

<b>Title:</b> CP 5023 Code of Conduct		
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<b>Approved by:</b> PolicyTech Administrators , Meloney Broadway		
<b>Discrete Operating Unit/Facility:</b>  Banner Health Insurance Division		BUHP/BMA Compliance

## I. Purpose and Population:

- A. This policy applies to all Banner Medicaid and Medicare lines of business.
- B. To emphasize the necessity and responsibility of every employee, temporary employee, intern, volunteer of Banner Medicaid and Medicare Plans, the Boards of Directors as well as Banner Medicaid and Medicare Plans' Subcontractors and First Tier, Downstream and Related Entities (FDRs), to perform their duties in compliance with laws, regulations, contractual requirements and Banner Medicaid and Medicare Plans policies.

## II. Definitions:

- A. Please refer to the link below for full definitions:  
<https://bannerhealth.sharepoint.com/:x:/r/teams/PHSOToolKitforLeadersandStaff/Shared%20Documents/General/INS%20DIV%20POLICY%20PROCEDURE%20%20TOOLKIT/Policy%20and%20Procedure%20Definitions/Policy%20Definition.xlsx?d=wd487a861f67043ccba4edec928c1d02a&csf=1&web=1&e=2VkJoe>

## III. Policy:

- A. Banner Medicaid and Medicare Plans have written policies & procedures and a code of conduct that articulate Banner Medicaid and Medicare Plans' commitment to comply with all applicable Federal and State standards. It is the policy of Banner Medicaid and Medicare Plans to follow the established code of conduct and for all employees, temporary employees, interns, volunteers, Boards of Directors, Subcontractors, and FDRs to perform their duties in compliance with applicable laws, regulations, contractual requirements, Banner Medicaid and Medicare Plans policies and the code of conduct.

## IV. Procedure/Interventions:

- A. Banner Medicaid and Medicare Plans is a subsidiary of Banner Health (BH), and their standard of conduct extends to the Banner Medicaid and Medicare Plans, including all

Banner Medicaid and Medicare Plans employees and Subcontractors/FDRs. It is essential for Banner Medicaid and Medicare Plans employees and Subcontractors/FDRs to understand the BH Code of Conduct and the process designed to correct behaviors which are not in compliance with those standards.

1. Banner Medicaid and Medicare Plans employees must review the BH code of conduct at least annually and must attest that they have read, understood and will comply with the BH code of conduct as a part of the Banner MyHR Workday Learning Code of Conduct training.
- B. In addition to BH's standard of conduct, Banner Medicaid and Medicare Plans have a code of conduct specific to managed care which is articulated in and a component of the Insurance Division Compliance Program and Fraud Waste and Abuse Plan (Compliance Program). BH's code of conduct is included within the Compliance Program as an addendum.
1. Banner Medicaid and Medicare Plans employees must review the Compliance Program at least annually and must attest that they have read, understood and will comply with the Compliance Program as a part of the Banner MyHR Workday Learning training.
- C. Banner Medicaid and Medicare Plans and all Banner Medicaid and Medicare Plans employees and Subcontractors/FDRs are required to abide by Banner Medicaid and Medicare Plans code of conduct.
1. All employees must review Banner Medicaid and Medicare Plans code of conduct at least annually and must attest that they have read, understood and will comply with Banner Medicaid and Medicare Plans' code of conduct. This attestation is completed through the Banner MyHR Workday Learning.
  2. Subcontractors/FDRs complete a Code of Conduct Attestation to indicate that they attest that their organization has a code of conduct or a code of ethics that includes a provision for reporting any potential violations of the code and has a conflict of interest provision to ensure their governing bodies and senior leadership responsible for the administration or delivery of Medicare and/or Medicaid benefits are free from any conflict of interest in administering or delivering said benefits.
  3. All Subcontractors/FDRs must either adopt Banner Medicaid and Medicare Plans code of conduct or adopt another code of conduct that is materially similar, to Banner Medicaid and Medicare Plans code of conduct and follow set standards.
- D. Key concepts which must be included in Banner Medicaid and Medicare Plans code of conduct are as follows:
1. Employees and Subcontractors must conduct themselves in an ethical manner, act in good faith, with due care, competence and diligence by conducting all business activities with the highest level of integrity.
    - a. Employees and Subcontractors/FDRs must observe professional standards with regard to professional licenses and the scope of services permitted under that license.
    - b. Employees and Subcontractors/FDRs must evaluate existing procedures to help identify process improvements. If Banner Medicaid and Medicare Plans identifies FDR non-compliance, corrective action plans (CAPs) are required to respond to detected offenses. Banner Medicaid and Medicare Plans ensure that corrective actions are taken.
    - c. Employees must address deficiencies by reporting anything they suspect as "not quite right" through any of these communication options 1. Discuss with supervisor; 2. Discuss with manager/director/leader; 3. Discuss with Compliance Officers/Human Resources Department/CEO/senior executive; 4. Discuss with Corporate

