

POLICY TITLE: NON-MONETARY COMPENSATION AND MEDICAL
STAFF INCIDENTAL BENEFITS

APPROVED BY: COMPLIANCE COMMITTEE

ORIGINATED BY: COMPLIANCE OFFICER

REVIEWED/REVISED: 1/2011; 10/02/2012; 10/01/2013; 10/01/2014; 4/01/2015

Key Points

- This Policy applies to The Christ Hospital and all of its wholly-owned entities (collectively “TCH”), including all TCH employees, Board members, medical staff members, and where appropriate, others who provide services to or on behalf of TCH.
- This Policy set forth guidelines regarding how TCH controls, monitoring, and valuation of all donations of non-cash items and services provided to referring Physicians. This policy provides guidelines for documenting, tracking and recording non-monetary compensation and medical staff incidental benefits.

DEFINITIONS

Immediate Family Member means spouse, 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.

Medical Staff Incidental Benefits means compensation in the form of items or services (excluding cash or cash equivalents) from TCH to a member of the medical staff when the item or service is used on TCH’s campus, provided that:

- (1) The compensation was offered to all members of the medical staff practicing in the same specialty without regard to the volume or value of referrals or business generated between the parties;
- (2) Except with regard to identifying the members of the medical staff on TCH’s website or in TCH’s advertising, the compensation was provided only during periods when the medical staff members were making rounds or were engaged in other services or activities that benefited TCH or its patients;
- (3) The compensation was provided and was used by the medical staff members only on TCH’s campus;
- (4) The compensation was reasonably related to the provision of medical services at TCH;

- (5) The value of the compensation was *less than* \$33 (for 2015)¹ with respect to each occurrence of the benefit;
- (6) The compensation was not in any manner related to the volume or value of referrals or business generated between the parties; and
- (7) The compensation arrangement did not violate the anti-kickback statute.

Examples include: Lab coats, Internet access that facilitates patient care, pagers or two-way radios, free parking and free cafeteria meals on TCH's campus during the time period when the Physician is in the hospital, identification on TCH's website or in TCH's advertising and TCH's physician referral service. *Cash or cash equivalents (e.g., gift cards or gift certificates) do not qualify for protection under the medical staff incidental benefits exception and may not be provided pursuant to this policy.*

Non-Monetary Compensation means compensation from TCH to a Physician (or an Immediate Family Member) in the form of items or services (excluding cash or cash equivalents) that does not exceed an annual aggregate of \$392 (for 2015)² provided that:

- (1) The compensation did not in any manner relate to volume or value of referrals or business generated by the referring Physician;
- (2) The compensation was not solicited by referring Physician; and
- (3) The compensation arrangement did not violate the anti-kickback statute.
- (4) TCH may host one local, annual event for the entire medical staff without the cost being subject to the Non-Monetary Compensation annual limit for those Physicians attending the event. Giveaways or gifts at such an event count toward the annual limit.

Examples include: non-working lunches, picnics, gift baskets or any type of gift or giveaway; flowers or donations made upon death of a family member or friend of a Physician; physician appreciation events or items (e.g., car wash, movie tickets, holiday food items such as turkeys or pies) holiday parties, golf outings, concerts or sporting events. *Cash or cash equivalents (e.g., gift cards or gift certificates) do not qualify for protection under the non-monetary compensation exception and may not be provided pursuant to this policy.*

Physician means 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.

Responsible Person(s) means any individual or department of TCH that provides or directs the provision of items or services that qualify as Non-Monetary Compensation or Medical Staff Incidental Benefits to Physicians.

¹ The limit is adjusted annually for inflation to the nearest whole dollar effective January 1 of each year using the increase in the Consumer Price Index-Urban All Items (CPI-U) for the 12-month period that ends the previous September 30 and is published on the CMS web site.

² The Non-Monetary Compensation annual limit is also adjusted annually. *See* footnote 1.

PROCEDURE

A. Reporting. All Responsible Persons providing either: (1) Non-Monetary Compensation to Physicians who are not employed by TCH or their Immediate Family Members; or, (2) Medical Staff Incidental Benefits to members of the medical staff, must provide detailed information to TCH's Division of Compliance & Organizational Ethics ("Compliance") prior to the provision of such items or services to ensure the applicable limits will not be exceeded. If the applicable limit would be exceeded by the anticipated cost of an item or service, the Compliance shall notify the Responsible Person immediately and the Responsible Person shall not provide such items or services to the Physician. Medical Staff Incidental Benefits in excess of \$32 must be reported as Non-Monetary Compensation to the individual Physician.

The fair market value of all items or services shall be reported to Compliance and copies of all receipts or and other documentation of costs or expenses shall be forwarded to Compliance by Responsible Persons. Reports shall be made on the Non-Monetary Compensation and Medical Staff Incidental Benefit Form attached hereto as Appendix A.

B. Log. Compliance shall maintain a complete log of all reports received by Responsible Persons. Such log shall be maintained on a calendar year basis.

