

**Policy:** INCIDENTAL BENEFITS AND NON-MONETARY COMPENSATION TO REFERRAL SOURCES

**Type:** CORPORATE COMPLIANCE POLICY and PROCEDURE

**Applicable to:** All RWJBarnabas Health Facilities and Medical Groups, including but not limited to: Community Medical Center, Clara Maass Medical Center, Jersey City Medical Center, Monmouth Medical Center, Monmouth Medical Center Southern Campus, Newark Beth Israel Medical Center, RWJUH-Hamilton, RWJUH-New Brunswick, RWJUH-Rahway, RWJUH-Somerset, Saint Barnabas Medical Center, Barnabas Health Ambulatory Care Center, Barnabas Health Behavioral Health Center, Children’s Hospital of NJ at Newark Beth Israel Medical Center, Children’s Specialized Hospital, The Bristol-Myers Squibb Children’s Hospital at Robert Wood Johnson University Hospital, The Unterberg Children’s Hospital at Monmouth Medical Center, Medical Group of RWJBarnabas Health and Rutgers Health

**Policy owner:** RWJBH Corporate Compliance Department

**Effective date (Revised):** 2/10/2020

**Approved by:** Chief Compliance Officer; Vice President Compliance

**Accountable for:** Chief Compliance Officer; Vice President Compliance

## I. PURPOSE

- A. To promote compliance with laws and regulations governing the provision of incidental benefits and non-monetary compensation to potential referral sources, such as physicians who are medical staff members of, or otherwise affiliated with, RWJBarnabas Health (RWJBH) as well as their immediate family members, physician entities, and non-physician (e.g., Nurse Practitioners) referral sources (collectively referred to hereinafter as “referral sources”), including but not limited to compliance with the Medicare Anti-Kickback Statute and the Physician Self-Referral Laws (Stark laws).
- B. To enable RWJBarnabas Health workforce members to understand and comply with the restrictions on non-monetary compensation and incidental benefits to referral sources, and to appropriately document any non-monetary compensation.

## II. POLICY STATEMENT

RWJBH workforce members may provide referral sources with modest and customary incidental benefits in the course of activities or discussions related to bona fide RWJBH business operations, if such incidental benefits met the requirements outlined in Section III.A. RWJBH workforce members may claim reimbursement, when appropriate, for such incidental benefits or business costs.

If RWJBH workforce members provide benefits to referral sources in the course of activities that are not directly related to RWJBH business operations, or if benefits provided during the course of RWJBH business activities are extended to referral sources’ guests, such benefits may constitute non-monetary compensation, as defined in Procedures Section III.B. Non-

monetary compensation provided to a referral source must not exceed Non-Monetary Compensation and Medical Staff Incidental Benefits Exceptions for the current Calendar Year (“Benefit Exception”) as defined by the Centers for Medicare and Medicaid Services (“CMS”) ([https://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/CPI-U\\_Updates](https://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/CPI-U_Updates)) and must be documented as described in Procedures Section III.C. RWJBH workforce members may not provide non-monetary compensation to referral sources who solicit such non-monetary compensation.

RWJBH workforce members may not offer or provide any non-monetary compensation or other benefits that the RWJBH workforce member or recipient understands to be an inducement or reward for referrals.

### III. PROCEDURES:

- A. **Incidental Benefits Associated with Business Interactions.** Modest benefits provided to referral sources in the course of an activity that facilitates, promotes, or relates to RWJBarnabas Health legitimate business operations do not constitute non-monetary compensation and do not need to be documented as specified in Procedures Section III.C. The following benefits are **NOT** considered non-monetary compensation, do not count toward the “Benefit Exception” annual limit and do not need to be documented:
1. ***Incidental Benefits.*** Benefits conferred on referral sources who are members of the RWJBarnabas Health medical staff (e.g., free parking, modest meals in the physicians’ lounge, pagers), if such benefits are valued at less than per occurrence “Benefit Exception” and occur within a hospital, ambulatory surgery center or other RWJBarnabas Health facility provided that:
    - a) The benefits are offered only during periods when the referral source is making rounds or engaged in other services or activities that benefit the facility or its patients;
    - b) All members of the medical staff practicing the same specialty are offered the same benefit;
    - c) The benefit is reasonably related to the provision of, or designed to facilitate directly or indirectly the delivery of, medical services at the facility; and
    - d) The benefit is not determined in any manner that takes into account the volume or value of referrals or other business generated between the parties.
  2. ***Business Costs.*** Modest and customary benefits provided to referral sources in the course of activities or discussions directly related to RWJBarnabas Health business operations. No guests or spouses may participate in activities during which such benefits are provided. If a referral source’s guest or spouse participates in an activity during which such benefit is provided, the entire benefit is considered non-monetary compensation, must meet the “Benefit Exception” annual limit, and must be documented as described in Procedures