- Compliance Department/Legal Department or communicate through the toll free, anonymous, and confidential compliance ComplyLine hotline.
- d. Subcontractors/FDRs must report any potential non-compliance or anything they suspect as “not quite right” to the leadership of their organization as outlined in their code of conduct and to Banner Medicaid and Medicare Plans Compliance Department, the Vendor Oversight Program Manager or through communication via the ComplyLine hotline.
  - e. Employees and Subcontractors/FDRs face significant consequences for not acting in accordance with the Compliance Program, up to and including termination of employment or contract.
2. Adhere to legal and regulatory requirements: Banner Medicaid and Medicare Plans are committed to complying with all applicable contractual requirements, Federal and State laws and regulations. Employees and Subcontractors/FDRs must be knowledgeable of all contractual requirements, laws and regulations that apply to their specific job duties and must comply with all relevant laws, regulations, and contractual obligations.
- a. Relevant laws include but are not limited to the False Claims Act, Stark Self-Referral Law, Anti-Kickback Statute, Federal Procurement Integrity Act, HIPAA, HITECH, antitrust laws, tax laws, lobbying/political activity, non-discrimination laws and regulatory requirements.
  - b. Banner Medicaid and Medicare Plans: Banner Medicaid and Medicare Plans employees and Subcontractors/FDRs do not commit fraud, waste, or abuse and must report suspected fraudulent activities to the Compliance Officers.
  - c. When accepting reimbursement or making payments on behalf of Medicare or Medicaid, Employees and Subcontractors/FDRs are subject to several laws designed to prevent fraud. Honesty and accuracy are vital. It is a federal felony to willfully make a false statement in connection with a claim for payment. Failure to obey these laws can result in fines, jail or exclusion from Medicare and Medicaid programs.
  - d. Employees and Subcontractors/FDRs who report non-compliance and fraudulent activities in good faith are immune from any civil liability by reason of that action, unless that person has been charged with or is suspected of the non-compliance, fraud or abuse reported.
  - e. Banner Medicaid and Medicare Plans do not contract with or employ, or reimburse for services rendered by, any individual or entity that is excluded or ineligible to participate in Federal healthcare programs.
  - f. Banner Medicaid and Medicare Plans are required to deny payments for Medicare services or items if the provider that prescribes or furnishes the service or item is on the preclusion list.
  - g. Employees may not share information and engage in business arrangements which violate antitrust laws.
3. Employees and Subcontractors/FDRs have an obligation to seek guidance if they have questions regarding a law, regulation or contractual obligation. Ensure accurate records and financial information: Banner Medicaid and Medicare Plans endeavors to ensure that all documentation accurately reflects the true nature of a fact or event. Employees and Subcontractors/FDRs ensure that documentation is accurate and complete including, but not limited to: medical records, claims, time sheets, production standards, quality control, expense reports, formal certifications, and financial statements.
- a. When submitting information to Medicaid/Medicare all documents are completed as required and in an accurate and timely manner. All documents are reviewed and pre-approved by the preparer, manager and director of the applicable department.
  - b. All documentation is recorded and reported in a timely manner.
  - c. Documentation discrepancies are reported to management.

