

*[We redact certain identifying information and certain potentially privileged, confidential, or proprietary information associated with the individual or entity.]*

[Name and address redacted]

**Re: Complimentary Local Transportation Program**

Dear [Name redacted]:

We are writing in response to your letter of November 18, 2002, seeking clarification of the position of the Office of the Inspector General (“OIG”) on the provision of complimentary local transportation. Specifically, you seek clarification on the application of section 1128A(a)(5) of the Social Security Act to a hospital’s existing program to provide free transportation for the hospitals’ patients and their families to the hospital and to hospital-owned ambulatory surgical centers. Section 1128A(a)(5) prohibits a person from offering or transferring remuneration to a beneficiary that such person knows or should know is likely to influence the beneficiary to order items or services from a particular provider, practitioner, or supplier for which payment may be made by Medicare or Medicaid.

Free local transportation valued at no more than \$10 per trip and \$50 per patient in the aggregate on an annual basis is permissible under section 1128A(a)(5). Complimentary transportation services that exceed those limits implicate the statute. However, as indicated in the Special Advisory Bulletin on Offering Gifts and Other Inducements to Beneficiaries (67 Fed. Reg. 55855 (Aug. 30, 2002)), we are considering developing a regulatory exception for some complimentary local transportation of higher value offered to beneficiaries residing in a provider’s primary service area.

In light of our continuing consideration of a regulatory exception for complimentary local transportation, we believe strict enforcement of section 1128A(a)(5) may needlessly disrupt patient care in the event we ultimately promulgate an exception for such arrangements. Accordingly, until such time as the OIG promulgates a final rule on complimentary local transportation under section 1128A(a)(5) or indicates its intention not to proceed with such rule, the OIG will not impose administrative sanctions for violations of section 1128A(a)(5) of the Act in connection with hospital-based complimentary transportation programs that meet the following conditions:

1. The program was in existence prior to August 30, 2002, the date of publication of the Special Advisory Bulletin.
2. Transportation is offered uniformly and without charge or at reduced charge to all patients of the hospital or hospital-owned ambulatory surgical center (and may also be made available to their families).
3. The transportation is only provided to and from the hospital or a

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hospital-owned ambulatory surgical center and is for the purpose of receiving hospital or ambulatory surgery center services (or, in the case of family members, accompanying or visiting hospital or ambulatory surgical center patients).

4. The transportation is provided only within the hospital's or ambulatory surgical center's primary service area.
5. The costs of the transportation are not claimed directly or indirectly by on any Federal health care program cost report or claim and are not otherwise shifted to any Federal health care program.
6. The transportation does not include ambulance transportation.

[Sentence redacted]

I hope this information is helpful. If you have further questions or comments, please feel free to contact me at (202) 619-0335.

Sincerely,

/s/

Kevin McAnaney  
Chief, Industry Guidance Branch