



## Can a Health Care Provider's Gift be Legal? **OIG Says... Maybe**

Earlier this year, the Department of Health and Human Services' Office of the Inspector General ([OIG](#)) published an [Advisory Opinion](#) regarding a health center's proposal to give gift cards to certain patients assigned to it by a Medicaid managed care plan. The OIG stated that this proposal would not violate the Anti-Kickback Statute or Civil Monetary Penalty Law's ban on inducements.

The provider told the OIG that patients who use the provider for a screening or a clinical health service would receive a \$20 gift card to a supermarket chain. Patients could receive one gift card per 12-month period and could not exchange it for cash or other items. Only new patients or those who had not been treated at the health center within the previous 12-months would be offered the gift card.

The OIG gave two reasons for approving the provider's use of gift cards. First, the gift card did not have a high value and would only be offered to people already assigned to the health center. Thus, the OIG judged that few Medicaid enrollees were likely to choose the provider on this basis, and if not already assigned there, enrollees would have to specifically request a transfer. Second, the gift cards would not raise Federal health care program costs or incentivize fraud (i.e. unnecessary services) because the only persons to whom the provider would market were enrollees in Medicaid managed care plans which were reimbursed on a capitated basis.

Based on this Advisory Opinion and similar ones, providers might be able to reward usage by Medicare or Medicaid enrollees under some limited circumstances. However, this opinion specifically applies to the requesting provider, so any provider considering a similar program may wish to have OIG review it prior to implementation.

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