Section III.C. Examples of potentially acceptable business costs (depending on the circumstances) include:

- a) Paying for dinner with a referral source, the purpose of which is to discuss issues relating to the referral source's current or potential medical directorship at an RWJBarnabas Health facility. Paying for dinner for a referral source and his or her spouse is *not* an acceptable business cost.
- b) Providing free lunch for medical staff business meetings at which RWJBarnabas Health activities are discussed.
- c) Renting informational tables or stands at local sporting events for referral sources to offer health education and promote RWJBarnabas Health services to the public.

3. ***Annual Appreciation Event.*** One event (e.g., a holiday party) per year as long as all members of the medical staff are invited. However, any gifts or gratuities provided in connection with the event are considered non-monetary compensation that must comply with the "Benefit Exception" annual limit and must be documented as described in Procedures Section III.C.

B. **Non-Monetary Compensation.** Non-monetary compensation is compensation or a benefit provided to a referral source that is not cash or a cash equivalent and is not determined in any manner that takes into account the volume or value of referrals or other business generated by the referral source and does not directly relate to RWJBarnabas Health business operations. Potentially acceptable forms of non-monetary compensation (depending on circumstances) include:

1. Paying the greens or entry fees for golf.
2. Sending gift baskets to a physician's office if the physician is expected to partake of the items in the gift basket. For multi-physician offices or practices, the value to each physician 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).
3. Providing complementary tickets to a specific local sporting or other entertainment event. Gift cards or gift certificates that can be redeemed anywhere, checks, or stock instruments are considered cash equivalents and are *not* acceptable.

C. **Documentation Requirements.** RWJBarnabas Health workforce members must document all non-monetary compensation provided to referral sources, whether or not the RWJBarnabas Health workforce member seeks reimbursement from RWJBarnabas Health for the expense incurred in providing such non-monetary compensation. Non-monetary compensation must be documented on a Reimbursement Request Form and submitted to the RWJBarnabas Health Business Office. If the RWJBarnabas Health

workforce is not seeking reimbursement, he or she must nonetheless submit a Reimbursement Request Form and state the amount of reimbursement requested as “zero.” RWJBarnabas Health workforce members must describe on the Reimbursement Request Form the value and nature of the non-monetary compensation.

- D. **President and CEO Oversight.** The Presidents and CEOs or their designees must review submitted Reimbursement Request Forms to track the amount of non-monetary compensation provided to each referral source. If the President and CEO determines that a referral source has received more than the “Benefit Exception” in non-monetary compensation, the President and CEO must inform the Compliance Department immediately.
  
- E. **Social Events with Friends.** RWJBarnabas Health workforce members who have personal social relationships with referral sources may personally pay for the cost of social events (e.g., dinners or sporting events) in which such referral sources participate, so long as the RWJBarnabas Health workforce member does *not* seek reimbursement from RWJBarnabas for this expense and does *not* identify this item as a business expense for tax purposes. Such costs are not considered non-monetary compensation, do not count toward the “Benefit Exception” annual limit, and do not need to be documented.

**RELATED DOCUMENTS:**

Expense Report for Reimbursement in PeopleSoft

Regulatory references:

42 CFR 411.357(k) and (m)-Non-Monetary Compensation and Medical Staff Incidental Benefits Exceptions.

[https://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/CPI-U\\_Updates](https://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/CPI-U_Updates)