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UHHS P&P

University Hospitals Health System
Policy & Procedure Manual

Management Services Agreements Involving Physicians

SCOPE


This Policy applies to University Hospitals Health System, Inc. and all of its wholly-owned entities and University Hospitals Faculty Services, Ltd. (collectively, “UHHS”), including all UHHS employees, medical staff members and, wherever appropriate, others who provide services to UHHS.

PURPOSE

To promote sound business judgment in connection with arrangements whereby UHHS provides management services, business office services and other contract services to physicians in exchange for a fee, to ensure such arrangements comply with all applicable Federal and state laws, and to establish a process for entering into such arrangements.


DEFINITIONS

- I. **Physician** means a physician or a physician’s immediate family member (i.e., spouse, natural or adoptive parent, child, sibling, step-parent, step-child, step-brother, step-sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, and the spouse of a grandparent or grandchild), or any entity that is controlled by a physician or a physician’s immediate family member.
- II. **UHHS Authorized Representative** means the person with signing authority for an agreement with a Physician, in accordance with the UHHS policy on Contract Execution (F-24).
- III. **UHHS MSO** means a UHHS entity or business unit that provides management services, business office services, and other contract services to or on behalf of Physicians.

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POLICY


- I. All arrangements between UHHS and non-employed Physicians for whom UHHS MSOs provide services will be managed and documented in accordance with this Policy.
- II. This Policy does not apply to arrangements with Physicians employed by UHHS.
- III. Each arrangement covered by this Policy must comply with all applicable Federal and state laws, and be documented in a written agreement that:
 - (1) Is signed by both parties;
 - (2) Specifies all of the services to be provided by the UHHS MSO;
 - (3) Specifies the compensation for such services over the term of the agreement;
 - (4) Specifies the time-frame of the agreement; and
 - (5) Satisfies all other applicable legal requirements as determined by the UHHS Law Department.
- IV. If an arrangement covered by this Policy is intended to provide for services on a periodic, sporadic or part-time basis, the written agreement documenting the arrangement should specify exactly the schedule of such intervals, their precise length, and the exact charge for each interval.
- V. The aggregate services contracted for under any arrangement covered by this Policy must not exceed those which are reasonable and necessary to accomplish the commercially reasonable business purposes of such services.
- VI. UHHS will not enter into an arrangement for the provision of services that involve counseling or promoting business arrangements or other activities that violate Federal or state law.
- VII. The compensation amount under any arrangement covered by this Policy (i) may not be less than the fair market value of such services; (ii) must exceed a combination of the UHHS MSO's direct and overhead costs (based on capacity) associated with providing such services; and (iii) may not be determined in a manner that reflects the volume or value of any referrals or other business generated between the Physician and UHHS, or with the intention to induce referrals or business otherwise generated between the Physician and UHHS.
- VIII. The term of any agreement covered by this Policy will be for at least one year. If the agreement is terminated prior to the end of the first year of the agreement, UHHS will not enter into a similar contract or a contract for similar services on different terms until after the one year anniversary of the commencement date of the original agreement.

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- IX. All arrangements covered by this Policy must comply with applicable operational guidelines, policies and procedures established by UHHS regarding the provision of management services, business office services and other contract services by UHHS.
- X. All documents leading up to, or associated with, a formal, binding agreement with a Physician are subject to this Policy. This includes non-binding letters of intent, letter agreements and memoranda of understanding.
- XI. Side agreements or arrangements (whether written or oral) not covered by the primary written agreement are prohibited, unless they are made as a formal amendment or additional agreement reviewed by the UHHS Law Department and signed by both parties.
- XII. In all arrangements subject to this Policy, payments must be consistent with the terms of the agreement and performance of all of the terms of the agreement is required.
- XIII. This Policy generally applies to services to be provided to Physicians on a continuing basis in the Physician's offices. Sales of items and services provided on a one-time basis or on-site at a UHHS facility and access by UHHS MSOs and Physicians to UHHS Vendor Agreements are covered by other policies, such as the UHHS policies on Physicians Purchasing Items or Services (PT-9) and Physician Access to Vendor Agreements (PT-10).

