



Department of Health

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Guidance Regarding Health Home Governance Fees and Payment Structures

Please be advised that Health Home governance fees, and other payment structures must not violate the fraud and abuse prohibitions that apply to providers that participate in Medicaid programs. The provisions of State and Federal Statutes, New York Code of Rules and Regulations, 18 NYCRR 515.2(5) and the United States Code, 42 U.S.C. 1320a-7b(b) cited below, require that Medicaid providers must accept the payment from Medicaid as payment in full and prohibit referral fees, including soliciting referral fees whether in case or in kind, in return for referring a client to a person for any medical care, services or supplies for which payment is claimed under the program.

As a reminder, Health Homes are responsible for making sure that referrals are assigned according to factors that ensure the member's needs are met, including, but not limited to: the qualifications and ability of the care managers to meet specialized needs of the member; where the members lives; and alignment between the member's managed care plan and Health Home.

If you have any questions please contact the Health Home team at:

HHSC@health.ny.gov, or

https://apps.health.ny.gov/pubdoh/health_care/medicaid/program/medicaid_health_homes/emailHealthHome.action; or

518.473.5569

18 NYCRR 515.2(5) "Bribes and Kickbacks" 515.2 Unacceptable practices under the medical assistance program. (a) General. An unacceptable practice is conduct by a person which is contrary to:

(5) Bribes and kickbacks. Unless the discount or reduction in price is disclosed to the client and the department and reflected in a claim, or a payment is made pursuant to a valid employer-employee relationship, the following activities are unacceptable practices:

(i) soliciting or receiving either directly or indirectly any payment (including any kickback, bribe, referral fee, rebate or discount), whether in cash or in kind, in return for referring a client to a person for any medical care, services or supplies for which payment is claimed under the program;

(ii) soliciting or receiving either directly or indirectly any payment

(including any kickback, bribe, referral fee, rebate or discount), whether in cash or in kind, in return for purchasing, leasing, ordering or recommending any medical care, services or supplies for which payment is claimed under the program;

(iii) offering or paying either directly or indirectly any payment (including any kickback, bribe, referral fee, rebate or discount), whether in cash or in kind, in return for referring a client to a person for any medical care, services or supplies for which payment is claimed under the program; or

(iv) offering or paying either directly or indirectly any payment (including any kickback, bribe, referral fee, rebate or discount), whether in cash or in kind, in return for purchasing, leasing, ordering or recommending any medical care, services or supplies for which payment is claimed under the program.

42 U.S.C. 1320a-7b(b)

(b) *Illegal remunerations*

(1) Whoever knowingly and willfully solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind—

(A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under a Federal health care program, or

(B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under a Federal health care program,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than \$25,000 or imprisoned for not more than five years, or both.