Shumaker

NOVEMBER 30, 2023 | PUBLICATION

Client Alert: 2024 Holiday Gift-Giving Risks and Compliance Concerns for Health Care Providers

Download Client Alert: 2024 Holiday Gift-Giving Risks and Compliance Concerns for Health Care Providers

INDUSTRY SECTOR

Health Care

SERVICE LINE

Health Law

RELATED PROFESSIONALS

Grant P. Dearborn

MEDIA CONTACT

Wendy M. Byrne
wbyrne@shumaker.com

Happy Holidays!

As we approach the Holiday Season, we all know that this is the time of year when gifts are exchanged. However, for health care providers, it can be a season of risk. Gifts to referral sources can cause unintended regulatory problems, and health care leaders, compliance professionals, and counsel need to be aware of the not-so-merry pitfalls that this season could bring.

For health care providers who provide Designated Health Services (as that term is defined in the Federal Physician Self-Referral Law, also known as Stark Law), providers must be aware that the non-monetary compensation exception allows for certain limited gifts to physicians (and the family of such physicians) who are referral sources. For 2023, the non-monetary compensation exception limit is set at $489 per calendar year. Such gifts, however, cannot be in the form of cash or cash equivalents (for example, gift cards that can be converted to cash). Moreover, these gifts cannot be determined based on the volume, value, referrals, or generation of other business. Finally, the gift cannot be solicited by the physician or physician's practice.

While providers may give some gifts under the non-monetary compensation exception, this is also an important time to check the naughty and nice list on who has been compliant by ensuring that a practice or provider has not exceeded the gift threshold for 2023. There are limited opportunities to correct any "over-gifting," and we can provide counsel to address gifting in 2023 and prevent any future over-gifting in 2024, should you need assistance in this area.

However, it is important to be aware that there are no gift exceptions for the Eliminating Kickbacks in Recovery Act (EKRA) under 18 U.S. Code § 220. As a result, it is recommended that health care providers do not give or receive gifts from labs, recovery homes, or clinical treatment facilities. These same providers should not provide gifts.

Additionally, this is the time to remind all staff of your entity's specific gift policy. While this may not put

some in the holiday spirit, it is essential to maintain a compliant culture and work environment year round.

While the above is not intended to be a comprehensive list of gift giving risk, it is a starting point for entry into a new calendar year. We are available to provide counsel on additional questions or needs you may have pertaining to gift giving or other compliance related matters.

© 2026 Shumaker, Loop & Kendrick, LLP. All Rights Reserved. Privacy Policy/Disclaimer

Shumaker