

Title: CP 5032 Offshore Outsourcing		
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Approved by: PolicyTech Administrators , Meloney Broadway		
Discrete Operating Unit/Facility: Banner Health Insurance Division		BUHP/BMA Compliance

I. Purpose and Population:

- A. This policy applies to all Banner Medicaid Medicare lines of business.
- B. To ensure that Banner Medicaid Medicare Plans take appropriate measures to ensure that Banner Health entities and Subcontractors who utilize Offshore Vendors/Subcontractors and perform Medicare-related activities complete the appropriate Offshore Attestation and that no Offshore Subcontractors providing services utilizing protected health information are utilized for any AHCCCS lines of business.

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=2VkLoe>

III. Policy:

- A. Banner Medicaid and Medicare Plans Vendor Oversight Manager collects Compliance Attestations from Subcontractors which include but are not limited to; vendors and delegates, indicating whether or not they utilize Offshore Vendors/Subcontractors in their CMS/AHCCCS lines of business.
- B. Providers are required to notify Banner Medicaid and Medicare Plans Compliance Department if they utilize Offshore Vendors/Subcontractors in their CMS/AHCCCS lines of business,
- C. When offshore activities are identified, an additional Offshore Attestation must be completed by the Subcontractor/Vendor or Provider. The Banner Medicare Compliance Officer will enter data for CMS via the Health Plan Management System (HPMS) the specific

subcontract information contained in the Offshore Attestation that a Subcontractor/ Vendor or Provider submits to Banner Medicare Plans.

IV. Procedure/Interventions:

- A. Banner Medicare Plans Compliance Officer enters data for CMS via the HPMS System for a completed Offshore Attestation whenever Banner Medicaid and Medicare Plans identifies that a Subcontractor outsources part or all of its responsibilities and includes receiving, processing, transferring, handling, storing or accessing Banner Medicaid and Medicare Plans member PHI in oral, written or electronic form.
 - 1. Subcontractor information contained in the Offshore Attestations should be entered into the CMS HPMS module within 30 calendar days after the offshore attestation is signed.
 - 2. If changes are made to the functions that a current Offshore Subcontractor performs, Banner Medicare Plans Compliance Officer submits an Offshore Attestation via HPMS with a modified listing indicating the changed function within 30 calendar days of the change.

- B. To ensure that Banner Medicare Plans are compliant with CMS regulations for offshore subcontracting, contracts with Subcontractors based in the United States and its territories include language that the Subcontractor will inform Banner Medicare Plans when and if the Subcontractor outsources part or all of its responsibilities that includes the entity receiving, processing, transferring, handling, storing or accessing Banner Medicare Plans member PHI in oral, written or electronic form.

- C. The Offshore Subcontract Information includes the following:
 - 1. Legal name of Banner Medicare Plans.
 - 2. Offshore Subcontractor Information:
 - a. Offshore Subcontractor name.
 - b. Offshore Subcontractor Country
 - c. Offshore Subcontractor address.
 - d. Describe Offshore Subcontractor functions.
 - e. State proposed or actual effective date for Offshore Subcontract.
 - 3. Offshore Subcontractor Information:
 - a. Describe the PHI that will be provided to the Offshore Subcontractor.
 - b. Discuss why providing PHI is necessary to accomplish the Offshore Subcontractor's objectives.
 - c. Describe alternative considered to avoid providing PHI and why each alternative was rejected.

- D. The Offshore Attestation includes the following information and requirements that must be verified and completed by the Subcontractor:
 - 1. Attestation of safeguards to protect Banner Medicare Plans member PHI in the Offshore Subcontract:
 - a. Offshore Subcontractor arrangements have policies and procedures in place to ensure that PHI and other personal information remains secure.
 - b. Offshore Subcontractor arrangement prohibits Subcontractor's access to data not associated with Banner Medicare Plans contracts.
 - c. Offshore Subcontractor arrangement has policies and procedures in place that allow for immediate termination of the Subcontract upon discovery of a significant security breach.
 - d. Offshore Subcontractor arrangement includes all required CMS language (e.g., record retention requirements, compliance with all Medicare Part C and D requirements, etc.).

- e. Attestation of audit requirements to ensure protection of Banner Medicare Plans member PHI.

- E. Banner Medicare Plans requires the Subcontractor to submit annual audits upon request, of any Offshore Subcontractor identified in the attestation for review and approval by Banner Medicare Plans.

- F. For AHCCCS, any services that are described in the specifications or scope of work that directly serve the State of Arizona, its clients, or AHCCCS members, and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this requirement does not apply to indirect or “overhead” services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

- G. No claims paid by Banner Medicare Plans to a network provider, out-of-network provider, subcontractor or financial institution located outside of the United States will be considered in the development of actuarially sound capitation rates.

V. Procedural Documentation:

- A. Annual Attestations
- B. FDR Oversight and Audit Results
- C. Lack of PHI breaches and/or member complaints related to offshore activities

VI. References:

- A. HPMS memos 07/23/2007, 09/20/2007 and 08/26/2008
- B. Government Accountability Office’s (GAO) Report entitled *Privacy: Domestic and Offshore Outsourcing of Personal Information in Medicare, Medicaid, and Tricare*
- C. AHCCCS Contract, Section E, Paragraph 34, Off-Shore Performance of Work Prohibited
- D. 45 CFR 164.308 Administrative Safeguards

VII. Related Policies/Procedures:

- A. Insurance Division Policy: CP 6014 First Tier, Downstream, and Related Entity Oversight

VIII. Keywords and Keyword Phrases:

- A. Offshore
- B. FDR Offshore
- C. Outsourcing