

Session Objectives

- Define the Medicare Advantage (MA) Reward and Incentive Program (RI Program) requirements at 42 CFR section 422.134
- Clarify how RI Programs differ from plan enrollment marketing activities
- Provide parameters under which RI Programs may be offered

Background

- Effective July 22, 2014, CMS codified reward and incentive requirements, moving them out of the Medicare Marketing Guidelines and into the official Code of Federal Regulations
- Reward and Incentive Programs (RI Programs) regulations are now located at 42 CFR § 422.134
- The current RI Program regulations supersede any previous reward and incentive guidance
- MA organizations may now offer RI Programs that may be applied to health-related services and activities

RI Programs vs. Enrollment Marketing

RI Programs

Goal to improve health outcomes and prevent injuries/illness

Open to current enrollees only

Receive reward in exchange for participating in a plan specified health related service/activity

Single reward may not exceed the value of the health related service or activity; no aggregate maximum

Goal is to increase/retain plan enrollment

Open to both prospective and current enrollees

Receive a gift for attending marketing event

Nominal value (be worth no more than \$15); maximum aggregate of \$50 per person per year

Enrollment Marketing Activity

Regulation 42 CFR § 422.134

- (a) General rule. The MA organization may create one or more programs consistent with the standards of this section that provide rewards and incentives to enrollees in connection with participation in activities that focus on promoting improved health, preventing injuries and illness, and promoting efficient use of health care resources
- (b) Non-discrimination. Reward and incentive programs—
- (1) Must not discriminate against enrollees based on race, national origin, including limited English proficiency, gender, disability, chronic disease, whether a person resides or receives services in an institutional setting, frailty, health status or other prohibited basis;
 - (2) Must be designed so that all enrollees are able to earn rewards; and
 - (3) Are subject to sanctions at §422.752(a)(4)

42 CFR § 422.134

(c) Requirements

- (1) A reward and incentive program must —
 - (i) Be offered in connection with the entire service or activity;
 - (ii) Be offered to all eligible members without discrimination;
 - (iii) Have a monetary cap as determined by CMS of a value that may be expected to impact enrollee behavior but not exceed the value of the health related service or activity itself; and
 - (iv) Otherwise comply with all relevant fraud and abuse laws, including, when applicable, the anti-kickback statute and civil money penalty prohibiting inducements to beneficiaries

42 CFR § 422.134 Continued

- (2) Reward and incentive items may not —
 - (i) Be offered in the form of cash or other monetary rebates; or
 - (ii) Be used to target potential enrollees
- (3) The MA organization must make information available to CMS upon request about the form and manner of any reward and incentive programs it offers and any evaluations of the effectiveness of such programs

General

RI Programs:

- Were established to encourage enrollees to be actively engaged in their health care and improve overall health and well-being
- Are not a benefit *but* must be included in the bid as a non-benefit expense
- Apply to Part C *only* and may not be offered in connection with any Part D benefits

Timing

- Rewards may not be used in order to incentivize enrollees to stay in a plan
- Timeframe for earning and redeeming rewards must be within the contract year
- May not allow enrollees to carry over rewards from one contract year to the next

Health Related Services and Activities

- MA plans have significant flexibility in designing RI Programs
 - Free to determine the specific services, activities, or behaviors that are subject to rewards or incentives
 - Specific to plan populations' interests, abilities, and needs
- Rewards based on health *outcomes* may not be offered
 - May not discriminate based on health status
- Rewards for continued healthy *behavior* and/or sustained behavior changes are permitted
- Rewards may not be offered for completion of a federally sponsored survey (including an HRA)

Health Related Services and Activities (continued)

Examples:

- Utilization of a particular service(s)
- Utilization of a particular preventive screening benefit(s)
- Attending education/self-care management lessons
- Meeting nutritional goals
- Making and keeping appointment with the doctor

Non-discrimination and Equal Access

- RI Programs must not discriminate against enrollees based on gender, chronic disease, institutionalization, frailty, health status or other impairments
- Must be designed so that all enrollees are able to earn rewards

NOTE: This does **not** preclude MA plans from offering RI Programs that target enrollees with a specific disease/chronic condition as long as it does not discriminate against any enrollee who would otherwise qualify for participation

Non-discrimination and Equal Access (continued)

- A caretaker may not participate in place of the enrollee in the services or activities in order to earn rewards/incentives
- RI Programs must provide the same rewards to all qualifying participants who perform the same actions
- May not distinguish enrollees based on their medical encounter history
 - No discrimination against enrollees with a good record of participation

Offering Rewards and Incentives In Connection With the Entire Service or Activity

- Rewards must be earned by completing an entire service or activity (or combination of services/activities)
- Allows both MA plans and CMS to interpret the value of a reward/incentive in relation to the corresponding service or activity
- MA plan reasonably defines the scope of “entire service or activity”
 - Should be at a level that is meaningful
 - MA plan will then assign a value to the reward/incentive accordingly

Valuing Rewards and Incentives

Rewards and incentives must:

- Have values high enough that they can be expected to elicit intended enrollee behavior;
- Not exceed the value of the health related service or activity for which they are being offered

NOTE: CMS has not identified a specific cap on single reward values nor is there a limit on how often rewards/incentives may be offered to enrollees throughout a contract year

Permissible Rewards and Incentives

Rewards and incentives:

- May not be offered in the form of cash or monetary rebates
 - Including reduced cost-sharing or premium
- Must be tangible items that align with the purpose of the RI program
- Must directly benefit the enrollee
 - No charitable contributions by the plan on behalf of the enrollee

Otherwise MA plans have considerable flexibility with regard to what may be offered as a reward or incentive

Permissible Rewards and Incentives Continued

Permissible:

- Gift cards (must not be redeemable for cash)
- Discount coupons (must not be transferable for cash)
- RI Program designed so that enrollees earn “points” or “tokens” that can be used to “purchase” rewards

Not Permissible:

- Rewards/incentives that are won based on probability, including programs in which an enrollee may earn entries into a lottery or drawing to receive an item of significant value

Marketing RI Programs

May include information about RI Programs in marketing materials to potential enrollees, as long as those communications:

- Are not used to target potential enrollees
- Are provided to all potential enrollees without discrimination
- Are provided in conjunction with information about Plan benefits
- Include information about all reward and incentive programs offered by the Plan, and
- Are not limited to a specific program or a specific reward or incentive within a program

Reporting to CMS

- Required to report on RI Programs through the annual Part C Medicare Advantage Reporting Requirements
- MA plans 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/incentives attained
 - How enrollee participation is measured
 - Available alternative methods of participation

Check Your Knowledge—Question 1

True or False?

An RI Program may include earning rewards/incentives for medication adherence.

Check Your Knowledge—Question 1

Answer

True or False?

An RI Program may include rewards/incentives in exchange for medication adherence.

FALSE. RI Programs apply to Part C only and may not be offered in connection with any Part D benefits.

Check Your Knowledge—Question 2

True or False?

An RI Program may be built specifically for those enrollees that are or become diabetic?

Check Your Knowledge—Question 2

Answer

True or False?

An RI Program may be built specifically for those enrollees that are or become diabetic?

True. RI Programs may 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, making accommodations where necessary.

Part C Reward and Incentive Resource Guide

Part C Policy Mailbox:

<https://dpap.lmi.org/>

Chapter 4 of the Medicare Managed Care Manual:

<https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/mc86c04.pdf>

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