

Title: Compliance: Federal and State Exclusion Review	
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Discrete Operating Unit/Facility:

Banner Baywood Medical Center
 Banner Behavioral Health
 Banner Boswell Medical Center
 Banner Casa Grande Medical Center
 Banner Churchill Community Hospital
 Banner Del E Webb Medical Center
 Banner Desert Medical Center
 Banner Estrella Medical Center
 Banner Fort Collins Medical Center
 Banner Gateway Medical Center
 Banner Goldfield Medical Center
 Banner Heart Hospital
 Banner Ironwood Medical Center
 Banner Lassen Medical Center
 Banner Payson Medical Center
 Banner Thunderbird Medical Center
 Banner—University Medical Center Phoenix
 Banner—University Medical Center South
 Banner—University Medical Center Tucson
 Community Hospital
 East Morgan County Hospital
 McKee Medical Center
 North Colorado Medical Center
 Ogallala Community Hospital
 Page Hospital
 Platte County Memorial Hospital
 Sterling Regional MedCenter
 Washakie Medical Center

Banner Corporate
 Banner Health Clinics
 Banner MD Anderson Cancer Center
 Banner Health Network
 Banner Home Care and Hospice
 Banner Plan Administration
 Banner Pharmacy Services
 Banner Surgery Centers
 Banner Urgent Care Centers
 Occupational Health/Employee Services
 Post-Acute Care Services
 Research
 Rural Health Clinics
 University Physicians Health Plans

I. Purpose/Population:

- A. To establish an initial and recurring Federal and State exclusion screening process at Banner Health, including all of its subsidiaries and affiliates (collectively, "Banner"), to prevent hiring or entering into a relationship with an Ineligible Person.
- B. To require persons or entities to immediately disclose when they have become ineligible or have been notified of their ineligibility after they are employed or have entered into a relationship with Banner.
- C. To implement the screening and removal requirements provided in Section III.G of Banner's Corporate Integrity Agreement (CIA).
- D. This policy applies to all Employees.

II. Definitions:

- A. Exclusion Lists: The Department of Health and Human Services Office of Inspector General's (OIG) List of Excluded Individuals/Entities (LEIE), the General Service Administration's System for Award Management (SAM), State Medicaid Exclusion/Suspension Lists, and any other lists required by the OIG or Centers for Medicare and Medicaid Services (CMS).
- B. Federal Health Care Program: Any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded in whole or in part by the United States Government (other than the Federal Employees Health Benefit Program) or any State health care program (as defined in 42 U.S.C. § 1320a-7(h)). Federal Health Care Programs include, but are not limited to, Medicare, Medicaid, Indian Health Service, TRICARE/CHAMPUS/Department of Defense health care programs, and Veterans Administration.
- C. Health Plan: Banner University Health Plans, which include Banner—University Family Care Advantage, Banner—University Family Care (ALTCS), and Banner—University Family Care (ACC).
- D. Ineligible Person: An individual or entity who:
 1. Is currently excluded, debarred, suspended, or otherwise ineligible to participate in any Federal Health Care Program or Federal procurement or non-procurement program; or
 2. Has been convicted of a criminal offense that falls within the scope of 42 U.S.C. § 1320a-7(a)¹ but has not yet been excluded, debarred, suspended, or otherwise declared ineligible.
- E. Physician: A doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, or a doctor of optometry.
- F. Practitioner: Includes, but is not limited to, a physician assistant, nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, clinical psychologist, clinical social worker, registered dietitian, or nutrition professional.
- G. Providers: Includes:
 1. Any individual who is engaged in the delivery of health care services in a State and is licensed or certified by the State to engage in that activity in the State; and
 2. Any entity that is engaged in the delivery of health care services in a State and is licensed or certified to deliver those services, if such licensing or certification is required by State law or regulation.
- H. Screening Subjects: Include the following groups:
 1. *Banner employees*: Including, but not limited to, employed Providers, Practitioners, residents, and fellows.

¹ The statute provides for mandatory exclusion from participation in any Federal Health Care Program for individuals and entities convicted of (1) program-related crimes, (2) patient abuse, (3) felonies relating to health care fraud, and (4) felonies relating to controlled substances.

