They include items of value given to a potential referral source or immediate family member free of cost, as well as events sponsored or hosted by the District such as meals, sporting events, theatrical events and receptions.
- B. **Immediate family member** includes: husband or wife; natural 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.
- C. **Potential referral source** includes: a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor.

III. POLICY:

A. Standards of Practice

1. All business courtesies offered to physicians and/or their immediate family members must meet the guidelines stated in this procedure, and thus not create a "financial relationship" between the physician and Palomar Health.
2. Nothing in this procedure permits the use of a business courtesy that is intended to induce or reward the referrals of patients or that is intended to induce or reward the purchasing, leasing, ordering, or arranging for any good, facility, service, or item paid for by Medicare or State health care programs.

B. Steps of Procedure

1. **Non-Monetary Compensation Exception:** A "financial relationship" as defined under the Stark Law is not created through the provision of compensation from an entity to a physician or a physician's immediate family member in the form of items or services that does not exceed a cost of \$3 per item and an aggregate maximum benefit of \$429 in calendar year 2021, adjusted for inflation on an annual basis, if all the following conditions are satisfied:
 1. It is not cash or a cash equivalent (e.g., checks or stock instruments);
 2. It does not exceed the maximum benefit limit in the regulations for the calendar year; pursuant to the Non-Monetary Compensation Stark exception not more than \$35 per occurrence pursuant to the Medical Staff Incidental Benefit Stark exception. Updates to this indexed limit can be found at http://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/CPI-U_Updates.html.
 3. It is not solicited by the potential referral source.
 4. The compensation arrangement does not violate the Federal Anti-Kickback statute, section 1128B(b) of the Act, or any Federal or State law or regulation governing billing or claims submission in any manner that takes into account the volume or value of referrals.
 5. If Palomar Health has inadvertently provided non-monetary compensation to a physician in excess of the limit such compensation is deemed to be within the limit if:
 - a. the value of the excess non-monetary compensation is no more than 50 percent of the limit; and
 - b. the physician returns to the entity the excess non-monetary compensation (or an amount equal to the value of the excess non-monetary compensation) by the end of the calendar year in which the excess non-monetary compensation was received or within 180 consecutive calendar days following the date the excess non-monetary compensation was received by the physician, whichever is earlier.
 6. Cost of the Non-Monetary Compensation and supporting documentation are entered into the online Palomar Health Physician Non-Monetary Compensation tracking log.

2. **Medical Staff Incidental Benefits Exception:** A “financial relationship” as defined under the Stark Law is not created through the provision of compensation in the form of items or services from Palomar Health to a member of its medical staff when the item or service is used on Palomar Health’s campus, if all of the following conditions are met:
 1. The compensation does not include cash or cash equivalents.
 2. The compensation is offered to all members of the medical staff practicing in the same specialty (but not necessarily accepted by every member to whom it is offered) without regard to the volume or value of referrals or other business generated between the parties.
 3. Except with respect to identification of medical staff on Palomar Health’s website or in advertising, the compensation is provided only during periods when the medical staff members are making rounds or are engaged in other services or activities that benefit Palomar Health or its patients.
 4. The compensation is provided by Palomar Health and used by the medical staff members only on Palomar Health’s campus. Compensation, including, but not limited to, internet access, pagers, or two-way radios, used away from the campus only to access hospital medical records or information or to access patients or personnel who are on Palomar Health’s campus will meet the “on campus” requirements of this paragraph.
 5. The compensation is reasonably related to the provision of, or designed to facilitate directly or indirectly the delivery of, medical services at Palomar Health.
 6. The compensation is of low value (less than \$37) with respect to each occurrence of the benefit (for example, free cafeteria meals available to a physician while he or she is rounding in the hospital).
 7. The compensation is not determined in any manner that takes into account the volume or value of referrals or other business generated between the parties.
 8. The compensation arrangement does not violate the Federal Anti-kickback provision in section 1128B(b) of the Act, or any Federal or State law or regulation governing billing or claims submission.
3. **The following are examples of business courtesies that must be included as "compensation" under the Stark Law non-monetary compensation exception and must be tracked and are not limited to the following:**
 - a. Business related meals not furnished in connection with an executed bona fide personal services arrangement.
 - b. Sporting events or other similar events such as theater and concerts, including the cost of the tickets and a pro rata allocation of the cost of the meal;
 - c. Local recreational events, such as fishing, boating, hunting and golfing, including cart fees and meals, but excluding the value of the charitable contribution if the event is a charity event;
 - d. CME seminars held off campus and all CME seminars held on campus if the value of the on campus CME seminar is greater than \$3 per invited physician per occurrence
 - e. Prizes and awards given on special days, such as "Doctor Day"
 - f. Flowers or other gifts provided physicians or their immediate family members when they are hospitalized or to recognize a special event, such as a birthday;
 - g. Room allowances or other financial benefits provided to physician governing board members at a governing board retreat if the benefit is not offered to all governing board members and if the compensation or benefit is not listed as compensation for the member’s services in his or her appointment letter;
 - h. Holiday gifts given to governing board members and Chiefs of Staff in recognition of the time and energy expended on behalf of the hospitals and communities they serve.
 - i. In no event can Palomar Health provide a Physician with cash or cash equivalents, such as gift certificates, under any of the above situations.
4. The annual Palomar Health medical staff appreciation dinner is not considered a business courtesy and does not need to be tracked. Any gifts distributed in conjunction with the event, however are subject to the tracking requirement.
 1. The following are also NOT considered business courtesies:
 - a. An administrator who has become friends with a potential referral source and/or immediate family member and who socializes with such individual(s) may personally pay for the cost of social events;
 - b. A potential referral source who is also the spouse of an administrator may attend facility social events in his capacity as the administrators spouse and such events do not count toward the \$416 non-monetary exception limit and do not need to be tracked;
 - c. Governing board retreats where the hospital pays for travel, food and lodging for all its governing board members and the benefits is included as compensation in the member's appointment letter. In addition, the hospital may pay for leisure activities of its physician governing board members and the physician's spouse provided the benefit is extended to all governing board members and the benefits is included as compensation in the member's appointment letter;

- d. Meals served at the governing board meetings, whether held on campus or off campus ;
- e. Business related meals where the purpose is to discuss the physician's duties under a services agreement with the hospital where:
 - i. the agreement specifically contemplates such business meals, and
 - ii. the meal is modest as judged by local standards and occurs in a venue conducive to a meeting
- f. CME seminars held on campus provided the value of the CME seminar is less than \$3 per invited physician per occurrence, or compliance training held in the local service area where the primary purpose of the seminar is compliance training, regardless of cost.

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- Committees:	(04/13/2022) Policies & Procedures
- Signers:	<i>Helen Waishkey</i>
	<hr/> Helen Waishkey, Corporate Compliance Officer (04/14/2022 05:37AM PST)
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