



POLICY INFORMATION

Policy Title: Patient Gifts Policy and Procedure

Departmental Owner: Chief Compliance, Audit, and Privacy Officer

Version Effective Date: 11/30/2024

Last Reviewed: 11/30/2024

SCOPE

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

All Covered Individuals (e.g., all Nuvance workforce members, business affiliates, and agents) as defined below under Definitions.

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

All of the below entities

Nuvance Health Systems

Danbury Hospital (including New Milford Hospital Campus)

Northern Dutchess Hospital

Norwalk Hospital

Putnam Hospital

Sharon Hospital

Vassar Brothers Medical Center

Health Quest Systems, Inc. "HQSI"

Health Quest Home Care, Inc

Hudson Valley Cardiovascular Practice, P.C. (aka The Heart Center) "HVCP"

Other HQSI-affiliated Entities Not Listed

Western Connecticut Home Care, Inc ("WCHN")

Western Connecticut Health Network Physician Hospital Organization ACO, Inc.

Western Connecticut Home Care, Inc

Other WCHN-affiliated Entities Not Listed

Nuvance Health Medical Practices (NHMP PC, NHMP CT, ENYMS & HVCP)

POLICY STATEMENT/PURPOSE

To establish Nuvance Health and its affiliates ("Nuvance") a policy related to the (i) offering of Gifts to patients; and (ii) receipt of Gifts from patients and visitors.

DEFINITIONS

For purposes of this policy, the terms listed below shall have the following meanings:

Applicable Federal and State Requirements: Any Federal or State statutes, regulations, or guidance applicable to Nuvance Health's operations; Medicare and Medicaid Manuals and transmittals; National Coverage Determinations; and publications issued by Medicare Administrative Contractors, including Local Coverage Determinations ("LCDs").

Gifts: include the receipt of anything of value and without fair market compensation, including the receipt of discounts, free or below-market value goods, or services. Also, perishable and consumable *Gifts*.

Covered Individual: Any Nuvance Health ("Nuvance") workforce member, business affiliate, or agent, as those terms are described in subdivisions (i)-(iii) below:

- i. *Workforce Members*

For purposes of this Policy, the term "workforce member" shall include any of the following individuals at Nuvance Health who, on a fulltime, part time or per diem basis, whether

functioning remotely, onsite, or any combination thereof, performs, executes, or otherwise carries out Nuvance Health functions, duties, or services:

1. Members of the Nuvance Health Board of Directors, and Members of the Boards of any Nuvance related entity including, without limitation, any Nuvance entity first highlighted above in Section III of this policy;¹
2. Chief Executive Officer;²
3. Corporate Officers;³
4. Executives and other senior managers regardless of title;⁴
5. Employees;⁵
6. Administrators;⁶
7. Managers;⁷
8. Affiliates;⁸
9. Medical Staff Members;⁹
10. Clinicians;¹⁰
11. Allied Health Professionals;¹¹
12. Appointees;¹²
13. Volunteers;¹³

¹ For purposes of this Policy, "members of the Nuvance Health Board of Directors and Members of the Boards of any Nuvance Health related entity" shall be construed to include members of any associated Board committee.

² 18 NYCRR 521-1.2 [b][1]

³ 18 NYCRR 521-1.2 [b][1]

⁴ New York State Office of the Medicaid Inspector General, Compliance Program Review Guidance, New York State Social Services Law 363-d and Title 18 New York Codes Rules and Regulations Part 521(10/26/16)(hereinafter 2016 OMIG Compliance Program Guidance), p.3

⁵ 18 NYCRR 521-1.2 [b][1]

⁶ 18 NYCRR 521-1.2 [b][1]

⁷ 18 NYCRR 521-1.2 [b][1]; see also, generally, OIG Compliance Program Guidance for Hospitals, 63 Fed. Reg. 8987, 8988, § [I] (1998)

⁸ 2023 OMIG Compliance Program Guidance, p. 18

⁹ See, generally, 2016 OMIG Compliance Program Guidance, p.3; see also OIG Compliance Program Guidance for Hospitals, 63 Fed. Reg. 8987, 8995-8996, § [II][E][I] (1998) and 18 NYCRR 521-1.2 [b][1] (last accessed on 9/3/24)