4. Maintain confidentiality: Banner Medicaid and Medicare Plans complies with all Federal and State laws to safeguard member privacy. Employees and Subcontractors/FDRs must protect confidential health information and Banner Medicaid and Medicare Plans business information.
  - a. Patient and Banner Medicaid and Medicare Plans member specific information is not to be released or discussed with others unless it is necessary to treat that member or if allowed to be released by law. Employees follow all HIPAA and HITECH Act requirements.
  - b. Banner Medicaid and Medicare Plans business information such as member lists, member ID numbers, personnel data, fee schedules, clinical information, financial data, legal advice/opinions and marketing strategies, are not released to anyone outside of Banner Medicaid and Medicare Plans without proper authorization from the manager, director, marketing committee or CEO as applicable.
5. Avoid conflicts of interest: Employees and Subcontractors/FDRs conduct business activities to avoid conflicts of interest.
  - a. Conflicts of interest occur when an individual's personal interest interferes or appears to interfere with the interests of BH and/or the Banner Medicaid and Medicare Plans.
  - b. Conflict of interest questions are reported to the employee's director or manager.
  - c. If a conflict of interest is identified the manager/director works with the employee to accommodate for the situation.
  - d. If a conflict of interest is identified, it must be reported to the Compliance Officers.
6. Cooperate with all investigations: Banner Medicaid and Medicare Plans expect truthful and honest responses when participating in internal investigations or external agency reviews, audits or investigations.
  - a. Employees and Subcontractors/FDRs respond honestly and truthfully to all internal investigations and external agency reviews.
  - b. Employees fully cooperate with government and other authorized external agencies when responding to questions, investigations and during government audit and review processes.
  - c. Employees cooperate with law enforcement officials when conducting investigations.
7. Retention of records: The retention and disposal or destruction of records will be in accordance with legal and regulatory requirements and Banner Medicaid and Medicare Plans policy. Employees and Subcontractors/FDRs retain and dispose or destroy records in accordance with legal and regulatory requirements
  - a. Records pertaining to Banner Medicaid and Medicare Plans litigation, or government investigation or audit will not be destroyed.
  - b. Records that are subject to audit or current/threatened litigation may not be destroyed unless there is written notification of expiration of the litigation and record destruction is approved by senior management and the Compliance Officers.
  - c. Records are maintained in appropriate format and available within the timeframes required by Federal and State regulation.
  - d. The Compliance Officers or designee will oversee destruction of any records.
8. Accessing electronic information: Employees and Subcontractors/FDRs are responsible for properly using information stored and produced by all information systems.
  - a. Employees and Subcontractors/FDRs will comply with HIPAA and HITECH regulations and requirements that reflect the legal requirements for protecting electronically submitted Protected Health Information (PHI).
  - b. System users are responsible for preventing unauthorized access to systems. Passwords and other security codes may not be shared.
  - c. Accessing Banner Medicaid and Medicare Plans system records or adjusting Banner Medicaid and Medicare Plans or Subcontractor/FDR policy file or claims without

