

**Managed Care Operations Memorandum
General Operations
MCOPS Memo # 03/2019-004**

Date: March 1, 2019

Subject: Consumer Incentive Submission Requirements - Revised

To: Physical Health HealthChoices Managed Care Organizations (PH-MCOs) –
Statewide

From: Laurie Rock, Director, Bureau of Managed Care Operations, Office of Medical
Assistance Programs

Purpose:

To notify all Health Choices (HC) Physical Health-Managed Care Organizations (PH-MCOs) of the requirements and guidance for the submission of Operations Report 9 (OPS 9), Consumer Incentive (CI) program submission and reporting forms.

Background:

Section V.F.3.f: Program Requirements. PH-MCO Outreach Activities in the HC Agreement states that PH-MCOs may offer members consumer incentives only if they are directly related to improving health outcomes. The incentive cannot be used to influence a member to receive any item or service from a particular provider, practitioner or supplier. In addition, the incentive cannot exceed the total cost of the service being provided. The PH-MCO must receive advance written approval from DHS prior to offering a consumer incentive.

As part of the HC Waiver for provision of Medicaid services, the Centers for Medicare & Medicaid Services (CMS) requires that the DHS receive and report data for federal monitoring and record keeping purposes. The HC Agreement includes language regarding these and other monitoring and reporting requirements.

Discussion:

Consumer Incentive Submissions:

The submission of CIs is required to be compliant with the following federal regulations and statutes and the above HC agreement language:

1. Title XI § 1128A(a)(5) of the Social Security Act
2. 42 C.F.R. § 1003.101, relating to definitions
3. 42 U.S.C.A. § 1320a-7a, relating to civil monetary penalties
4. 42 U.S.C.A. § 1320a-7b, relating to criminal penalties for acts involving Federal health care programs
5. 2016 Office of Inspector General [OIG] Policy Statement Regarding Gifts of Nominal Value To Medicare and Medicaid Beneficiaries

In summary, the following bright-line guidance was issued by OIG on December 7, 2016. Additionally, the most current Clinical Preventive Guidelines are published as recommendations by the US Preventive Services Task Force:

- Incentives cannot influence such individual to order or receive any item or service from a particular provider, practitioner, or supplier;
- Inexpensive gifts or services may be offered to beneficiaries that have a retail value of no more than \$15 individually and no more than \$75 in the aggregate annually per patient;
- More expensive items or services may be offered to promote the delivery of certain preventive care services (pre-natal or post-natal well baby services or services described in the Guide to Clinical Preventive Services published by the U.S. Preventive Services Task Force at the following link: <https://www.uspreventiveservicestaskforce.org/BrowseRec/Index/browse-recommendations>)
- The incentive value may not be disproportionate to the value of the preventive care provided.

When an MCO offers a CI to one or more HealthChoices zones, the incentive shall apply to all eligible members in the zone(s). Likewise, an event-based CI shall be available to all of an MCO's eligible members.

Education on why a member is receiving the incentive must be provided to the member when the incentive is distributed.

CIs earned at a provider's office or community event such as a health fair may not be distributed at the time of service. An exception to this rule is for incentives distributed at Mobile Van Events in accordance with the following guidance:

- To distribute the incentive during a mobile van event, the service offered must be only for members enrolled with the host MCO. An MCO representative must be present to verify MCO enrollment, provide the education, and distribute the incentive. If no MCO representative is present to verify MCO membership, the incentive will

need to be delivered by mail with an educational message (mail, phone message, text) that ties the incentive to the service provided.

While dental services are not specifically identified in the OIG guidance, the department is allowing submission of incentives for dental services in support of the DHS Oral Health Initiative.

A member may receive only one CI when there is an overlap of CI programs involving the same service.

Approval of CI Programs:

Submitting an incentive with sign-off from MCO legal counsel assists the department in reviewing the submission by ensuring the lack of risk and compliance with federal criteria. Prior to submitting the CI proposal to DHS, the MCO must complete the following steps:

1. MCOs must have their legal counsel evaluate proposed incentive requests based on the guidance provided by the department. In addition, the MCO's legal counsel must render a decision as to whether the incentive is compliant with the statutes and regulations. This sign off should be submitted as an addendum to the Annual Consumer Incentive Program Approval Form.
2. The MCO's legal counsel must also include in their sign off statement exactly where the funding for the incentive is coming from (examples: a federal grant or MCO money, etc.).

Once the MCO's legal counsel has provided their approval, it may be submitted to the department. Applications are due at least 30-days prior to the implementation date. For example, a consumer incentive to begin on January 1, 2019 needs to have been submitted by December 2, 2018.

All CIs have an end date not later than 12/31 of the CY. Previously approved incentives do not carry over to the new CY. Any incentive(s) the MCO intends to offer/administer in the new CY must be submitted as new incentives on the Annual/New Request Consumer Incentive Program Approval Submission Form.

Change requests to approved CIs need to be requested not less than 10-days prior to the requested change implementation date. All changes are to be submitted to the department on the CI Program Change Form for review and approval prior to implementation.

Ops 9 Annual Submission:

The OPS 9 Consumer Incentive Annual Reporting Form is due June 1 for the CIs implemented in the previous CY. This annual narrative and data report is to address all CIs an MCO offered during the CY.

Please direct questions to Bridget Gill-Gibson at 717-772-6300.

Next Step:

N/A

Obsolete:

This OPS Memo supersedes previously issued OPS Memo 01/2018-001 and remains in effect until it is superseded.

Attachment:

N/A