¹⁰ 18 NYCRR 521-1.2 [b][1]

¹¹ See, generally, OMIG Required Risk Areas at 18 NYCRR §521-1.3(d) (last accessed on 9/3/24)

¹² 2016 OMIG Compliance Program Guidance, p.3 (last accessed on 9/3/24)

¹³ 2016 OMIG Compliance Program Guidance, p.3 (last accessed on 9/3/24)



14. Personnel;¹⁴
15. Interns;¹⁵
16. Students;¹⁶
17. Trainees; **and**
18. Any individual whose performance or other conduct is under the direction and control of Nuvance Health, whether or not they are paid by Nuvance Health;

ii. *Business Affiliates:*

For purposes of this Policy, the term "Business Affiliate" shall include any non-workforce member contractor, independent contractor, vendor, subcontractor, consultant, third-party, or person (collectively "Contractors"), who or that, in acting on behalf of Nuvance Health:

- (1) Delivers, furnishes, prescribes, directs, orders, authorizes, administers, or otherwise provides Federal healthcare program items, supplies, and services;¹⁷
- (2) Performs coding or billing functions;¹⁸
- (3) Monitors the healthcare provided by Nuvance Health;¹⁹
- (4) Contributes to Nuvance Health's entitlement to payment under Federal healthcare programs or payment from private payors;²⁰

¹⁴ See, generally, OIG Compliance Program Guidance for Hospitals, 63 Fed. Reg. 8987, 8993, § [II][A][9] (1998) (last accessed on 9/3/24)

¹⁵ 18 NYCRR 521-1.2 [b][1] (last accessed on 9/3/24)

¹⁶ 18 NYCRR 521-1.2 [b][1] (last accessed on 9/3/24)

¹⁷ See CMS, DRA 6032 - Employee Education About False Claims Recovery- Frequently Asked Questions, p.6 (available at: <https://downloads.cms.gov/cmsgov/archived-downloads/SMDL/downloads/smd032207att1.pdf> (last accessed on 8/29/24); See, also, generally Department of Health and Human Services, Office of Inspector General, *OIG Special Advisory Bulletin on the Effect of Exclusion from Participation in Federal Health Care Programs* (Updated, 5/8/13) (available at: <https://oig.hhs.gov/exclusions/files/sab-05092013.pdf>)(last accessed on 9/3/24).

¹⁸ See CMS, DRA 6032 - Employee Education About False Claims Recovery - Frequently Asked Questions (available at: https://downloads.cms.gov/cmsgov/archived-downloads/SMDL/downloads/smd032207_att1.pdf)(last accessed on 8/29/24; see also CMS, Center for Medicaid and State Operations, Dear State Medicaid Director Letter dated 12/13/06):

<https://downloads.cms.gov/cmsgov/archived-downloads/SMDL/downloads/SMD121306.pdf>)(last accessed on 8/29/24)

¹⁹ See CMS, DRA 6032 - Employee Education About False Claims Recovery - Frequently Asked Questions <https://downloads.cms.gov/cmsgov/archived-downloads/SMDL/downloads/smd032207att1.pdf> (last accessed on 8/29/24; see also CMS, Center for Medicaid and State Operations, Dear State Medicaid Director Letter dated 12/13/06):

<https://downloads.cms.gov/cmsgov/archived-downloads/SMDL/downloads/SMD121306.pdf>)(last accessed on 8/29/24)

²⁰ 2016 OMIG Compliance Program Guidance, p.3



- (5) Is affected by any of the following Nuvance risk areas:²¹
 - (a) Medical record documentation;²²
 - (b) Coding;²³
 - (c) Billings;²⁴
 - (d) Claims preparation and submission;²⁵
 - (e) Claims reimbursement;²⁶
 - (f) Payments;²⁷
 - (g) Patient collections;²⁸
 - (h) Order services;²⁹
 - (i) Medical necessity;³⁰
 - (j) Quality of care;³¹
 - (k) Governance;³²
 - (l) Mandatory reporting;³³
 - (m) Credentialing;³⁴
 - (n) Contractor oversight;³⁵
 - (o) Identification and returning of overpayments;³⁶
 - (p) Joint ventures;³⁷
 - (q) Improper referrals, incentives, or financial arrangements;³⁸ or
 - (r) Cost reporting³⁹