- proper authority is a violation of the Compliance Program and may be subject to disciplinary action up to and including termination.
9. Non-Retaliation for Reporting: Employees and Subcontractors/FDRs should be able to work without fear of retribution. Retaliation is prohibited against those (including Banner Medicaid and Medicare Plans members) who, in good faith, report inappropriate activities.
    - a. Banner Medicaid and Medicare Plans are committed to equal employment opportunity in the workplace. Banner Medicaid and Medicare Plans seek a work environment that is free of harassment and discrimination. Employees must observe Banner Medicaid and Medicare Plans' commitment and extend appropriate behavior in the workplace.
    - b. Employees must report violations to the Compliance Officers.
  10. Seeking guidance and reporting violations: Employees and Subcontractors/FDRs must report actual or suspected violations.
    - a. All inquiries are confidential subject to the limitations imposed by law.
  11. Enforcement of corrective action and/or discipline: Employees or Subcontractors/FDRs who violate any of the Compliance Program requirements or violate related Banner Medicaid and Medicare Plans' policies and procedures are subject to corrective action and/or disciplinary action up to and including termination.
    - a. Violations may result in criminal referral and reports to law enforcement and government agencies.
    - b. Any employee or Subcontractor/FDR who harasses or threatens a Banner Medicaid and Medicare Plans' employee or Subcontractor/FDR for reporting violations will be terminated.
  12. Health, safety and the environment: Employees and Subcontractors/FDRs are expected the work safely and know how to apply any safety procedures that apply to their work. Employees and Subcontractors/FDRs should use best efforts to improve safety and reduce waste.
- E. Gifts and entertainment: Employees must abide by the BH code of conduct and policies as it relates to gifts and entertainment.
- F. Banner Medicaid and Medicare Plans must review Medicaid/Medicare regulations and requirements at least annually or whenever revisions are made by Medicaid/Medicare to ensure Banner Medicaid and Medicare Plans code of conduct is up-to-date and to incorporate changes in applicable laws, regulations, and other program requirements.
  1. Banner Medicaid and Medicare Plans will revise the code of conduct in Banner Medicaid and Medicare Plans' Insurance Division Compliance Program to ensure it is compliant with Medicaid/Medicare requirements.
- G. Banner Medicaid and Medicare Plans write the code of conduct in a format that is easy to read and comprehend.
- H. Banner Medicaid and Medicare Plans' Code of Conduct is submitted annually or when revised, as a component of the Compliance Program, to Banner Medicaid and Medicare Plans' Compliance Committee for review and approval. The Governing Bodies also review and approve the Compliance Program on an annual basis or when revised.
- I. Banner Medicaid and Medicare Plans distribute the code of conduct to all employees within 60 days and all FDRs within 90 days of initial hire or contract, when there are updates to the code of conduct, and annually thereafter.

1. Banner Medicaid and Medicare Plans maintain documentation which demonstrates that the code of conduct was distributed to employees.
- J. Banner Medicaid and Medicare Plans make Banner Medicaid and Medicare Plans' Code of Conduct available to Subcontractors/FDRs. Subcontractors/FDRs may use Banner Medicaid and Medicare Plans' code of conduct or may submit the Subcontractor's/FDR's code of conduct to Banner Medicaid and Medicare Plans for review and approval to ensure the Subcontractor's/FDR's code of conduct is comparable to Banner Medicaid and Medicare Plans.
1. Subcontractors/FDRs are required to distribute Banner Medicaid and Medicare Plans' or their Banner Medicaid and Medicare Plans -approved code of conduct to Subcontractor/FDR employees.
  2. Subcontractors/FDRs are required to attest that the code of conduct is distributed to Subcontractor/FDR employees.
  3. Subcontractors/FDR maintains documentation which can be submitted to Banner Medicaid and Medicare Plans upon request which demonstrates that the code of conduct was distributed to Subcontractor/FDR employees.

## **V. Procedural Documentation:**

- A. 100% of employees receive, read and attest to having understood Banner Medicaid and Medicare Health Plan's code of conduct within 60 days of hire for employees and annually thereafter.
- B. Banner Medicaid and Medicare Plans code of conduct is reviewed at least annually to ensure it contains all governing agency required components.
- C. Banner Medicaid and Medicare Plans maintains documentation demonstrating code of conduct distribution through Banner MyHR Workday Learning.
- D. 100% of Subcontractors/FDRs receive the Compliance Attestations and must complete and return as evidence that they either adopt and comply with Banner Medicaid and Medicare Plans code of conduct or adopt another code of conduct similar to Banner Medicaid and Medicare Plans code of conduct and follow the set standards. The Vendor Oversight Program Manager is responsible for distributing, collecting and reviewing the Attestation responses.

## **VI. References:**

- A. A.R.S. § 36-2918.01
- B. 42 CFR § 455.17
- C. 42 CFR § 455.1(a)(1)
- D. A.R.S § 13-2310
- E. 42 CFR § 438.608
- F. AHCCCS Contract; Paragraph 62, Corporate Compliance
- G. 42 CFR 422.503(b)(4)(vi)(A)
- H. 42 C.F.R. § 423.504(b)(4)(vi)(A)
- I. Medicare Advantage Coordinated Care Plan(s) contract; Article III, Element F - Compliance Plan
- J. Medicare Prescription Drug Plan contract; Article II, Element K - Effective Compliance Program
- K. Medicare Managed Care Manual, Chapter 11, section 20.1
- L. Medicare Managed Care Manual, Chapter 21 and Prescription Drug Benefit Manual Chapter 9, Section 50.1 and section 30
- M. AHCCCS Contractor Operations Manual, Policy 103 Fraud and Abuse
- N. Title XVIII of the Social Security Act
- O. Patient Protection and Affordable Care Act (Pub. L. No 111-148, 124 Stat. 119)

