

Policy Review Checklist: Accepting Manufacturer and Vendor Speaking Fees, Educational Events, and Other Benefits

Speaking and consulting fees as well as other items of value, such as free travel, lodging, and entertainment, when provided to a provider by a manufacturer or vendor of a product or service that is reimbursed by a federal government payor can create Anti-Kickback and other compliance risks. Healthcare organizations should have a policy addressing whether providers may accept these payments and how they report them. Below is a list of guardrails to consider including in the policy to reduce compliance risks.

1. The policy requires providers to report any fees, events, and other items of value offered to them by vendors and manufacturers.
 - Describe the types of fees and other items of value that must be reported and give specific examples.
 - Outline how a provider is to report an offer, including any forms they should complete, the information required to be provided, and who the information should be reported to.
 - State that any fees and other items of value subject to the policy must be reported and approved by the organization before they can be accepted.
2. The policy requires fees, events, and other items of value to be for a legitimate purpose unrelated to referrals.
 - Require any fees or items of value, including event attendance, to be for a legitimate business or patient care purpose unrelated to referrals and document the stated purpose(s). The purpose should not be for personal gain/benefit.
 - The provider is selected in a manner unrelated to referral patterns.
 - The availability of the benefit provided is not tied to past or future referrals or expectations of referrals.
3. The policy requires fees, events, and other items of value to be reasonable.
 - The destination for the event is reasonable and appropriate based on the event and is not chosen for the provider's personal benefit or based on the provider's personal request.
 - Any travel provided is reasonable. Travel for guests is not paid for by the sponsor.
 - If the provider is merely attending the event and not providing any services to the sponsor, travel would not typically be paid for by the sponsor.
 - The lodging provided is reasonable and not overly extravagant or more than a reasonable person would expect for participating in an industry conference and all attendees are in similar accommodations.
 - If meals are provided or reimbursed they are for the provider only and not his/her guests and limited to meals provided during the event except for

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- reasonable meals provided to all attendees. If meal reimbursement is included as a cost for the speaker, the amount of meal reimbursement is reasonable.
- Entertainment provided at, or in connection with the event is limited to entertainment provided at the event, is modest and reasonable, and is available to all attendees. Any entertainment outside of these parameters is paid for by the provider.
 - Any incidental benefits, such as continuing education, or promotional items are available to all attendees and are reasonable.
4. If the provider is providing services for the vendor or manufacturer, such as speaking at an event, an agreement is entered into with the event sponsor which meets the personal services safe harbor to the Anti-Kickback Statute.
- Identify who the agreement will be prepared or reviewed by internally.
 - Require that it be reviewed to ensure compliance with the personal services safe harbor.
 - Specify the services to be provided by the provider and any terms applicable to such services, including documenting the estimated time involved in providing services.
 - Identify the specific fee to be paid and other non-monetary items provided (such as travel, meal reimbursement, etc.).
 - Confirm the fee being paid is reasonable and fair market value based on the services provided.
 - State the specific purpose of the services unrelated to referrals.
 - Require the sponsor of the event to represent that it chose the provider based on qualifications and expertise unrelated to referral patterns, there is no condition being placed on the provider relating to referrals nor is there an intent that the arrangement will influence the provider's referral patterns, and it does not offer opportunities to providers based on referrals or anticipated referrals.
5. If the Provider is Not Providing any Services for the Event Sponsor, the Arrangement has been Determined by the Organization to be Modest, Reasonable, and Low Risk.
- Confirm the event will provide a modest/reasonable meal for a legitimate purpose unrelated to referrals (like education) and only for the provider during the event attendance (no guests included).
 - Confirm there is no evidence that the provider was selected or invited to attend due to referral patterns or a desire to increase referrals and document the rationale for attendance.
 - Travel/lodging expenses would typically not be paid for by the sponsor.
6. The policy outlines how the organization tracks and monitors fees and other items of value provided to its providers.
- Identify who and how fees and benefits received for events are tracked.
 - Implement a process for tracking any offered and accepted events by provider and event sponsor.

- Monitor to determine whether any sponsor is providing multiple offers to the same provider or to multiple providers in your organization.
 - Multiple events should be evaluated to determine whether there's abuse or risk associated with the frequency.
7. The policy provides for periodic education and reminders for providers about the policy and the compliance risks associated with fees and other items of value from vendors and manufacturers.
- Educate providers at hire on the policy.
 - Provide periodic education to your providers on the policy, including at least an annual reminder.
 - Incorporate a review or discussion of the policy in performance evaluations or other one-on-one meetings with providers.
 - Warn providers of the potential consequences of failing to comply with the policy.