2. *Banner Health Network (BHN)/Banner Plan Administrators (BPA) Credentialed Providers:* Includes:
 - a. Credentialed Providers who have a contract to participate in the network(s) of BHN and/or BPA; and
 - b. Credentialed hospital Providers and ordering Providers who are treating BHN and/or BPA member(s).
3. *BHN/BPA Non-Contracted Providers:* Non-hospital Providers who do not have contracts but submit claims with BHN and/or BPA.
4. *Contractors/Vendors:* Individuals or entities that have written agreements with Banner to perform or provide goods or services (including allied health professionals, locum tenens, and visiting residents).
5. *First Tier, Downstream, and Related Entities (FDRs):* Individuals or entities that have professional and/or business relationships with the Health Plan.
 - a. A First Tier Entity is a party that enters into a written arrangement with the Health Plan to provide administrative services or health care services for members.
 - b. A Downstream Entity is a party that enters into a written arrangement for provision of health care services or goods below the level of the arrangement between the Health Plan and a First Tier Entity. These written arrangements continue down to the level of providers of both health and administrative services (e.g., mail order pharmacies, firms providing agent/broker services, agents, brokers, marketing firms, and call center firms).
 - c. A Related Entity is a party that is related to the Health Plan by common ownership or control and (1) performs some of the Health Plan's management functions under contract or delegation; (2) furnish services to members under an agreement; or (3) lease real property or sell materials to the Health Plan at a cost of more than \$2,500 during a contract period.
6. *Governing Boards:* Banner Board of Directors and any other governing board responsible for managing Banner activities.
7. *Health Plan Contracted Providers:* Providers who have contracts with the Health Plan to provide items or services to its members.
8. *Health Plan Non-Contracted Providers:* Providers who do not have contracts but are paid by the Health Plan.
9. *Insurance Plans:* Health insurance plans that desire to pursue contracts with health care providers for the purpose of providing a full complement of services for their membership at market competitive rates.
10. *Ordering Providers:* Providers who are not members of the medical or allied staff within a Banner facility but submit orders for items or services provided to Banner patients.
11. *Related Parties:* Parties that have or may have the ability to control or significantly influence Contractors/Vendors, or parties that are or may be controlled or significantly influenced by Contractors/Vendors. Related Parties include, but are not limited to, agents, managing employees, persons with an ownership or controlling interest in Banner and their immediate families, subcontractors, wholly-owned subsidiaries or suppliers, parent companies, sister companies, holding companies, and other entities controlled or managed by any such entities or persons.
12. *Sales Persons/Brokers:* Individuals who market and/or sell products for the Health Plan, including, but not limited to, employees, brokers, agents, and all other individuals, entities, and downstream contractors that may be utilized to market and/or sell on behalf of the Health Plan.
13. *Staff Providers:* Providers who have been credentialed by Banner to provide care in at least one Banner facility.

14. *Students*: Individuals who are enrolled in educational/academic programs and are active participants in a Banner department to include interaction with program skills with employees, physicians, and/or patients, families, and their authorized representatives.
15. *Volunteers*: Individuals who serve in a Banner facility with the intention of donating their time and effort without any form of compensation.
- I. Screening Vendor: Any external entity with whom Banner contracts to conduct either initial or recurring federal and state exclusion screenings on all Screening Subjects as defined within this policy.

III. Policy:

A. Ineligible Persons

1. **Disclosure Obligation.** Banner requires all Screening Subjects to immediately disclose if they are currently excluded, debarred, suspended, or otherwise ineligible to participate in any Federal Health Care Program(s) or Federal procurement or non-procurement program(s). All Screening Subjects must also immediately disclose if they have been convicted of a criminal offense that falls within the scope of 42 U.S.C. § 1320a-7(a), but have not yet been excluded, debarred, suspended, or otherwise declared ineligible.
 2. **Actual Exclusion.** If Banner has actual notice that a Screening Subject has become an Ineligible Person, Banner will, at a minimum, remove such Screening Subject from responsibility for, or involvement with, Banner's business operations related to any Federal Health Care Program(s) from which the Screening Subject has been excluded. Banner may also terminate its relationship (employment, contractual, privileges, etc.) with the Screening Subject. For example, termination of the relationship will occur if the Screening Subject is on the LEIE. If the relationship is not terminated, the Screening Subject will be removed from any position for which compensation for the items or services furnished, ordered, or prescribed are paid in whole or part, directly or indirectly, by any Federal Health Care Program(s) from which the Screening Subject has been excluded, at least until the Screening Subject is reinstated into participation in such Federal Health Care Program(s).
 3. **Pending Charges and Proposed Exclusions.** If Banner has actual notice that a Screening Subject is charged with a criminal offense that falls within the scope of 42 U.S.C. § 1320a-7(a) or 42 U.S.C. § 1320a-7(b)(1)-(3) or is proposed for exclusion during the term of the Screening Subject's relationship with Banner (e.g., employment, contractual, or medical staff privileges), Banner will take all appropriate actions, up to and including termination, to ensure that the Screening Subject does not adversely affect the quality of care rendered to any beneficiary, patient, or resident.
 4. **Attestation.** In certain cases, the Ethics & Compliance Department will not be able to confirm or deny a potential match within an Exclusion List due to lack of identifiable information within the searchable database such as Social Security Number, Tax ID, date of birth, or other comparable information. After investigation by the Ethics & Compliance Department and in consultation with the applicable departments and parties, the completion of an attestation may be obtained if appropriate that affirms that the Screening Subject is not the Ineligible Person on the Exclusion List. Any doubts on the authenticity of the attestation will be immediately brought to the attention of the Chief Compliance Officer.
- B. **Exceptions.** Under certain circumstances, the Chief Compliance Officer may grant exceptions to the requirement that Banner terminate its relationship with Screening Subjects. However, no exceptions will be granted to the Screening Subject with respect to any Federal Health Care Program(s) for which the Screening Subject is excluded or suspended.

