



MEDICARE DRUG & HEALTH PLAN CONTRACT ADMINISTRATION GROUP

DATE: December 4, 2014

TO: Medicare Advantage Organizations

FROM: Kathryn A. Coleman
Acting Director

SUBJECT: Rewards and Incentives Program Guidance

The purpose of this memorandum is to provide Medicare Advantage Organizations (MAOs) with guidance on implementing a Rewards and Incentives Program (RI Program) for their Part C enrollees. Effective July 22, 2014, CMS regulations at 42 CFR § 422.134 permit MAOs to offer RI Programs that may be applied to health-related services and activities. Below is a comprehensive discussion of the parameters under which RI Programs may be offered.

An MAO may create one or more RI Programs that provide rewards and incentives to enrollees in connection with the participation in activities that focus on promoting improved health, preventing injuries and illness, and promoting efficient use of health care resources. The overall goal of RI Programs is to encourage enrollees to be actively engaged in their health care and, ultimately, improve and sustain their overall health and well-being. An RI Program incentivizes an enrollee to participate in health-promoting services or activities while inspiring a long-term commitment to healthy behaviors. Accordingly, in addition to providing rewards and/or incentives, MAOs should consider including an enrollee support component within their program design (e.g., coaches or motivators to encourage and assist the enrollee with RI Program engagement). At this time, RI Programs apply only to Part C (Medicare Advantage) at 42 CFR § 422 and may not be offered in connection with any Part D benefits governed by 42 CFR § 423.

Pursuant to 42 CFR § 422.134, each RI Program offered by an MAO:

- Must not discriminate against enrollees based on race, gender, chronic disease, institutionalization, frailty, health status or other impairments; and
- Must be designed so that *all* enrollees are able to earn rewards.

Rewards and incentives associated with the RI Program must:

- Be offered in connection with the entire service or activity;
- Be offered to all eligible members without discrimination;
- Have a value that may be expected to affect enrollee behavior, but not exceed the value of the health related service or activity itself; and
- Otherwise comply with all relevant fraud and abuse laws, including, when applicable, the anti-kickback statute and civil money penalty prohibiting inducements to enrollees.

Rewards and incentives associated with the RI Program may not:

- Be offered in the form of cash or other monetary rebates or
- Be used to target potential enrollees.

An RI Program is not a benefit. It should be included in the bid as a non-benefit expense and should not be entered in the Plan Benefit Package. Per CMS Office of the Actuary Bidding Guidance, “non-benefit expenses are all of the bid-level administrative and other non-medical costs incurred in the operation of the MA plan.”

Detailed guidance on CMS RI Program requirements and key program features is provided below.

Health Related Services and Activities

MAOs have significant flexibility in designing RI Programs that are specific to their populations’ interests, abilities and needs. MAOs are free to determine the specific services, activities, or behaviors that are subject to rewards or incentives within their program design. Health related services and activities associated with an RI Program may include, for example, the utilization of a particular service(s) or preventive screening benefit(s), adherence to prescribed treatment regimens, attending education/self-care management classes, meeting nutritional goals, and making and keeping appointments with the doctor.

Research suggests that in order for individuals to make lasting healthy lifestyle and behavioral modifications, they must believe that their competence, ability and personal motivation contributed to their achievements and that the fact they received a reward and incentive was only a factor in their behavioral change and not the central cause.¹ We believe that in order for participants to develop long-term healthy changes in behavior, they need to become meaningfully engaged in the required activities and services. Therefore, we strongly encourage MAOs to develop programs that are geared to ‘active participation’ by enrollees (e.g., keeping a daily food diary) that will spark an internal desire to attain and maintain personal health behavior goals.

MAOs may not discriminate based on health status, therefore, rewards and incentives based on health outcomes may not be offered. However, enrollees may be rewarded for continued healthy behaviors over time. For example, MAOs may not provide rewards and incentives for the amount of weight lost or a lowered blood pressure, as those are health outcomes over which an enrollee may have little control. Instead, the MAO may provide rewards and incentives for reporting their weight or blood pressure at regular intervals.

MAOs also may reward sustained behavior changes by enrollees in order to support and promote the ultimate goal of RI Programs, which is lasting, positive changes in health-related behaviors. For example, an RI Program might include incentives for those enrollees that report that they remain smoke-free at several time intervals after completion of a smoking cessation program.

¹Serxner S, Anderson DR, Gold D. Building Program Participation: Strategies for Recruitment and Retention in Worksite Health Promotion Programs. The Art of Health Promotion (a publication by the American Journal of Health Promotion): 1-6, March-April 2004.

Note: Completion of a federally mandated survey, though arguably a health-related activity, may not be included in an RI Program because of the potential for biased responses due to the influence of rewards or incentives.

Non-discrimination

Any RI Program offered by an MAO must not discriminate against enrollees based on race, gender, chronic disease, institutionalization, frailty, health status or other impairments and must be designed so that all enrollees are able to earn rewards.

The non-discrimination and equal access requirements do not preclude MAOs from offering rewards and incentives programs that target enrollees with a specific disease or chronic condition as long as the RI Program does not discriminate against any enrollee who would otherwise qualify for participation in that program. Thus, any RI Program implemented by an MAO must accommodate otherwise qualified enrollees who receive services in an institutional setting or who need a modified approach to enable effective participation and attainment of designated rewards and incentives.