PROCEDURE

- I. The UHHS Authorized Representative or his or her designee completes and forwards the relevant portions of a contract form provided by the UHHS Law Department or provides such information as necessary for the efficient and timely preparation of the agreement by the UHHS Law Department, as soon as the transaction is contemplated.
- II. The UHHS Law Department and Organizational Integrity Department will analyze the proposed arrangement for compliance with all applicable legal requirements. The UHHS Law Department must approve the agreement as to form.
- III. A fair market value determination may be made by validating periodically the UHHS MSO's fee structure, or on a case-by-case basis.
 - A. All fee structures determined by the validated process require that a qualified independent third party valuation firm must validate the process by which pricing is established, to ensure that the fee structure covers the UHHS MSO's direct and overhead costs (based on capacity) of providing the services and that fees are consistent with the current market rates for the services. The validation of the process must cover the geographic area serviced by the UHHS MSO. If the validated process is chosen, the UHHS MSO must validate its pricing process using a valuation consultant no less than every 2 years.

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- B. All fee structures not determined by the validated process require the UHHS Authorized Representative or his or her designee to obtain a separate written fair market opinion as of the effective date of the agreement by a qualified independent third party valuation firm.
- IV. The UHHS Authorized Representative or his or her designee shall not make a commitment (whether written or oral) to any Physician regarding the terms of a proposed arrangement until such terms have been reviewed and approved by the UHHS Law Department.
- V. Arrangements that are not in compliance with this Policy, or that are with a person who is a disqualified person, as defined in 26 C.F.R. § 53.4958-0 et seq., or in a common medical practice with a disqualified person, shall be permitted only upon approval of the Audit and Organizational Integrity Committee of University Hospitals Health System, Inc., pursuant to procedures adopted by such committee.
- VI. If, at any time, it appears that there have been discussions or memoranda indicating an intent to obtain or reward referrals by way of an agreement or arrangement, the agreement or arrangement will not be approved.
- VII. Prior to signing an agreement on behalf of UHHS or presenting the agreement to the Physician for signature, the UHHS Authorized Representative or his or her designee (who shall be at least a Senior Vice President) must certify in writing, on a form provided by the UHHS Law Department, that:
- (1) Except as disclosed or cross-referenced in the agreement, there are no other arrangements, written or oral, with the Physician;
 - (2) The payments pursuant to the agreement will represent the fair market value of the services to be rendered;
 - (3) The terms of the agreement are commercially reasonable;
 - (4) The services to be provided do not exceed those which are reasonably necessary for the arrangement's commercially reasonable business purposes; and
 - (5) Any other condition determined by the UHHS Law Department as necessary for the proposed arrangement to satisfy applicable legal requirements.
- VIII. Upon receiving the agreement approved as to form from the UHHS Law Department and signing the certification form, the UHHS Authorized Representative may sign the agreement on behalf of UHHS and present the agreement to the Physician for signature.
- IX. The UHHS Authorized Representative or his or her designee forwards an original of the signed agreement and certification form and any fair market value analysis to the UHHS Law Department and a copy of the agreement to the UHHS Finance Department, and retains a copy for his or her records.

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SEE ALSO

In the UHHS P&P:

- F-24, Contract Execution
- F-30, Contracts
- PT-9, Physicians Purchasing Items or Services
- PT-10, Physician Access to Vendor Agreements

REFERENCES

- 42 U.S.C. § 1320a-7b; 42 C.F.R. § 1001.952;
- 42 U.S.C. § 1395nn; 42 C.F.R. § 411.357;
- 26 U.S.C. § 4958; 26 C.F.R. §§ 53.4958-0 – 53.4958-8

APPROVALS	
 _____ CHIEF EXECUTIVE OFFICER	<u>7/18/05</u> _____ Date
 _____ SENIOR VICE PRESIDENT	<u>7/18/05</u> _____ Date