IV. Procedure/Interventions:

A. Initial Federal/State Exclusion Screenings.

1. **Employees.** During Banner's pre-employment process, the Human Resources personnel or designee responsible for that hospital, facility, Health Plan, or business area must obtain the applicant's permission to conduct a background check that includes a screening of the Exclusion Lists. If an applicant is identified as excluded and the match is confirmed, Banner will not employ that applicant.
2. **Governing Boards.** Once elected and prior to a Board member taking office, his or her name is submitted to the Ethics & Compliance Department for screening of the Exclusion Lists. If the Board member is identified as excluded and the match is confirmed, that person will not serve on the Governing Board.
3. **Staff Providers.** As part of processing a Staff Provider's application for staff privileges, the Credentialing Verification Office (CVO) screens the Exclusion Lists for that potential Staff Provider. Any potential matches shall be handled by the Medical Staff Services Department in accordance with Compliance: Excluded Staff Practitioners and Disallowed Doctors policy, which may include not processing the prospective Staff Provider's application.
4. **Ordering Providers.** The CVO conducts exclusion screening for Ordering Providers, regardless of their location. No orders will be accepted from an Ordering Provider until the CVO ensures that the Ordering Provider is not on any Exclusion Lists.
5. **BHN/BPA Providers.**
 - a. BHN/BPA Credentialed Providers: The CVO works in collaboration with the Licensing/Credentialing Department to screen BHN/BPA Credentialed Providers and investigate any potential matches. If any match is confirmed, BHN and/or BPA will terminate the relationship with the BHN/BPA Credentialed Provider.
 - b. BHN/BPA Non-Contracted Providers: The Ethics & Compliance Department submits a list of the BHN/BPA Non-Contracted Providers to the Screening Vendor. If any Health Plan Non-Contracted Provider is identified as excluded and the match is confirmed, the Ethics & Compliance Department facilitates the deactivation of the BHN/BPA Non-Contracted Provider from the appropriate Banner systems.
6. **Contractors/Vendors and FDRs.** Before contracting with a prospective Contractor/Vendor (including a FDR), one of the following processes must occur:
 - a. Legal Department: Banner's Contract Review policy requires that every contract initiator submitting a proposed contract to the Legal Department first perform an exclusion screening and include documentation that the Contractor/Vendor is not on the Exclusion Lists. The contract review process will not continue without confirmation that such screening has occurred. If any Contractor/Vendor is identified as excluded and the match is confirmed, the contract initiator will not initiate a relationship with the prospective Contractor/Vendor.
 - b. Other Contractors/Vendors: For those contracts that are not reviewed by the Legal Department, the contract initiator must perform an exclusion screening before submitting the proposed contract to a Contracts Management Specialist or to the Supply Chain Management or Information Technology Department. The contract review process will not continue without confirmation that such screening has occurred. If any Contractor/Vendor is identified as excluded and the match is confirmed, the contract initiator will not initiate a relationship with the prospective Contractor/Vendor.
7. **Insurance Plans.** Before contracting with a new insurance company, Managed Care Programs performs an exclusion screening. A contract with the new insurance company will not be executed until such screening has occurred. If an insurance company is

