



LOMA LINDA
UNIVERSITY
MEDICAL CENTER

LOMA LINDA UNIVERSITY MEDICAL CENTER

OPERATING POLICY

CATEGORY:	FINANCE	CODE:	C-37
SUBJECT:	ILLEGAL REMUNERATION AND INDUCEMENTS	EFFECTIVE:	08/2019
		REPLACES:	07/2016
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A. ILLEGAL REMUNERATION: GENERAL PROVISIONS

1. In keeping with federal statute, payment schemes that involve the exchange of money for referrals or any other benefits shall be prohibited, including but not limited to:
 - 1.1 Knowingly or willfully soliciting or receiving any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind, in exchange for:
 - a. Referring an individual for any reimbursable item or service, or
 - b. Either acquiring or recommending that another acquire any reimbursable item or service
 - 1.2 Knowingly or willfully offering or paying any remuneration to induce any person to refer, acquire, or recommend acquisition of any reimbursable service or item.
2. The following situations shall be exceptions to the statutory requirements, i.e., they do not constitute illegal kickbacks: (reference Section E of this policy.)
 - 2.1 There is a written contract with each group member stating what the agent is to be paid;
 - 2.2 The agent's compensation is based on a fixed amount or percentage of goods sold; and
 - 2.3 The agent discloses to the LLUMC provider what amount he or she receives from each vendor for purchases which the provider makes.
3. Also prohibited shall be:
 - 3.1 Overcharging for services;
 - 3.2 Seeking payments as a condition to patient admission or continued stay;

3.3 Repeatedly violating the terms of assignments and agreements.

B. FREE OR BELOW-COST GOODS OR SERVICES FURNISHED TO REFERRAL SOURCES

1. LLUMC shall not provide to customers (including patients) services or other items of value free of charge or at a price below marginal cost in order to influence the flow of business to LLUMC by such customers. Exception: routine discounts to payers and approved marketing activities.
2. LLUMC may provide, without additional cost to customers, approved equipment or services in connection with laboratory support and other health care services it furnished to such customers, in order to permit LLUMC departments to perform such services properly.
3. Employees and other representatives of the LLUMC shall be provided training and other courses of instruction on applicable state and federal laws governing free or below-cost goods or services and the influence on the flow of business.
4. Employees shall be required to report any practices they observe that violate the provisions of par. B.1.
5. Employees participating in any arrangements that violate the provisions of par. B.1 shall be subject to disciplinary action, including suspension and possible termination.

C. WAIVER OF COINSURANCE AND DEDUCTIBLES

1. LLUMC may waive coinsurance and deductible payments required of the patient under a health insurance program only as follows:
 - 1.1 Patients in Federal or State Health Care Plans: Part or all of any applicable deductible or coinsurance may be waived for patients enrolled in or covered by Medicare, Medi-Cal, federal employee health benefits, TriCare (formerly CHAMPUS), or Railroad Retirement Benefits if the patient is not an admitting physician at LLUMC or a member of an admitting physician's immediate family (spouse, children, parents, siblings, grandparents, or grandchildren) and the following requirements are met:
 - a. The waiver has not been advertised and such is noted in the patient's financial record;
 - b. A determination has been made and recorded in the financial record that the person being offered the waiver has a financial need for such a waiver, or reasonable but unsuccessful documented efforts have been made to collect payment for the coinsurance or deductible.

1.2 Patients With Private Health Care Coverage: Waiver shall be discretionary for patients with private coverage who are not admitting physicians or their immediate families as long as the insurance or managed care plan involved does not affirmatively require collection or an attempt at collection of the coinsurance or deductible. If a waiver is granted, the financial record shall reflect a determination that the program or coverage does not impose an obligation to attempt collection.

1.3 Patients Who are Admitting Physicians or an Immediate Family Member: No waiver of coinsurance or deductible shall be offered or given, regardless of whether the insurance or health care plan is private or governmental.

