

# FREQUENTLY ASKED QUESTIONS

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## PATIENT INDUCEMENT

The intent of the following FAQs is to help UW Medicine workforce members gain a better understanding of actions that may constitute patient inducement.

Federal healthcare regulators have long been concerned about the impact of inappropriate incentives in healthcare, which can undermine decision-making that prioritizes a patient's healthcare needs and best interests. Accordingly, several anti-fraud and abuse laws have been enacted – namely the Civil Monetary Penalties Law (CMPL) and a closely related law known as the Anti-Kickback Statute (AKS) as part of the Social Security Act – to help preserve the financial integrity and longevity of federal healthcare programs (e.g., Medicare, Medicaid, etc.). The CMPL, generally prohibits offering or paying rewards, incentives, discounts, or other items of value (known as “remuneration”) to federal beneficiaries, if the offer is likely to influence the beneficiary's choice of services or items that are paid for by insurance. Offering gifts to patients is sometimes referred to as “patient inducement.”

There are limited exceptions to the CMPL prohibition on patient inducement, as described below. As a general principle, you should avoid offering gifts or discounts to patients except in limited circumstances approved by senior leadership and/or in consultation with Compliance. For more information, please refer to the [UW Medicine Compliance Code of Conduct](#), or contact UW Medicine Compliance at [comply@uw.edu](mailto:comply@uw.edu) / 206.543.3098.

### 1. Why is giving something to patients prohibited?

Government regulators are concerned that offering inducements in the form of gifts or discounts inappropriately influences the patient's choice of healthcare provider. Regulators are also concerned that the cost of offering inducements may divert scarce resources away from the provision of high-quality care or may lead to unnecessary care to increase revenues. Finally, when inducements drive patients to larger providers, smaller providers may not be able to compete, with the potential result being fewer choices for patients.

### 2. What are some examples of prohibited gifts?

- Parking reimbursement for some but not all patients
- Routinely waiving patient co-pays or deductibles regardless of whether the patient can afford to pay
- Free equipment, supplies or drugs beyond a nominal value for patients to use at home
- Providing additional items or services for which the patient is not billed

### 3. Does the law permit giving anything to patients?

Yes, the law permits providers to offer certain *inexpensive* gifts other than cash or cash equivalents.

These are items valued at no more than \$15 individually, and no more than \$75 in the aggregate annually per patient (or patient's family). Examples include:

- Hospital-issued facemasks
- Hospital-issued slippers or toiletries/hygiene items related to a patient's hospital stay (e.g., toothbrushes, toothpaste, soap, shampoo, etc.)
- Free coffee in waiting area

**4. I want to give something to patients that will help in their treatment/recovery, but the value is more than \$15 (or \$75 in aggregate annually). What should I do?**

Start by talking with your supervisor and/or department leadership. If there is little or no risk of patient inducement, ask them to consult with UW Medicine Compliance. In addition, these are things to keep in mind when considering a gift valued beyond the thresholds mentioned above:

- The gift will be based on clinical need or policy and it will apply equally across the spectrum of patients (i.e., regardless of a patient's health insurance coverage status);
- No claim will be submitted to a federal healthcare program for reimbursement of the cost of the gift;
- The cost of the gift will not be added to the hospital's cost report;
- The gift will not be advertised or otherwise used to attract patients;
- The program is consistent with UW Medicine's mission and values; and
- Administration of the program will be based on a written policy or procedure to ensure adequate oversight.

**5. When are we permitted to waive co-pays, co-insurance, or other patient charges?**

The discounting or waiver of any portion of charges for healthcare services rendered at UW Medicine, including UW Medicine employees and practitioners, is generally prohibited unless certain circumstances exist, such as service recovery or financial need. Such waivers typically need to be approved by UW Medicine Compliance or, in some cases, they may be approved by UW Medicine Clinical Risk Management or the appropriate financial official. Refer to [UW Medicine Compliance Policy COMP.205 – Charge Waivers and Discounts](#) and the [UW Medicine Financial Assistance Policy](#) for more information.

**6. Are there any statutory exceptions which are also permitted under UW Medicine Policies?**

Yes, the exceptions are:

- Waivers of patient co-pays or deductibles based on a specific circumstance, such as service recovery or financial need – which are only approved as outlined in #5 above
- Practices which are permitted under the Federal Anti-Kickback Statute, e.g., certain types of local transportation assistance provided to patients which is related to their healthcare needs, such as providing them appropriate non-luxury, ground transportation home after they discharge from a hospital stay
- Properly disclosed differentials in health plan coinsurance and deductible amounts
- Incentives to promote the delivery of certain preventive services

