

POLICY INFORMATION

Policy Title: Non-Monetary Compensation (Business Courtesies) and Incidental Medical Staff Benefits Policy - HQ 5.1.27

Departmental Owner: Chief Compliance, Audit, and Privacy Officer

Version Effective Date: November 30, 2023

Last Reviewed: November 30, 2023

SCOPE

This policy applies to the following individuals and/or groups:

- All of the below categories
 All Employees CT Employees NY Employees Remote Employees Contractors Volunteers Students/Interns Vendors

This policy applies to all above listed Nuvance Health workforce members including but not limited to the following locations:

- All of the below entities
- | | | |
|---|---|---|
| <input type="checkbox"/> Nuvance Health Systems | | |
| <input type="checkbox"/> Danbury Hospital (including New Milford Hospital Campus) | <input checked="" type="checkbox"/> Health Quest Systems, Inc. "(HQSI)" | <input type="checkbox"/> Western Connecticut Home Care, Inc ("WCHN") |
| <input checked="" type="checkbox"/> Northern Dutchess Hospital | <input checked="" type="checkbox"/> Health Quest Home Care, Inc | <input type="checkbox"/> Western Connecticut Health Network Physician Hospital Organization ACO, Inc. |
| <input type="checkbox"/> Norwalk Hospital | <input checked="" type="checkbox"/> Hudson Valley Cardiovascular Practice, P.C. (aka The Heart Center) ("HVCP") | <input type="checkbox"/> Western Connecticut Home Care, Inc |
| <input checked="" type="checkbox"/> Putnam Hospital | <input checked="" type="checkbox"/> Other HQSI-affiliated Entities Not Listed | <input type="checkbox"/> Other WCHN-affiliated Entities Not Listed |
| <input checked="" type="checkbox"/> Sharon Hospital | | <input checked="" type="checkbox"/> Nuvance Health Medical Practices (NHMP PC, NHMP CT, ENYMS & HVCP) |
| <input checked="" type="checkbox"/> Vassar Brothers Medical Center | | |

POLICY STATEMENT/PURPOSE

The purpose of this policy is to provide guidance to Hospital employees and/or agents with respect to how compensation in the form of certain items and services is treated under the Non-Monetary Compensation Exception and the Medical Staff Incidental Benefits Exception of the federal "Stark" law, and to incorporate relevant guidance issued by the Office of Inspector General of the Department of Health and Human Services with respect to certain arrangements that may potentially implicate the federal "Anti-Kickback" statute.

DEFINITIONS

Physician: 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.

Immediate Family Member: A spouse or domestic partner, 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; and grandparent or grandchild.

Non-Monetary Compensation and Medical Staff Incidental Benefits Exceptions: The regulations at § 411.357(k) and (m) set forth exceptions to the Physician self-referral prohibition for certain non-monetary compensation and certain medical staff incidental benefits, respectively. Under both exceptions, the compensation limits are adjusted each calendar year to the nearest whole dollar by the increase in the Consumer Price Index-Urban All Item (CPI-U) for the 12-month period ending the preceding September 30.

For the calendar year beginning January 1, 2023, the compensation limit for Non-Monetary Compensation Exception at § 411.357(k) is \$489, and the value of any medical staff incidental benefits to be furnished in compliance with the exception at § 411.357(m)(5) is less than \$42 per occurrence of the benefit.

POLICY

A Hospital employee or agent may extend a business courtesy to a Physician and his or her Immediate Family Members under the following conditions:

- It is not a cash or cash equivalent gift.
- Does not exceed \$489 in value or cause the total value of business courtesies extended to the same Physician and the Physician's Immediate Family Members during the calendar year.
- Amount cannot be calculated based on volume or value of referrals.
- It is not solicited by the Physician.

If a hospital or employee/agent has inadvertently provided non-monetary compensation to a Physician or one of his or her Immediate Family Members in excess of the \$489 limit, such compensation is deemed to be within the \$489 limit if:

- The value of the excess non-monetary compensation is no more than 50% of the \$489 limit; **AND**
- The Physician or his or her Immediate Family Members return to the Hospital 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 and his or her Immediate Family Members, whichever is earlier.
- This "return" option may be used by an entity only once every three years with respect to the same referring Physician.