2. If coinsurance and deductibles cannot be waived under any of the provisions in pars. C.1.1-1.3, good faith efforts shall be made to collect the amounts owed by the patient.

D. TRAVEL AND LODGING FOR PATIENTS AND/OR THEIR FAMILIES

1. Reasonable non-ambulance transportation and lodging for patients covered by government health care programs may be furnished at LLUMC's expense on the evening before admission for early morning procedures if the availability of such service is not advertised or routinely offered and the patient has demonstrated financial need, i.e., financial screening has been completed and reviewed. Records showing the determination of the patient's financial needs shall be maintained

2. Reasonable transportation and lodging for families of patients covered by government health care programs may be furnished at LLUMC's expenses only if:

2.1 A determination has been made by an appropriate medical professional, i.e., attending physician, director of nursing, director of social work, that the presence of the family members will have the beneficial effect of relieving worry or anxiety for the patient that could interfere with the healing process; and

2.2 Such services are not advertised or routinely offered, and the patient and his or her family members have demonstrated financial need.

3. Costs for non-ambulance transportation and lodging shall not be billed to government payers.

E. KICKBACKS AND OTHER IMPROPER PAYMENTS AND INDUCEMENTS

1. The following mechanisms shall be maintained by LLUMC as a means to prevent acts of kickbacks or illegal remunerations:

- 1.1 All arrangements with physicians or other referral resources must be approved by the Office of General Counsel
- 1.2 Audit procedures designed to detect illegal kickback arrangements with regard to contracts, as well as other arrangements and documents related to referrals and payments, are implemented.
2. Business relationships and practices that may be construed as improper payment schemes shall be restricted as follows:
 - 2.1 All relationships with non-patient customers, referral sources, and suppliers shall be maintained at the appropriate business arm's length to avoid even the appearance of impropriety.
 - 2.2 Direct or indirect payments to non-patient customers, referral sources, and supplier or subcontractor personnel shall be prohibited.
 - a. This prohibition shall also apply to payments made by employees, subcontractors, agents, or other representatives.
 - b. Indirect payments shall include the use of any LLUMC property, services, personnel, or expensive gifts or exorbitant entertainment.
 - 2.3 Entertainment of non-patient customers or referral sources and by suppliers shall be conducted within the bounds of applicable laws and good taste, and never be done under any circumstances which might suggest a compromise of the impartiality of such persons or raise questions about their integrity or the motives of LLUMC.
 - 2.4 Entertainment of government officials shall be done only under the provisions of a policy approved by the Chief Compliance Officer, the Office of General Counsel, and the Board of Trustees.
3. All employees and independent contractors engaged in the marketing of LLUMC services and products shall be required to attend educational programs on ethical and legal business practices.
 - 3.1 Such employees shall also be given copies of LLUMC's Code of Conduct.
 - 3.2 Such employees shall be expected to adhere to the ethical standards presented in the educational programs and the Code of Conduct at all times.
4. Every LLUMC administrator shall be responsible, within his or her authority, for the existing arrangements involving commission-based payments to employees or independent contractors for business they generate for LLUMC.

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- 4.1 They shall provide the Chief Compliance Officer with copies of all contracts or other documentation of such arrangements.
- 4.2 The Chief Compliance Officer and the Office of General Counsel shall review all existing and proposed compensation-based arrangements to ensure that they are consistent with the criteria stated in this policy.
- 4.3 Any arrangements contrary to the criteria stated in this policy shall be modified, amended, or corrected as soon as contractually practicable.

F. GAINSHARING ARRANGEMENTS

1. LLUMC shall not enter into any hospital incentive plan that encourages physicians through payments to reduce or limit clinical services furnished to Medicare or Medi-Cal beneficiaries (excluding those enrolled in managed care plans) who are under the physician's direct care.

Related Policies:

[Compliance with the Anti-Kickback Statute or Safe Harbor Provisions \(C-39\)](#)

APPROVERS: Hospital Executive Leadership, LLUMC Chief Executive Officer, LLUMC Chief Financial Officer