For example, while internet-based RI Programs are allowed, an alternate method of earning and/or claiming rewards and incentives must be offered to those enrollees who do not have internet access. Another example is an RI Program in which participants earn a reward for participating in an exercise class. An alternate method of fulfilling an exercise activity must be offered to those individuals who are unable to attend the class, perhaps due to institutionalization, lack of transportation, or are wheelchair bound.

A caretaker may not participate in place of the enrollee in the services or activities in order to earn rewards or incentives on behalf of the enrollee. The goal of an RI program is to encourage and maintain healthy behaviors that have a positive impact on *enrollees*; therefore, the enrollee must participate directly in the RI program.

Offering Rewards In Connection With the Entire Service or Activity

Within an RI Program, rewards and incentives must be earned by completing an entire service or activity (or combination of services/activities), as established by the MAO, and may not be offered for completion of less than any/all required component(s) of the eligible service or activity. This requirement allows CMS and MAOs to interpret the value of a reward or incentive in relation to the service or activity for which it is being offered.

MAOs are expected to reasonably define the scope of the “entire service or activity” within their program design and assign a value of the reward or incentive accordingly. For example, an MAO may decide to offer rewards and incentives for participation in a smoking cessation program. The MAO may decide to give smaller rewards for each class or counseling session attended or may offer a single, larger reward for completing a pre-determined number of classes or counseling sessions.

Consistent with the requirement that rewards and incentives be of a value that may be expected to affect enrollees’ behavior, the service or activity for which rewards and incentives are being offered should be at a level that is meaningful.

Valuing Rewards and Incentives

Rewards and incentives for each RI Program must have values that are expected to elicit intended enrollee behavior but may not exceed the value of the health related service or activity (§ 422.134(C) (1) (iii)). At this time, CMS has established neither a limit for how often rewards and/or incentives may be offered to enrollees nor a maximum monetary value for the rewards and/or incentives themselves. Instead, MAOs are to establish reasonable and appropriate values for rewards and incentives in accordance with CMS requirements. If necessary, in the future, we may exercise our authority to specify limits on the value of rewards and incentives through sub-regulatory guidance.

Permissible Rewards and Incentives

Rewards and/or incentives may not be offered in the form of cash or monetary rebates, including reduced cost-sharing or premiums. Otherwise, MAOs have considerable flexibility with regard to what may be offered as a reward or incentive.

Gift cards are a permissible form of reward or incentive as long as they are not redeemable for cash and comply with CMS guidelines described above. MAOs are encouraged to offer enrollees a choice of gift cards from which to choose in order to account for differences in enrollees' preferences and accessibility of retailers.

Discount coupons are also a permissible form of reward or incentive as long as they are not transferable for cash and follow the valuing guidelines addressed above. However, we would note that coupons that provide only nominal discounts may not provide adequate incentive to drive the intended changes in enrollee behavior.

An RI Program that is designed so that enrollees earn "points" or "tokens" that can be used to "purchase" rewards (or some variation of this type of program) is permissible as long as the "points" and the rewards that may be "purchased" are earned and valued according to CMS guidelines as set forth within this guidance and in accordance with §422.134.

Rewards and/or incentives must be tangible items that align with the purpose of the RI Program and must directly benefit the enrollee. For example, an MAO's charitable contribution made on behalf of the enrollee does not satisfy the CMS criteria as a permissible reward or incentive because the enrollee who earned the reward does not benefit from such a contribution by the MAO. However, the use of points (which are not themselves tangible), to purchase a reward, does satisfy CMS criteria because the points are used by each enrollee to obtain a tangible reward that is of value to the enrollee.

Rewards and incentives based on probability, including programs in which an enrollee may earn entries into a lottery or drawing in order to receive a reward or incentive of a significant value, are **not** permissible because all enrollees who participate in and complete the services or activities required of them within the RI Program's design must receive a tangible reward and incentive. The chance of winning the reward in such a program (depending on the pool of eligible enrollees) does not qualify as a tangible reward or incentive. Furthermore, RI Programs structured in this manner are potentially vulnerable to fraud and abuse.

Marketing RI Programs

MAOs may include information about RI Programs in marketing materials as long as those communications are provided to *all* current and prospective enrollees without discrimination. Additionally, any marketing of RI Programs must be done in conjunction with marketing of plan covered benefits.

Importantly, reward and incentive “items” may not be offered to potential enrollees under any circumstances. Nominal gifts as part of promotional activities are separate and distinct from RI Programs. For more information about the marketing aspects of RI Programs as well as promotional activity guidance, see the Medicare Marketing Guidelines.

Reporting to CMS

At this time, MAOs are not required to submit information to CMS regarding their RI Program(s) to CMS. However, MAOs offering an RI Program are expected to document and track information regarding their RI programs and be prepared to provide that information to CMS upon request. Appropriate documentation includes, but is not limited to: date(s) of enrollee-specific participation in RI Program services and activities, rewards and incentives attained, how program participation is measured, and available alternative methods of participation.

If you have any questions about the information outlined in this memorandum, please send an email to Heather Kilbourne at Heather.Kilbourne@cms.hhs.gov.