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Sponsor:	<i>Linda Epstein: GENERAL COUNSEL</i>
Section:	<i>GA-Legal</i>
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GA-016-007 Complimentary Local Transportation Assistance

SCOPE

This policy applies to all of Broward Health's Facilities and all affiliates and subsidiaries of Broward Health.

PURPOSE:

The purpose of this Policy is to ensure, through the implementation of prudent and reasonable controls, that Broward Health provide complimentary local transportation assistance in a manner that:

- A. promotes greater access to medical care for patients living in Broward Health's Permitted Transportation Area;
- B. promotes patient safety; and
- C. complies with 42 U.S.C. § 1320a-7b(b) (the "Anti-Kickback Statute"), 42 U.S.C. § 1320a-7a(a)(5) ("Beneficiary Inducement Law"), 42 C.F.R. § 1001.952(bb) (the "Local Transportation Exception"), 42 U.S.C. § 1395nn (the "Stark Law"), and all other applicable state, local, and federal laws and regulations.

DEFINITIONS

For purposes of this Policy, the below terms shall have the meanings set forth below wherever they appear in this Policy, regardless of whether they are capitalized, unless:

1. The context in which they are used clearly requires a different meaning; or
2. A different definition is prescribed for a particular section of this Policy.

Words not defined shall be given their common and ordinary meaning unless the context in which they are used requires otherwise.

The below terms shall have the following meanings associated with them:

- A. **"Approver"** means the employee of the Facility who is responsible for approving and monitoring the provision of complimentary local transportation assistance.
- B. **"Caregiver"** means a person who provides assistance, typically in the home environment, to (1) an aging relative (e.g., parent or spouse) or another (unrelated) person, or (2) to an ill or disabled person of any age. A caregiver can be a family member, friend, volunteer, or paid professional.

C. "**Established Patient**" means a person who has selected and initiated contact to schedule or reschedule an appointment with Broward Health, or who previously has attended an appointment with Broward Health and who is otherwise eligible to receive complimentary local transportation pursuant to the terms of this Policy.

D. "**Facility**" means any hospital, facility, other location, department, or division owned and operated by Broward Health or its affiliates and subsidiaries which provides health care items and/or services.

E. "**Federal Health Care Program**" means any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the United States Government, including, but not limited to, Medicare, Medicaid, managed Medicare/Medicaid, and TriCare.

F. "**Owned or Contracted Vehicles**" mean vehicles that are either (i) owned by and operated either by personnel of Broward Health or on behalf of Broward Health pursuant to a written contract, or (ii) contracted for by where the vendor supplies both a vehicle and an operator such as ride-share and taxi services.

G. "**Facility Permitted Transportation Area**" means (i) the area within twenty-five (25) miles of the Facility, or (ii) the area beyond twenty-five (25) miles of the Facility when the Established Patient is being discharged following inpatient admission or released after being placed in observation status for at least twenty-four (24) hours.

H. "**Public Transportation**" means publicly or privately owned, general or special transportation services that are offered to the public on a regular and continuous basis. Such services include transport by bus, rail, or other means of conveyance, but do not include transport by charter, livery/limousine, luxury transportation services, ambulance-level transportation, or transportation by air.

I. "**Shuttle Service**" means a vehicle that operates on a set route according to a set schedule within the Permitted Transportation Area, including one or more Facilities. A Shuttle Service vehicle shall not be an aircraft, a luxury vehicle, or an ambulance-level vehicle.

POLICY

Complimentary local transportation assistance provided by a Broward Health Facility to Eligible Patients for the specific purpose of receiving medically necessary items or services from such Facility is appropriate when (i) the specific provisions of this Policy are adhered to; (ii) this Policy is applied uniformly and consistently; (iii) the complimentary local transportation assistance is not provided based on the past or anticipated volume or value of Federal Health Care Program business; and (iv) such complimentary local transportation assistance is in accordance with state and federal law.

PROCEDURE:

Determining Eligibility & Non-Discrimination

Eligibility

Complimentary local transportation assistance may be provided only (1) to Established Patients and their Caregivers to and from a Facility for the specific purpose of receiving medically necessary items or services from such Facility, or (2) as part of a Shuttle Service as detailed more fully below. All Eligible Patients shall be eligible under this Policy, regardless of their insurance status or their ability to pay.

Non-Discrimination

Complimentary local transportation assistance must be made available on equal terms and applied uniformly and consistently to all Established Patients regardless of their ability or inability to pay.

