

**COMMONSPIRIT HEALTH  
ACCOUNTABLE CARE ORGANIZATION AND CLINICALLY INTEGRATED NETWORK  
ADMINISTRATIVE POLICY**

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| <b>SUBJECT:</b> MSSP Beneficiary Incentives  | <b>POLICY NUMBER:</b><br>Corporate Responsibility PH-004  |
| <b>EFFECTIVE DATE:</b> July 1, 2021  | <b>ORIGINAL EFFECTIVE DATE:</b> July 1, 2021  |
| <b>REPLACES:</b><br>CHI Corporate Responsibility Policy No. 13,<br>ACO Restrictions on Beneficiary Inducements | Dignity Health Policy:<br>Clinical Integration – Medicare Shared Savings<br>Program Beneficiary Inducements |

Accountable Care Organizations (ACO) in the Medicare Shared Savings Program (MSSP)

Clinically Integrated Networks (CIN)

**PURPOSE**

The purpose of this policy is to detail the MSSP’s policy and processes to ensure compliance with the Medicare Shared Savings Program Final Rule requirements related to the provision of beneficiary incentives.

**POLICY**

It is the policy of the MSSP to ensure compliance with state and federal regulations prohibiting the MSSP, its Participants, Providers/Suppliers, and other individuals or entities performing functions or services related to the MSSP’s activities from providing any remuneration to beneficiaries as inducements for receiving, or continuing to receive, items or services.

**AFFECTED AREAS OR DEPARTMENTS**

CommonSpirit Health ACOs participating in the Medicare Shared Savings Program

**PROCEDURE OR PROCESS**

1. The MSSP, its Participants, Providers/Suppliers, and other individuals or entities performing functions or services related to the MSSP’s activities are prohibited from providing gifts or other remuneration to beneficiaries as inducements for
  - a. Receiving items or services from, or remaining in, an MSSP or with MSSP providers /suppliers in a particular MSSP; or
  - b. Receiving items or services from MSSP Participants or MSSP Providers/Suppliers.
  
2. The MSSP may provide in-kind items or services to beneficiaries only if:
  - a. No cash, cash equivalents, or items or services unrelated to health care may be offered or provided at any time. There are no exceptions to this requirement.

- b. There is a reasonable connection between the items and services and the medical care of the beneficiary;
  - c. The items or services are preventive care items or services or advance a clinical goal for the beneficiary, including adherence to a treatment regime, adherence to a drug regime, adherence to a follow-up care plan, or management of a chronic disease or condition; and
  - d. The items or services are not Medicare-covered items or services for the beneficiary on the date the in-kind item or service is furnished to the beneficiary.
3. No one acting on behalf of the MSSP or an MSSP Participant or Provider/Supplier may, directly or indirectly, commit any act or omission, nor adopt any policy, that coerces or otherwise influences a beneficiary's decision to complete or not complete Voluntary Alignment, including but not limited to the following:
  - a. Offering anything of value to the beneficiary; or
  - b. Withholding or threatening to withhold medical services or limiting or threatening to limit access to care.
4. Beneficiary Incentive Program (*Please Note: This program is only available to MSSPs with downside risk. If your MSSP is not able to, or has chosen not to participate in the Beneficiary Incentive Program for any Performance Year, please disregard this Section.*)

The MSSP will be prepared to operate its approved Beneficiary Incentive Program beginning on the first day of the Performance Year in which it has been approved to participate, and must operate said program for an initial period of twelve (12) months.

- a. In order to receive an incentive payment, the beneficiary must be assigned to the MSSP and have received a qualifying primary care service as outlined in the Medicare Shared Savings Program Final Rule Section 425.304(c)(3)(iii).
- b. Incentive Payments must be furnished for each qualifying primary care service and must:
  - i. Be in the form of a check, debit card, or a traceable cash equivalent; Not have a value exceeding \$20;
  - ii. Be provided no later than 30 days after a qualifying service is furnished;
  - iii. Be furnished in the same amount to each eligible beneficiary without regard to enrollment in a Medicare supplemental policy, in a State Medicaid plan or a waiver of such plan, or in any other health insurance policy or health benefit plan.
- c. The MSSP does not use funds from any entity or organization outside of the MSSP to establish or operate the Beneficiary Incentive Program.
- d. The MSSP does not directly, through insurance, or otherwise, bill or otherwise shift the cost of establishing or operating the Beneficiary Incentive Program to a Federal health care program.
- e. The MSSP notifies all assigned beneficiaries regarding the availability of the incentive program, in accordance with the MSSP's Beneficiary Notification Policy. The MSSP does not include the Beneficiary Incentive Program in any other marketing materials or activities.

- f. Record Retention: The MSSP maintains records of the following items, in accordance with CommonSpirit Health's Population Health Record Retention Policy:
  - i. Identification of each beneficiary that received an incentive payment including name and HICN or Medicare beneficiary identifier.
  - ii. The type and amount of each incentive payment made to each beneficiary.
  - iii. The date each beneficiary received a qualifying service, the corresponding HCPCS code for the qualifying service, and identification of the MSSP Provider/Supplier that furnished the qualifying service.
  - iv. The date the MSSP provided each incentive payment to each beneficiary.

## DEFINITIONS

**Beneficiary:** Medicare fee-for-service beneficiary attributed to the ACO by CMS.

**Medicare Shared Savings Program (MSSP):** Medicare Shared Savings Program, established under section 1899 of the Social Security Act.

**MSSP Activities:** Activities related to promoting accountability for the quality, cost, and overall care for a population of attributed Medicare fee-for-service Beneficiaries, including managing and coordinating care, encouraging investment in infrastructure and redesigned care processes for high quality and efficient service delivery; or carrying out any other obligation or duty of the ACO under the Medicare Shared Savings Program.

**MSSP Participant:** An ACO entity identified by a Medicare-enrolled billing TIN through which one or more providers/suppliers bill Medicare. The providers/suppliers must be included on the list of ACO participants that is required under 42 C.F.R. § 425.118.

**MSSP Provider/Supplier:** An individual or entity that: (1) is a provider or supplier under Medicare regulations; (2) is enrolled in Medicare; (3) bills for items and services furnished to Medicare fee-for-service beneficiaries during the agreement period under a Medicare billing number assigned to the TIN of an ACO participant; and (4) is included on the list of ACO providers/suppliers that is required under 42 C.F.R. §425.118.

**MSSP Related Individual:** ACO officers, directors, employees, Participant, Provider/Supplier, or any other individual or entity providing functions or services related to ACO Activities.

## REFERENCES

National Association of ACOs (NAACOS) MSSP Compliance Program Policies and Procedures Manual - MSSP

## STATUTORY/REGULATORY AUTHORITIES

- 42 C.F.R §425.304. Other program requirements, (a) Beneficiary inducements.