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**Professional Courtesy & Discounts**Updated on Date 08/20/13

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**PURPOSE**

- Establish guidelines for the extension of professional courtesy and discounts.
- Establish guidelines for communicating the extension of professional courtesy and discounts.
- Support compliance with appropriate Federal and State regulations.

**DEFINITION**

Professional Courtesy Discount is: the provision of free or discounted health care items or services to patients by waiving all or part of a fee or the copayment and/or coinsurance obligations. This definition applies to services rendered to other physicians, medical and dental students, families of colleagues, and referring providers.

The extension of charity care is considered separate and distinct from the extension of Professional Courtesies. The extension of charity care should be managed under the updated process outlined below to support the goal of full transparency around the extension of any type of provider discounts or write offs. The CU Medicine BOD on August 20, 2013 acknowledged the enterprise has multiple programs in place to extend charity care and endorsed the notion of financial transparency. The BOD acknowledged that the extension of discounts may be applicable in cases of adverse outcome/risk.

**BACKGROUND**

According to the Office of Inspector General, the practice of routinely waiving all or part of a fee may expose a physician/practice to risk. The OIG indicates that not all professional courtesy discounts are prohibited. The OIG's guidelines provide that, in general, whether a professional courtesy arrangement runs afoul of the fraud and abuse laws is determined by two factors:

- (i) how the recipients of the professional courtesy are selected; and
- (ii) how the professional courtesy is extended.

The OIG specifies that:

- If the recipients are selected in a manner that directly or indirectly takes into account their ability to affect past or future referrals, the anti-kickback statute [criminal statute]—which prohibits giving anything of value to generate Federal health care program business—may be implicated.
- If the professional courtesy is extended through a routine waiver of copayment obligations (*i.e.*, “insurance only” billing), other statutes may be implicated, including the prohibition of inducements to beneficiaries. Claims submitted as a result of either practice may also implicate the civil False Claims Act. ([67 Fed. Reg. 72,896 \(Dec. 9, 2002\)](#)) (Attachment A). In addition, there is a Special Fraud Alert warning about routine waiver of copayments and deductibles. ([OIG Special Fraud Alert \(1994\) "Routine Waiver of Medicare Part B Copayments and Deductibles"](#)) (Attachment B).
- Offering to waive a copayment to a Federal health care program beneficiary who is **not** financially needy may invoke the Civil Monetary Penalties Law. That law prohibits offering payments to a Medicare or Medicaid beneficiary that a physician knows or should know is likely to influence the beneficiary to obtain services from that particular physician.

Under certain circumstances, such as indigence or financial hardship of the patient, co-pays and deductibles may be legally waived. However, it is crucial that the physician or practice document the circumstances. There are sample forms that the OIG has published. ([Sample Financial Hardship Application](#)) (Attachment C).

To comply with government and insurance policies, the discount must apply to the total bill, not just the part that is paid by the patient. Private insurance plans and some federal programs have a “most favored nation” clause in their contracts with providers. This entitles the plan to pay the lowest charge the provider bills to anyone. Any pattern of routine discounts could result in a reduction in the provider's allowable reimbursement schedule to the discounted amount.

## Professional Courtesy & Discounts

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The same penalties apply to private insurance companies. Under the Health Insurance Portability and Accountability Act of 1996 (HIPPA) it is now a federal crime to defraud private insurance companies.

### CU Medicine Historical Procedure

Requests for professional courtesy discounts come to Patient Services Department in the form of an email or some other written request. The request could come from the Provider, Department Financial Administrator, or Accounts Receivable Manager per the Provider's request.

### CU Medicine New Procedure

Recognizing that discounts should be managed in an organization-wide and unified manner:

- It is recommended that Professional Courtesy **discounts not be extended**.
- Discounts may be extended in cases of adverse outcome/risk **or other extraordinary circumstance**.
- Requests for any type of discount or charity care (including write off requests where collection efforts have been expended) must be directed to CU Medicine Patient Services Department in the form of an email or some other written request.
- The requesting provider is solely responsible for documenting the appropriateness of the request.
- Requests for any type of patient discount or charity not covered under an affiliate hospital program, must be accompanied by evidence of acknowledgement/approval from the appropriate SOM Department/Division Administrator or Chair/Chief.
  - Evidence of acknowledgement/approval from the appropriate SOM Department should be evidenced by the name of this individual appearing in the cc section of the email communication.
  - The sole responsibility for acting in accordance with the direction from the CU Medicine BOD on the extension of any type of patient discount resides with the rendering provider and the Department leadership copied on the email. The role of CU Medicine is to support full transparency of this decision making and will provide feedback as necessary.
- The written request will be stored in the CU Medicine GE Centricity Business billing system.
- In some cases a ZZ modifier may be selected at the time a professional charge is generated. The ZZ modifier is used at the time of service to indicate either a discount or write off should be applied to the professional charge. When a ZZ modifier is transmitted the following procedure will be followed:
  - The charge associated with the ZZ modifier will be suspended on a Fee Coordination edit
  - The Fee Coordination team will generate an email to the rendering provider and associated Department/Division Administrator (similar to above) with the goal of full transparency to all appropriate parties.
  - Unless directed to act otherwise generation of the email from Fee Coordination will serve as acknowledgement that the identified charge should be discounted or written off as directed by the rendering provider.
- CU Medicine Director of Patient Accounting will regularly report charity care, provider discounts, to the Audit and Finance Committee on a regular basis for review. The results of the FAC review of this report will be forwarded to the CU Medicine BOD.