Family and Caregivers

Complimentary local transportation assistance may be made available to a Caregiver of an Established Patient, provided that the Caregiver is actually accompanying the Established Patient during the transportation for purposes of receiving medically necessary items or services from such Facility.

Permissible Destinations, Points of Origin, and Distance Limitations for the Provision of Complimentary Local Transportation Assistance

Destinations and Points of Origin

An Established Patient may be provided complimentary local transportation assistance only in the following circumstances:

- (i) Complimentary local transportation assistance is being provided to or from the Established Patient's residence within the Facility Permitted Transportation Area;
- (ii) Complimentary local transportation assistance is being provided to another residence of the Established Patient's choice within the Facility Permitted Transportation Area; or
- (iii) Complimentary local transportation assistance is being provided to another health care provider of the Established Patient's choice to obtain necessary health care items or services when such health care provider is:
 - (a) Included in the Established Patient's discharge plan;
 - (b) Within twenty-five (25) miles of the Facility; and
 - (c) The Established Patient has an established patient relationship with the health care provider the Established Patient is being transported to.

In no circumstance may the complimentary local transportation assistance be contingent upon a particular provider chosen by or affiliated with the Facility.

Distance Limitations

Complimentary local transportation assistance must be limited to transportation within the Facility Permitted Transportation Area.

Types of Transportation

General

Complimentary local transportation assistance may be provided to Established Patients in the form of (i) discounted or free vouchers for Public Transportation, (ii) rides provided by Owned or Contracted Vehicles, or (iii) Shuttle Services.

Shuttle Services

In lieu of vouchers or utilizing Owned or Contracted Vehicles, Shuttle Services may be used as

complimentary local transportation assistance. In the instance Shuttle Services are employed by a Facility or Facilities, the Shuttle Services do not have to be limited only to Established patients obtaining necessary health care items or services and do not have to comply with the destination and point of origin requirements of Section V.B.1. of this Policy provided such Shuttle Services contain all of the following components:

- (i) The Shuttle Services operate on a set route and under a set schedule with multiple stops;
- (ii) At least one (1) of the Shuttle Service stops is at the Facility; and
- (iii) There be no more than twenty-five (25) miles, measured directly, between any Shuttle Service stop and the Facility.

Notwithstanding the foregoing, Shuttle Services may be limited only to Established Patients obtaining necessary health care items or services, provided the Shuttle Services are applied uniformly and consistently.

Exclusions

In no event may complimentary local transportation assistance be provided in the form of air, luxury, or ambulance-level transportation, but this does not preclude non-luxury and non-ambulance-level vehicles equipped for wheelchairs.

Advertising and Informing Established Patients of Complimentary Local Transportation Assistance

Marketing and Advertising

- (i) If a Facility provides complimentary local transportation assistance, the complimentary local transportation assistance may not be advertised or marketed in any form or fashion including, but not limited to, websites or printed materials.
- (ii) No health care items or services may be marketed during the course of the transportation.

Signage and Routes

- (i) Signage may be posted on vehicles or shuttles which designate Broward Health or the Facility providing the transportation.
- (ii) In the event a Shuttle Service is utilized by a Facility, route maps and schedules may be created, but such Shuttle Service route maps and schedules may not include any advertising content. Additionally, signs indicating the Shuttle Service's route and stops may be posted throughout the Shuttle Service's route.

Offering and Informing Eligible Patients of Complimentary Local Transportation Assistance

An Established Patient may be offered complimentary transportation or assistance within the Facility Permitted Transportation Area when:

- (i) The Established Patient lacks any means to get to and/or from the Established Patient's appointment with the Facility;
- (ii) The Established Patient schedules an appointment which inhibits the Established Patient's ability to drive; or

(iii) The complimentary local transportation assistance is being offered to an Established Patient with a history of missing appointments.

In no circumstance may an individual reach out to a potential new patient or a potential new patient's case manager to induce the patient to come to the Facility with an offer of transportation.

Payments and Costs

Costs

(i) The costs of free or discounted local transportation services and assistance must be borne by the Facility and may not be shifted to any third-party payer and may not be included, directly or indirectly, in any Federal Health Care Program cost report or claim.

(ii) This does not, however, prohibit donations or contributions from appropriate sources or agreements entered into with other providers without any tie to referrals.