- P. Health Insurance Portability and Accountability Act (public law 104-191)
- Q. False Claims Acts (31 USC § § 3729-3733)
- R. Federal Criminal False Claims Statutes (18 USC § § 287.1001)
- S. Anti-Kickback Statute (42 USC § 1320a-7b(b))
- T. The Beneficiary Inducement Statute (42 USC § 1320a-7a(a)(5))
- U. Civil Monetary Penalties of the Social Security Act (42 USC § 1395w-27(g))
- V. Physician Self-Referral (Stark) Statute (42 USC § 1395nn)
- W. Fraud and Abuse, Privacy and Security Provisions of the Health Insurance Portability and Accountability Act, as modified by the HITECH Act
- X. Prohibitions against employing or contracting with persons or entities that have been excluded from doing business with the Federal Government (42 USC § 1395w-27(g)(1) (G))
- Y. Fraud Enforcement and Recovery Act of 2009
- Z. All sub-regulatory guidance produced by Medicaid/Medicare such as manuals, training materials, memos and guides

## **VII. Related Policies/Procedures:**

- A. BH Policy: 418 Corrective Action Policy
- B. BH Policy: 264 Compliance: Reporting and Investigating Potential Compliance Issues
- C. BH Policy: 732 Conflict of Interest
- D. BH Policy: 739 Records Retention and Destruction
- E. BH Policy: 402 HIPAA: Responding to Privacy Incidents Violations
- F. BH Policy: 410 Workforce Confidentiality
- G. BH Policy: 408 HIPAA: Using, Disclosing and Requesting the Minimum Necessary Amount of PHI
- H. BH Policy: 437 Prohibition Against Retaliation for Protected Activities
- I. BH Policy: 792 Safety Manual: Hazardous Materials Management – Hazard Communication Program
- J. BH Policy: 202 Compliance: Prohibition on Kickbacks and Bribes
- K. BH Policy: 190 Compliance: Business Courtesies to Physicians and Immediate Family Members
- L. BH Policy: 256 Compliance: Acceptance of Items from Outside Business Associates
- M. BH Policy: 182 Compliance: ComplyLine
- N. BH Policy: 194 Compliance: Federal and State Exclusion Review
- O. BH Policy: 286 Compliance: Mandatory Compliance Training and Education
- P. BH Policy: 401 HIPAA Privacy and Security Mandatory Training
- Q. BH Policy: 425 Equal Employment Opportunity & Affirmative Action Policy
- R. BH Policy: 411 ADA/Non-Discrimination Against Disabled Employees and Applicants
- S. BH Policy: 427 Harassment and Sexual Harassment Policy
- T. Insurance Division Policy: CP 5004 Reporting Compliance Issues
- U. Insurance Division Policy: CP 5015 Compliance Process for Researching Allegations of Non-Compliance
- V. Insurance Division Policy: CP 5003 New Employee Orientation and Training
- W. Insurance Division Policy: CP 5018 Fraud, Waste and Abuse
- X. Insurance Division Policy: CP 5108 Compliance Actions
- Y. Insurance Division Policy: CP 5022 Maintenance and Retention of the Banner Medicaid and Medicare Plans' Documents, Member Records and All Related Business Documents
- Z. Insurance Division Policy: CP 5001 Compliance Program
- AA. Insurance Division Policy: CP 5221 Compliance Officer Responsibilities
- BB. Insurance Division Policy: CP 5017 Training Material Preparation, Documentation and Tracking
- CC. Insurance Division Policy: CP 5024 Conflict of Interest

**VIII. Keywords and Keyword Phrases:**

- A. Code of Conduct
- B. Conflict of Interest
- C. Compliance Program