- (6) Is otherwise affected by this policy due to their:

²¹ Note, business affiliates affected by "other risk areas that are or should reasonably be identified by Nuvance through its organization experience" are also covered under this policy to the extent that the potential impact of such risk areas when exploited could reasonably lead to, or result in, a potential or actual overpayment. (10 NYCRR 521-1.3 [d][10]). (last accessed on 9/3/24)

²² See 18 NYCRR 521-1.3 [d][10]

²³ See 18 NYCRR 521-1.3 [d][10]; see also CMS, DRA 6032- Employee Education About False Claims Recovery- Frequently Asked Questions (available at: <https://downloads.cms.gov/cmsgov/archived-downloads/SMDL/downloads/smd032207att1.pdf>)(last accessed on 8/29/24; see also CMS, Center for Medicaid and State Operations, Dear State Medicaid Director Letter dated 12/13/06): <https://downloads.cms.gov/cmsgov/archived-downloads/SMDL/downloads/SMD121306.pdf>)(last accessed on 8/29/24)

²⁴ See 18 NYCRR 521-1.3 [d][1]

²⁵ See 18 NYCRR 521-1.3 [d][10]

²⁶ See 18 NYCRR 521-1.3 [d][10]

²⁷ See 18 NYCRR 521-1.3 [d][2]

²⁸ See 18 NYCRR 521-1.3 [d][10]

²⁹ See 18 NYCRR 521-1.3 [d][3]

³⁰ See 18 NYCRR 521-1.3 [d][4]

³¹ See 18 NYCRR 521-1.3 [d][5]

³² See 18 NYCRR 521-1.3 [d][6]

³³ See 18 NYCRR 521-1.3 [d][7]

³⁴ See 18 NYCRR 521-1.3 [d][8]

³⁵ See 18 NYCRR 521-1.3 [d][9]; see also 42 USC 1396a [a][68][A] (last accessed on 9/3/24)

³⁶ See 18 NYCRR 521-1.3 [d][10]

³⁷ OIG Compliance Program Guidance for Hospitals, 63 Fed. Reg. 8987, 8990, § [11][A][2] (1998) (last accessed on 9/3/24)

³⁸ See 18 NYCRR 521-1.3 [d][10]

³⁹ See 18 NYCRR 521-1.3 [d][10]

- (a) duties, functions, role, or responsibilities; or⁴⁰
 - (b) provision of goods or services to Nuvance.
- iii. *Agents*: For purposes of this Policy, the term "Agent" shall mean individuals or entities that have entered into an agency relationship with Nuvance Health. Agents may fall under the categories of either Workforce Members or Business Affiliates.

POLICY

It is the policy of Nuvance to maintain the highest standard of ethical conduct in its relationships with its patients and visitors. This includes compliance with Applicable Federal and State Requirements with regard to the offering of Gifts to patients and receipt of Gifts from patients or visitors. For questions about the offering or receipt of a Gift, contact the Corporate Compliance-

I. Gifts to Patients

Nuvance and Covered Individuals may not offer or give Gifts to patients, except if the gift meets all the requirements set forth below:

- The Gift is not cash or a cash equivalent (such as Gift cards, Gift certificates, checks, money orders, etc.);
- The retail value of the Gifts is fifteen dollars (\$15) or less;
- The retail value of the Gift in combination with all other Gifts or other free or discounted goods and services furnished to the patient by Nuvance during the calendar year aggregate to a retail value not exceeding seventy-five dollars (\$75);
- Gifts are not offered on preferential terms to patients of specific physicians, but rather are made available on equivalent terms irrespective of the physician(s) treating the individual; and
- Nuvance does not seek reimbursement for the cost of providing the personal gifts from the relevant payer;
- Other permissible non-cash Gifts may involve preventative care, access to care, or transportation pursuant to Beneficiary Inducements Civil Monetary Penalty Law and Regulations: 42 U.S.C. § 1320a-7a(a)(5); 42 C.F.R. §§ 1003.101, 1003.102(c)(13), and subject to Anti-Kickback Statute and regulations: 42 U.S.C. § 1320a-7b(b); 42 C.F.R. § 1001.952; these Gifts must be approved in writing by the Legal or Compliance Office.