- Waivers of certain hospital outpatient co-pays
- Items or services which promote access to care and pose a low risk of harm to patients and Federal healthcare programs (e.g., Medicare, Medicaid, etc.)
- Items or services for free or less than fair market value which are coupons, rebates, or other rewards from a retailer and:
  - are offered or transferred on equal terms available to the general public, regardless of health insurance status; and
  - are not tied to the provision of other items or services reimbursed in whole or in part by a federal healthcare program
- Items or services for free or less than fair market value which:
  - are not offered as part of any advertisement or solicitation; and
  - the items or services are not tied to the provision of other services reimbursed in whole or in part by the program under subchapter XVIII or a State health care program (as so defined); and
  - there is a reasonable connection between the items or services and the medical care of the individual; and
  - the person provides the items or services after determining in good faith that the individual is in financial need
- Providing telehealth technologies to patients with End-Stage Renal Disease (ESRD) in accordance with specific requirements <sup>1</sup>

The above exceptions are very fact-dependent, so please contact Compliance at [comply@uw.edu](mailto:comply@uw.edu) / **206.543.3098** to discuss patient gift ideas or initiatives you think may meet one of the above exceptions.

**7. If the items I want to give to patients can be secured as a donation to UW Medicine does that change any of these guidelines?**

No, all of the same guidelines and policies apply to donated items. In addition, all solicitations of donated items must be done in coordination with UW Medicine Advancement to ensure gift acceptance policies and procedures are followed. Please contact UW Medicine Advancement at **206.543.8205** before initiating a gift conversation with a potential donor.

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<sup>1</sup> <https://www.ssa.gov/OP Home/ssact/title11/1128A.htm>

## REFERENCES

Social Security Act:

[http://www.ssa.gov/OP\\_Home/ssact/title11/1128A.htm](http://www.ssa.gov/OP_Home/ssact/title11/1128A.htm)

OIG Final Rule – Medicare and State Health Care Programs: Fraud and Abuse; Revisions to the Safe Harbors Under the Anti-Kickback Statute and Civil Monetary Penalty Rules Regarding Beneficiary Inducements:

<https://www.federalregister.gov/documents/2016/12/07/2016-28297/medicare-and-state-health-care-programs-fraud-and-abuse-revisions-to-the-safe-harbors-under-the>

OIG Policy Statement Regarding Gifts of Nominal Value To Medicare and Medicaid Beneficiaries:

<https://oig.hhs.gov/fraud/docs/alertsandbulletins/OIG-Policy-Statement-Gifts-of-Nominal-Value.pdf>

OIG Special Advisory Bulletin:

<http://oig.hhs.gov/fraud/docs/alertsandbulletins/SABGiftsandInducements.pdf>

CMS FAQ on Waiving Deductibles and Co-Pays:

[http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/downloads/FAQ\\_Uninsured.pdf](http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/downloads/FAQ_Uninsured.pdf)

UW Medicine Compliance Policy COMP.205 – Charge Waivers and Discounts:

[https://depts.washington.edu/comply/docs/comp\\_205.pdf](https://depts.washington.edu/comply/docs/comp_205.pdf)

UWP Board of Trustees Policy on Waiver and Discount of Professional Charges:

<https://one.uwmedicine.org/sites/uwp/PP/Policies/Waiver%20Discount%20Policy.pdf#search=UWP%20Board%20of%20Trustees%20Policy%20on%20Waiver%20and%20Discount%20of%20Professional%20Charges>

VMC Requesting and Processing an Administrative / Contractual Adjustment Request Policy 1000.2:

<https://valleymed.sharepoint.com/:w:/r/sites/policycentral/PolicyCentral/Requesting%20%26%20Processing%20Administrative%20%26%20Contractual%20Adjust.doc?d=wdd93de3601dd40efb0777ea3f69bea1e&csf=1&web=1>

VMC Administering Valley Dividend Program Policy 1000.6:

<https://valleymed.sharepoint.com/:w:/r/sites/policycentral/PolicyCentral/Administering%20Valley%20Dividend%20Program.docx?d=w704d1b249b0e4f69a55c79aac4d90684&csf=1&web=1>

VMC, Financial Division, Uninsured and Non-Covered Service Discount Policy, PFS.5000.8:

[https://valleymed.sharepoint.com/:w:/r/sites/policycentral/\\_layouts/15/Doc.aspx?sourcedoc=%7B49AAE84E-B71F-475A-AB37-200F67D223B5%7D&action=view&source=https%3A%2F%2Fvalleymed.sharepoint.com%2Fsites%2Fpolicycentral%2FPolicyCentral%2FForms%2FFinancial.aspx%3FInitialTabId%3DRibbon%252ERead%26VisibilityContext%3DWSSTabPersistence%23InplviewHash5fef7db5-efdf-47e1-bb7a-29c0abb0834f%3D](https://valleymed.sharepoint.com/:w:/r/sites/policycentral/_layouts/15/Doc.aspx?sourcedoc=%7B49AAE84E-B71F-475A-AB37-200F67D223B5%7D&action=view&source=https%3A%2F%2Fvalleymed.sharepoint.com%2Fsites%2Fpolicycentral%2FPolicyCentral%2FForms%2FFinancial.aspx%3FInitialTabId%3DRibbon%252ERead%26VisibilityContext%3DWSSTabPersistence%23InplviewHash5fef7db5-efdf-47e1-bb7a-29c0abb0834f%3D)