- identified as excluded and the match is confirmed, Managed Care Programs will not initiate a relationship with the new insurance company.
8. **Students.** Students are required to undergo a background check, which includes screening of the Exclusion Lists. If any Student is identified as excluded and the match is confirmed, the Banner Center for Health Career Centers staff will not approve the student for placement at Banner.
 9. **Volunteers.** During Banner's Volunteer application process, the personnel responsible for Volunteers at the applicable hospital, facility, or business area must obtain the applicant's permission to conduct a background check that includes the Exclusion Lists. If any prospective Volunteer is identified as excluded and the match is confirmed, or if the Volunteer refuses to grant permission for the background check, Banner will not permit that individual to volunteer at any of its hospitals, facilities, or business areas.
- B. **Recurring Federal/State Exclusion Screening.** On a monthly basis, various departments provide lists of Screening Subjects to the Ethics & Compliance Department, which submits the lists to the Screening Vendor. The Screening Vendor generates a report documenting the screening results, which is then sent to the Ethics & Compliance Department for investigation of any potential matches. If a match is confirmed, the Ethics & Compliance Department notifies the appropriate personnel responsible for that hospital, facility, Health Plan, or business area to facilitate the deactivation, removal, or termination of the Ineligible Person. The Ethics & Compliance Department also addresses any potential repayment, reimbursement, or cost reporting issues, determines whether to report the match to any governmental authorities (including the OIG under the CIA), and takes any other appropriate actions.
- C. **Health Plans.**
1. **Sales Persons/Brokers.**
 - a. **Initial Screening:** Prior to contracting and certifying, the Independent Marketing Organization (IMO) completes exclusion screenings for any potential Sales Persons/Brokers. If a match has been confirmed, the IMO will not proceed with the potential Sales Person/Broker.
 - b. **Recurring Screening:** On a monthly basis, the Health Plan's Sales Department provides a list of current Sales Persons/Brokers to the Ethics & Compliance Department that can be submitted to the Screening Vendor. If a Sales Person/Broker is identified as excluded and the match is confirmed, the Ethics & Compliance Department investigates the matter in consultation with the Legal Department (as necessary), and the IMO's contract with the Sales Person/Broker may be terminated.
 2. **Providers.**
 - a. **Health Plan Contracted Providers.** The Health Plan's Credentialing Department uses a CVO (Aperture) to conduct the exclusion screening of the Health Plan Contracted Providers, regardless of their location. The CVO provides the information to the Health Plan's Credentialing Department, which enters it into the Banner system. If any Health Plan Contracted Provider is identified as excluded and the match is confirmed, the Health Plan Credentialing Department deactivates the Health Plan Contracted Provider from the appropriate Banner systems.
 - b. **Health Plan Non-Contracted Providers.** The Ethics & Compliance Department submits a list of the Health Plan Non-Contracted Providers to the Screening Vendor. If any Health Plan Non-Contracted Provider is identified as excluded and the match is confirmed, the Ethics & Compliance Department facilitates the deactivation of the Health Plan Non-Contracted Provider from the appropriate Banner systems.
 3. **Response to Actual Exclusion.** For any confirmed matches, the Health Plan immediately (a) reports the exclusion/suspension to AHCCCS, other State Medicaid plans as applicable, and/or CMS; (b) terminates the relationship (contractual, employment, etc.)

with the Ineligible Person; and (c) if applicable, notifies the Pharmacy Benefit Manager and other internal departments regarding the Ineligible Person.

4. **Documentation of Exclusions.** The Health Plan maintains documentation showing exclusion screening results. The Health Plan annually submits a disclosure of ownership and control (or other similar) form to AHCCCS and other State Medicaid plans as applicable, which includes an attestation that exclusion screening has been performed for Health Plan Screening Subjects. Upon request, the Health Plan provides exclusion screening results to AHCCCS, other State Medicaid plans as applicable, and/or CMS.

V. Procedural Documentation:

- A. N/A

VI. Additional Information:

- A. N/A

VII. References:

- A. Office of Inspector General, Special Advisory Bulletin on the Effect of Exclusion from Participation in Federal Health Care Programs (updated May 8, 2013)
- B. OIG's List of Excluded Individuals/Entities (LEIE): <http://exclusions.oig.hhs.gov/>.
- C. GSA's System for Award Management (SAM): <https://www.sam.gov/portal/public/SAM>
- D. 42 C.F.R. Part 1001: Program Integrity – Medicare and State Health Care Programs
- E. Medicare Managed Care Manual, Ch. 21 at § 50.6.8 (OIG/GSA Exclusion)
- F. AHCCCS Contractor Operations Manual, Ch. 103-1 (Fraud, Waste and Abuse)
- G. 42 C.F.R. §§ 405.400-455

VIII. Other Related Policies/Procedures:

- A. Compliance: Excluded Staff Practitioners and Disallowed Doctors
- B. Contract Review

IX. Keywords and Keyword Phrases:

- A. Compliance
- B. Background check
- C. Sanction Check
- D. Federal/State Exclusion
- E. OIG/GSA
- F. Exclusion

X. Appendix:

- A. N/A