Payments to Complimentary Local Transportation Assistance Providers

(i) Payments for transportation provided by Owned or Contracted Vehicles shall be provided directly to the driver or the contractor/vendor providing the services.

(ii) Payments for Public Transportation may be provided to an Established Patient by a Facility only in the form of a voucher.

(iii) Under no circumstances shall any payment for complimentary local transportation assistance be made in the form of cash (or its equivalent) to an Established Patient.

(iv) Payments for Owned or Operated Vehicle services may not be made based on a per-beneficiary-transported basis, but they may be paid on the basis of total distance traveled by the vehicle.

Gratuities Prohibited

Drivers providing complimentary local transportation assistance may not accept tips or gratuities of any kind when furnishing the complimentary local transportation assistance to Established Patients pursuant to this Policy.

Approvals

Facilities shall get approval from the Approver prior to utilizing complimentary local transportation assistance. The Approver for each Facility shall be as follows:

Broward Health's Hospital Regions

(i) The Regional Manager of Case Management; or

(ii) The Nursing Supervisor or the Administrator On-Call if the Regional Manager of Case Management is unavailable.

Broward Health's Ambulatory Division

(i) *Broward Health Physician Group (BHPG)*

(a) One of the BHPG Operations Managers; or

(b) Either (1) the Ambulatory Division's Chief Financial Officer (CFO), or (2) one of

the Ambulatory Division's Executive Directors if no BHPG Operations Manager is available.

(ii) *Broward Health Imaging and Urgent Care Centers*

(a) The Regional Manager for the Imaging and Urgent Care Centers; or

(b) Either (1) the Ambulatory Division's Chief Financial Officer (CFO), or (2) one of the Ambulatory Division's Executive Directors if no BHPG Operations Manager is available.

(iii) *Broward Health's Community Health Services (CHS)*

(a) One of the site managers of the CHS site seeking approval; or

(b) Either (1) the Ambulatory Division's Chief Financial Officer (CFO), or (2) one of the Ambulatory Division's Executive Directors if no BHPG Operations Manager is available.

Children's Diagnostic & Treatment Center

(i) The Director, Comprehensive Family AIDS Program ("CFAP") Services; or

(ii) The Manager, CFAP Services.

Monitoring

The Approvers at each Facility shall also be responsible for monitoring adherence to this Policy. To the extent that any non-adherence of this Policy is discovered, it shall promptly be reported to Broward Health's Corporate Compliance and Ethics Department and the Office of the General Counsel.

Document Retention

Entities shall retain all documentation relating to the provision of complimentary local transportation assistance, including, but not limited to:

Determination of the Facility Permitted Transportation Area;

Shuttle Service routes, schedules, and related materials; and

Any other documentation evidencing compliance with this Policy.

The documentation shall be retained in accordance with the requirements of Broward Health Policy GA-004-135, Record, Retention, Storage and Disposal, as amended from time to time and then in effect.

Enforcement

All employees whose responsibilities are affected by this Policy are expected to be familiar with the basic procedures and responsibilities created by this Policy. Failure to comply with this Policy shall be subject to appropriate disciplinary action up to and including termination.

Interpretation and Administration

Administration and interpretation of this Policy is the responsibility of Broward Health's Corporate Compliance and Ethics Department and Broward Health's Office of General Counsel.

REFERENCES

1. Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b).
2. Safe Harbor Regulation, 42 C.F.R. § 1001.962(bb).
3. Beneficiary Inducement Law, 42 U.S.C. § 1320a-7a(a)(5).
4. OIG Advisory Opinion 09-01 (March 6, 2009).
5. Medicare and State Health Care Programs: Fraud and Abuse; Revisions to the Safe Harbors Under the Anti-Kickback Statute and Civil Monetary Penalty Rules Regarding Beneficiary Inducements, 81 Fed. Reg. 88368, 88379-88390 (Dec. 7, 2016).
6. Medicare and State Health Care Programs: Fraud and Abuse; Revisions to Safe Harbors Under the Anti-Kickback Statute, and Civil Monetary Penalty Rules Regarding Beneficiary Inducements, 85 Fed. Reg. 77684, 77857-77864 (Dec. 2, 2020)

Attachments

No Attachments

Approval Signatures

Step Description	Approver	Date
	Gerald Del Amo: DEPUTY GENERAL COUNSEL	07/2021
	Linda Epstein: GENERAL COUNSEL	07/2021