



## Policy Title: Marketing Promotional Activities & Gifts

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Accountable Dept: Compliance

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### Policy: Promotional Activities & Gifts

**Scope:** All licensed employees and independent agents must be aware of the Medicare Marketing Regulations, which are reviewed and updated each year by CMS. This policy will be amended as necessary based on changes in regulations.

**Policy Statement:** Generally, promotional activities are designed to attract the attention of prospective enrollees and/or encourage retention of current enrollees. In addition to the guidance on nominal gifts, any promotional activities or items offered by agents must:

Have only nominal value (be worth no more than \$15) based on the fair market value of the item or less, with a maximum aggregate of \$50 per person, per year

Be offered to all people regardless of enrollment and without discrimination

Not be items that are considered a health benefit (e.g., a free checkup, blood pressure screens)

Not be tied directly or indirectly to the provision of any other covered item or service.

Agents should track and document items given to current enrollees. Agents are not required to track pre-enrollment promotional items on a per person basis; however, they may not willfully structure pre-enrollment activities with the intent to give people more than \$50 per year. 42 CFR 422.2268, 423.2268

**Gifts.** Agents may offer gifts to potential enrollees, as long as those gifts are of nominal value, provided regardless of enrollment, and without discrimination.

The following rules must be followed when providing nominal gifts:

If a nominal gift is one large gift (e.g., a concert, raffle, drawing), the total fair market value must not exceed the nominal per person value based on attendance. For example, if 10 people are expected to attend an event, the nominal gift may not be worth more than \$150 (\$15 for each of the 10 anticipated attendees). For planning purposes, anticipated attendance may be used, but must be based on actual venue size, response rate, or advertisement circulation.

Nominal gifts may not be in the form of cash or other monetary rebates, even if their worth is \$15 or less. Cash gifts include charitable contributions made on behalf of potential enrollees, and those gift certificates and gift cards that can be readily converted to cash, regardless of dollar amount. 42 CFR 422.2268(a), (b), and (c), 423.2268(a), (b), and (c)

**Exclusion of Meals as a Nominal Gift.** Agents may not provide or subsidize meals at sales/marketing events. They may, however, provide refreshments and light snacks. Agents should use their best judgment on the appropriateness of food products provided, and should ensure that items provided could not be reasonably considered a meal and/or that multiple items are not being “bundled” and provided as if a meal.

Meals may be provided at educational events, provided the event meets CMS’ strict definition of an educational event, and complies with the nominal gift requirement. 42 CFR 422.2268(p), 423.2268(p)

**Related Documents: Authoritative Sources**

Medicare Marketing Guidelines

**Policy Owner: Compliance Officer**

**Accountable VP/ Director: Anthony Vegnani**