! Failure to meet the above criteria may result in a voluntary self-disclosure to the Centers for Medicare and Medicaid Services (CMS).

EXAMPLES OF BUSINESS COURTESIES

A. TRACKABLE BUSINESS COURTESIES:

- a. Paying the greens or entry fees for Physicians and/or their Immediate Family Members for golf (whether one-on-one or for a charity or facility golf tournament).
- b. Providing tickets for Physicians and/or their Immediate Family Members to sporting or theatrical (or similar) events.
- c. Providing flowers or other gifts to Physicians and/or their Immediate Family Members when they are hospitalized or to recognize a birthday or other family occasion.
- d. Hosting holiday or other parties for medical staff members and their spouses or guests other than one appreciation party per year.
- e. Paying for a table at a charitable event and providing a ticket or tickets to a Physician.
- f. Sending perishable items to a Physician's office when it is anticipated the Physician will share in the enjoyment of items. The value to each Physician in the practice is the total cost of the item divided by the number of persons who will enjoy the benefit of the items (i.e., total number of Physicians and employees in the practice). Such calculation does not need to be determined for food and beverages provided to the office staff. If the Physician is expected to participate, or is known to have participated,

- in a modest meal that the facility provides a practice, the facility is to attribute \$10 toward the Physician's business courtesies limit.
- g. Providing gifts or gratuities to members of the medical staff or their guests during an annual appreciation dinner.
 - h. Paying for restaurant dinners.
 - i. Paying for Continuing Medical Education (CME) seminars, if unrelated to medical services provided at the hospital.
 - j. Providing hospital staff services that otherwise would be paid for by a Physician practice (e.g., marketing assistance).
 - k. Providing food during office outreach visits.
 - l. Paying for admission to foundation or auxiliary functions.

B. NON-TRACKABLE ACTIVITIES (EXCLUSIONS)

The following activities are NOT considered business courtesies and may be provided to members of staff only if they are offered during periods when the members of staff (i.e., Physicians) are engaged in services or activities that benefit Hospital or its patients. Because they are not considered business courtesies, they do not count toward the \$429 annual business courtesy limit and do not need to be tracked. Specifically, the Hospital may:

- a. Provide items in exchange for their fair market value price.
- b. Provide meals at medical staff meetings, so long as the meeting is on-site and only a modest meal is provided.
- c. Pay the expenses of its board members (including Physician board members) to participate in a board retreat, including travel, meals and lodging expenses.
- d. Pay for a Physician's education session related to becoming a member of the Hospital Board of Trustees or of the Hospital Medical Executive Committee.
- e. Host a roundtable event with members of the community to discuss healthcare related issues or concerns. Refreshments only are served.
- f. Pay for a meal incidental to a meeting with a Physician to discuss issues relating to the Physician's medical directorship on behalf of the Hospital, pursuant to a professional services agreement with the Hospital that provides for it.
- g. Provide dinners for its Physicians who attend a Hospital medical executive committee (or similar) meetings, pursuant to a letter of appointment that provides for it.
- h. Pay for an annual Hospital medical staff appreciation dinner (including a holiday party), so long as:
 - i. The facility has a formal medical staff.
 - ii. All members of the medical staff are invited.
 - iii. The expense is not lavish or extravagant as defined by the Internal Revenue Code.
- i. The following are examples of this exclusion (note this list specifically excludes cash or cash equivalents, i.e., general purpose gift cards or certificates, which are not permissible):
 - i. The ability to access the records of patients remotely, including results of diagnostic and testing services;
 - ii. Internet access in the Physicians' lounge;
 - iii. Free parking in the Hospital garage;
 - iv. Pagers or other communication devices used away from Hospital locations (but only to access entity information or personnel);
 - v. Identification on the entity's website, (however, there can be no promotion or advertising of a Physician's private practice);
 - vi. Lab coat worn at the Hospital;

- vii. Other de minimis compensation offered to Hospital medical staff members, if the benefit is supplemental to the medical services being provided by the medical staff member, while the medical staff member is performing services at the entity.