II. Gifts from Patients and Visitors

No Covered Individual may solicit or encourage a Gift from a patient or visitor. Covered Individuals should discourage patients or visitors from offering Gifts. A Covered Individual may politely thank the patient or visitor for the offered Gift but should inform the patient that Covered Individuals are not permitted to accept Gifts. Covered Individual may never accept cash or cash equivalents, such as Gift cards, Gift certificates, checks, money orders, etc., and if a Gift is delivered, all efforts should be made to return the Gift.

When patients, visitors, relatives, or friends express a desire to make a Gift or donation to Nuvance, they should be referred to the Hospital's Foundation Office, which will advise the donor with respect to the process for doing so.

⁴⁰ See 18 NYCRR 521-1.3 [d]; *see also* OIG Compliance Program Guidance for Hospitals, 63 Fed. Reg. 8987,

8989 § [II][A] (last accessed on 9/3/24)

PROCEDURE

I. Gifts to Patients

Prior to offering a patient a Gift, all Covered Individuals must review the requirements of the Patient Gifts Policy. After ensuring that the patient Gift meets the requirements of the policy and reviewing the patient chart for prior Gifts, the Covered Individual will document the Gift details in the patient's medical record.

Prior to providing a patient a Gift that may qualify as preventative care, access to care, or transportation, pursuant to Beneficiary Inducements Civil Monetary Penalty Law and Regulations: 42 U.S.C. § 1320a-7a(a)(5); 42 C.F.R. §§ 1003.101, 1003.102(c)(13), and subject to Anti-Kickback Statute and regulations: 42 U.S.C. § 1320a-7b(b); 42 C.F.R. § 1001.952; the Covered Individual must receive written approval by the Legal or Compliance Office. The written approval will be retained with Compliance.

II. Gifts from Patients and Visitors

No Covered Individual may solicit or encourage a Gift from a patient or visitor. Covered Individuals should discourage patients or visitors from offering Gifts. A Covered Individual may politely thank the patient or visitor for the offered Gift but should inform the patient that Covered Individuals are not permitted to accept Gifts. Covered Individuals may never accept cash or cash equivalents, such as such as Gift cards, Gift certificates, checks, money orders, etc., and if a Gift is delivered, all efforts should be made to return the Gift.

In circumstances where the Covered Individual believes declining a Gift would result in considerable embarrassment to the patient or visitor involved, the Covered Individual's respective department or clinical unit may accept a Gift, such as flowers or a food item; however, cash or cash equivalents may never be accepted. A Covered Individual may never accept a Gift that is given in an attempt by the patient or a visitor to secure preferential treatment.

Example: The family of a patient brings perishable food items to the unit on the day that the patient is being discharged from the hospital. Such a token of appreciation may be accepted by the clinical unit as a whole, if the Covered Individual to whom the perishable food item is made determines declining the Gift would involve considerable embarrassment to the patient or the patient's family.

When patients, visitors, relatives, or friends express a desire to make a Gift or donation to Nuvance, they should be referred to the Hospital's Foundation Office, which will advise the donor with respect to the process for doing so.

ENFORCEMENT

All individuals whose responsibilities are affected by this process are expected to be familiar with the basic procedures and responsibilities created by this process. Failure to comply with this process will be subject to appropriate remedial and/or disciplinary action, up to and including termination of any employment or other relationship, in accordance with this process.

REFERENCES

Anti-Kickback Statute and regulations: 42 U.S.C. § 1320a-7b(b); 42 C.F.R. § 1001.952 Beneficiary Inducements Civil Monetary Penalty Law and regulations: 42 U.S.C. § 1320a-7a(a)(5); 42 C.F.R. §§ 1003.101, 1003.102(c)(13)
OIG Policy Statement Regarding Gifts of Nominal Value to Medicare and Medicaid Beneficiaries (December 7, 2016)
OIG Special Advisory Bulletin, Offering Gifts and Other Inducements to Beneficiaries (August 2002)

APPROVAL

Signed by:

Jared B Gaynor

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Signature

12/19/2024

Date