

Managed Care Operations Memorandum
General Operations
MCOPS Memo # 11/2022-009

Date: November 14, 2022

Subject: Requirements for Consumer Incentive Submissions

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

From: Gwendolyn Zander, Director, Bureau of Managed Care Operations, Office of Medical Assistance Programs

Purpose:

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

Background:

HC Agreement 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 the department 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 department 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. 2016 Office of Inspector General [OIG] Policy Statement Regarding Gifts of Nominal Value to Medicare and Medicaid Beneficiaries.

<https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/2006053221-hi-oigpolicystatementgiftsofnominalvalue.pdf>

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/uspstf/topic_search_results?topic_status=P)
- The incentive value may not be disproportionate to the value of the preventive care provided.

When a PH-MCO offers a CI in 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 a PH-MCO's eligible members.

Education reminding a member why he or she 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. Exceptions to this rule are for incentives distributed at mobile or PH-MCO-only block schedule events in accordance with the following guidance:

- To distribute the incentive during a mobile event, the service offered must be only for members enrolled with the host PH-MCO. A PH-MCO representative must be present to verify PH-MCO enrollment, provide the education, and distribute the incentive. If no PH-MCO representative is present to verify PH-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 wants to highlight the importance of dental health and is allowing submission of incentives for dental services in support of the department's commitment to improving oral health.

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 approval from the PH-MCO's 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 the department, the PH-MCO must complete the following steps:

1. PH-MCOs must have their legal counsel evaluate proposed incentive requests based on the guidance provided by the department. In addition, the PH-MCO's legal counsel must render a decision as to whether the incentive is compliant with the statutes and regulations. This attestation should be submitted as an addendum to the Annual Consumer Incentive Program Approval Form.
2. The PH-MCO's legal counsel must also include in their attestation statement an indication of the exact funding source for the incentive (examples: a federal grant, PH-MCO revenue, etc.).
3. Once the PH-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, 2023, needs to have been submitted by December 2, 2022.

All CIs must have an end date not later than December 31 of the Calendar Year (CY) in which they are submitted. Previously approved incentives do not carry over to the new CY. Any incentive(s) the PH-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.

The **Department's submission** requirements are outlined below.

The Operations Report 9 (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 a PH-MCO offered during the previous CY.

If you have any questions, please contact Jeff Funston at 717.772.6697 or via email at jfunston@pa.gov.

Obsolete:

This MC OPS memo replaces the previously issued MC OPS memo, MCS-03/2019-004, and will remain in effect until it is superseded.

Attachment:

N/A