C. ADDITIONAL EXCLUSIONS AND EXAMPLES

- a. The following are also NOT considered business courtesies:
 - i. A Hospital employee or agent who has become friends with a Physician and/or Immediate Family Member, and who socializes with such individual(s), may personally pay for the cost of social events provided the Hospital employee does not include this item as a business expense for tax purposes, and does not charge Hospital or otherwise receive reimbursement from Hospital to cover this expense.
 - i. A Physician who is also the spouse of a hospital employee may attend Hospital social events in his or her capacity as the employee's spouse, and such events do not count toward the business courtesies limit and do not need to be tracked.
 - ii. iii. Leadership Training - On occasion, certain Physician leaders are invited to Hospital leadership training sessions or strategic planning retreats that are intended to benefit Hospital. Hospital is permitted to cover the costs of these training sessions or retreats, even if the amount is anticipated to be in excess of the non-monetary compensation dollar value limit referenced, provided Hospital complies with the following:
 - 1. Physician leaders are invited to Hospital training sessions or retreats based on objective criteria (membership on the Hospital Board of Trustees or Hospital Medical Staff Executive Committee, committee chairs, etc.),
 - 2. A written agenda showing the participants and the business purposes of the training or retreat should be maintained,
 - 3. The nature or location of the training session or retreat is conducive to informational communication, and
 - 4. No recreational activities, gifts or other items or services of value that are not related to the business purpose of the event are provided to the participants.
 - iii. Dinners Solely for Business Purposes - If a Physician (not including spouses) receives a modest meal in connection with a meeting at a Hospital location, relating to Hospital business or medical staff work in furtherance of Hospital's mission, or if a Physician serves on the Hospital Board of Trustees or one of its entities or a Hospital Board committee and receives meals in connection with such service (whether on or off-campus), such a meal will not be considered "remuneration." If there is any question regarding whether a particular meal qualifies as "remuneration" and whether it must be tracked, please contact the Compliance Office and/or Legal Counsel to discuss particular situations.
 - iv. Compliance Training - Hospital may provide compliance training to a Physician (or to the Physician's Immediate Family Member or office staff) that practices in Hospital's service area, provided that the training is held in that service area. Compliance training includes the following:
 - 1. Training regarding the basic elements of a compliance program (i.e., establishing policies and procedures, training to staff, internal monitoring or reporting).
 - 2. Specific training regarding the requirements of federal and state healthcare programs (i.e., billing, coding, reasonable and necessary services, documentation, or unlawful referral arrangements).
 - 3. Training regarding other federal, state, or local laws, regulations, or rules governing the conduct of the party for which the training is provided. Compliance training can include programs that offer continuing medical education credit, provided that compliance training is the primary purpose of the program.



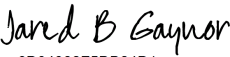
D. DOCUMENTATION AND MONITORING NON-MONETARY COMPENSATION

- a. All instances of non-monetary compensation expenses incurred must be reported to Health Quest’s designated record keeper using the Non-Monetary Compensation Documentation Form (Attachment 1). All instances meeting the definition of Non-Monetary Compensation benefits (Section A above) must be recorded in the Physician Benefit Documentation log by Hospital’s designated record keeper at each entity. The Non-Monetary Compensation record keeper is the Administrative Assistant for the President of the respective Hospital.
- b. All Hospital employees or agents that wish to provide Non-Monetary Compensation benefits to a Physician and/or Immediate Family Members are encouraged to utilize their Hospital or Health Quest corporate card to pay for the expense and provide detailed information about the benefit and recipient to Hospital’s designated record keeper at each entity within three (3) business days of the provision of the non-monetary compensation to ensure the annual, aggregate dollar value limits are not exceeded
- c. Circumstances may arise in which we find it necessary to take other steps not specifically designated here. We reserve the right to use professional judgment to do so at our discretion.

REFERENCES

42 C.F.R. § 411.357(k), § 411.357(m)

APPROVAL

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11/30/2023

Signature

Date