C. Excessive Amounts.

- (1) In the event TCH has inadvertently provided Non-Monetary Compensation to a Physician in excess of the annual limit, such compensation is deemed to be within the limit if:
 - (a) the value of the Non-Monetary Compensation is no more than (50%) greater than the annual limit; and,
 - (b) the Physician returns to TCH the excess Non-Monetary Compensation (or an amount equal to its value) by *the earlier of*: (i) the end of the calendar year in which the excess Non-Monetary Compensation was received; or, (ii) within 180 consecutive calendar days following the date that the excess Non-Monetary Compensation was received.
- (2) If provision of an item or service exceeds the Non-Monetary Compensation limit, Compliance shall notify TCH's Chief Medical Officer (CMO). The CMO shall advise the Physician that the cap has been exceeded and shall seek prompt reimbursement of the excess amount as calculated above. If payment is not received within 15 days of such notice, TCH's Compliance Officer (CO) shall provide written notice to the affected Physician within 15 days. Such notice shall be in written form substantially similar to Appendix B with copies to the CMO, the President of the Medical Staff, the Chief Financial Officer (CFO), and legal counsel.

- D. **Annual Audit.** By or before January 31 of each year, Compliance shall review all Non-Monetary Compensation and Medical Staff Incidental Benefits provided to Physicians in the preceding calendar year. The CO shall perform, or cause to be performed, an audit of the appropriateness of a representative sample of such expenditures and TCH's collection efforts, if applicable.

EXAMPLES

- A. **Business Meals.** Provision of meals outside of those provided as a Medical Staff Incidental Benefit in the main hospital or TCH's satellite facilities generally must be tracked as Non-Monetary Compensation unless they meet the conditions of the Stark Personal Services Arrangements exception or are provided in connection with a meeting with a prospective physician recruit at which a TCH employee is in attendance. Business meals provided to Physicians at governing board or committee meetings do not need to be tracked as Non-Monetary Compensation. All business meals must be modest as judged by local standards and must occur in a venue conducive to conducting a meeting.
- B. **Employed Physicians.** Physicians employed by TCH are exempt from this policy and may receive items or services that would be considered Non-Monetary Compensation without tracking. Such items or services must be considered in the context of the Physicians' employment and compensation, which may not exceed fair market value. Responsible Persons shall consult with TCH's CO or legal counsel prospectively when considering the provision of such items or services to employed Physicians.
- C. **Continuing Medical Education.** CME provided on-campus which otherwise meets the conditions set forth above in the Definition of Medical Staff Incidental Benefits of this policy may be offered to Physicians and recorded as Medical Staff Incidental Benefits. All other CME or discounts related to CME must be counted as Non-Monetary Compensation and shall count toward the annual limit unless otherwise provided pursuant to a written agreement that satisfies the conditions of another exception under the Stark law.
- D. **Single Items.** A single item that exceeds the Non-Monetary Compensation annual limit may not be allocated to several Physicians in order to fall below the threshold. For example, a gift valued at \$750 may not be given to a three-person group practice and allocated to the Physicians at \$250 each. Rather the value would be \$750 for each Physician.
- E. **Fair Market Value.** The fair market value of items or services provided to Physicians pursuant to this policy shall be the full fair market value of the item or service, not the cost to TCH of providing such item or service.

- F. Spouses and Children.** Costs associated with meals, travel or other expenses related to a Physician's spouse or children generally are not permitted, with the exception of business meals provided to a Physician's spouse in connection with physician recruitment as described in Section V.A above.

COMPLIANCE

All Responsible Persons are expected to be familiar with and follow the content of this policy and procedure. Questions regarding this Policy may be addressed to the Division of Compliance & Organizational Ethics.

REFERENCES:

Stark Law, § 42 U.S.C 1395nn

Non-Monetary Compensation Exception, 42 C.F.R. § 411.357(k)

Medical Staff Incidental Benefits Exception, 42 C.F.R § 411.357(m)

Appendix A

Non-Monetary Compensation and Incidental Benefit Form

**PHYSICIAN NON-MONETARY COMPENSATION AND
MEDICAL STAFF INCIDENTAL BENEFITS REPORTING FORM**

Describe the items or services including anticipated value and the date items or services will be provided.

<u>Date</u>	<u>Item/Service</u>	<u>Value</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Recipient(s):

- All physicians on the medical staff.
- Individual physician. (Prepare separate form for each physician who will receive non-monetary compensation.)

Physician Name: _____

Practice Address: _____

National Provider No: _____

Requested by: _____

Date Requested: _____

Approved by: _____

Date Approved: _____

Appendix B

_____, 20__

_____, M.D./D.O.

Dear Dr. _____:

Pursuant to the federal Stark law, The Christ Hospital is obligated to annually value and track non-monetary items or services provided to each physician on its medical staff. In 2014, the Stark law allowed up to \$385 in the aggregate for each physician. Our records indicate you have received items or services that exceed the allowable amount by \$_____. The law requires us to seek repayment of this amount from you.

Please remit payment to The Christ Hospital for the above amount on or before _____, 20__. You may drop off or send your check to _____, Ohio _____. If you have questions or concerns, please do not hesitate to contact me at ____-____-_____.

We appreciate your prompt attention to this matter.

Sincerely,

Compliance Officer

cc: CMO
CFO
President, Medical Staff
Legal Counsel