

Title: Compliance: Federal and State Exclusion Review		
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Approved by: PolicyTech Administrators		
Discrete Operating Unit/Facility: Banner Baywood Medical Center Banner Behavioral Health Hospital 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 Ocotillo 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 East Morgan County Hospital McKee Medical Center North Colorado Medical Center Ogallala Community Hospital Page Hospital Platte County Memorial Hospital Sterling Regional Medical Center Torrington Community Hospital Washakie Medical Center Wyoming Medical Center		Banner Corporate Ambulatory (Outpatient) Services Banner Health Clinics Banner Imaging Services Banner Imaging Services Colorado Banner MD Anderson Cancer Center Banner Sleep Center Banner Surgery Centers Banner Urgent Care Services Occupational Health/Employee Health Services Rural Health Clinics Banner Home Care and Hospice (BHCH) Banner Pharmacy Services Insurance Banner Health Network Banner Plan Administration Banner University Health Plan Post Acute Services (PAC) Research

I. Purpose/Population:

A. Purpose:

1. To establish an initial and recurring Federal and State exclusion screening process at Banner Health, including any subsidiaries, affiliates, or discreet operating units owned, operated, or controlled by Banner Health, except subsidiaries, affiliates or units where the compliance function, including the exclusion screening process, has been assigned to another entity (collectively, Banner). Said screening process is to prevent hiring or entering into a relationship with an Ineligible Person.
2. 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.
3. To implement the screening and removal requirements provided in Section III.G of Banner's Corporate Integrity Agreement (CIA).

B. Population: All Employees.

II. Definitions:

- A. Corporate Integrity Agreement (CIA): A five-year agreement that Banner entered into on April 9, 2018 with the U.S. Department of Health and Human Services Office of Inspector General (OIG) as part of a settlement with the Department of Justice.
- B. Exclusion Lists: The OIG's List of Excluded Individuals/Entities (LEIE), the General Service Administration's System for Award Management (SAM), State Medicaid Exclusion/Suspension Lists, CMS Preclusion Lists, and any other lists required by the OIG or Centers for Medicare and Medicaid Services (CMS).
- C. 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.
- D. Banner Health Plans: Banner Medicare Advantage Prime, Banner Medicare Advantage Plus, and Banner University Health Plans, which include Banner—Medicare Advantage - Dual, Banner—University Family Care (ALTCS), and Banner—University Family Care (ACC).
- E. 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.
- F. Physician: A doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor.

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.

- G. Practitioner: 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.
- H. Providers: Includes:
1. Physicians and Practitioners who are engaged in the delivery of health care services in a State and are licensed or certified by the State to engage in those services in the State; and
 2. Entities that are engaged in the delivery of health care services in a State and are licensed or certified to deliver those services, if such licensing or certification is required by State law or regulation.
- I. Screening Subjects: Includes the following groups:
1. *Banner employees*: All employees, including employed Providers, residents, and fellows.
 2. *Banner Health Network (BHN) and Banner Plan Administrators (BPA)/ Credentialed Providers*: Providers who have a contract to participate in the network(s) of BHN and BPA.
 3. *BPA Non-Contracted Providers*: Non-hospital Providers who do not have contracts but submit claims to be paid by BPA under a BPA's claims payment contract with a relevant health plan as required by law.
 4. *Applicable Contractors/Vendors*: Individuals or entities that have written agreements or are paid by Banner to perform, provide, or receive goods and/or services.
 5. *First Tier, Downstream, and Related Entities (FDRs)*:
 - a. A First Tier Entity is a party that enters into a written arrangement with Banner Health Plans 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 Banner Health Plan and a First Tier Entity. The Banner Health Plans obligate their First Tier Entities to screen these Downstream Entities.
 - c. A Related Entity is a party that is related to the Banner Health Plans by common ownership or control and (1) performs some of the Banner Health Plan's management functions under contract or delegation; (2) furnishes services to members under an agreement; or (3) leases real property or sells materials to the Banner 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. *Banner Health Plans Contracted Providers*: Providers who have contracts with a Banner Health Plan to provide items or services to its members.
 8. *Banner Health Plan Non-Contracted Providers*: Providers who do not have contracts but are paid by a Banner Health Plan as per contract requirements.
 9. *Managed Care Contracts*: Health insurance plans that desire to pursue contracts with Banner for the purpose of providing a full complement of services for their membership at market competitive rates.
 10. *Ordering Providers*: Providers who are not credentialed by Banner to provide care at Banner facilities but submit orders for items or services provided to Banner patients.
 11. *Sales Persons/Brokers*: Individuals who market and/or sell products for the Health Plans, including, but not limited to, employees, brokers, agents, and all other individuals, entities, and downstream contractors who may be utilized to market and/or sell on behalf of the Health Plans.
 12. *Staff Providers*: Providers who are credentialed by Banner (or are applying for credentials at Banner) to provide care to patients in at least one Banner facility.
 13. *Students*: Individuals who are enrolled in educational/academic programs and actively participate in Banner departments using their program skills, which includes physically

and/or verbally interacting with employees, physicians, and/or patients, families, and their authorized representatives.

14. **Volunteers:** Individuals who serve in a Banner facility with the intention of donating their time and effort without any form of compensation.

J. **Screening Vendor:** Any external entity that Banner contracts with to conduct initial and/or recurring Federal and State exclusion screenings on all Screening Subjects as defined within this policy.

III. Policy:

A. Screening Requirements

1. **Timeframes.** Banner screens all Screening Subjects against the Exclusion Lists prior to engaging their services and on a monthly basis thereafter to confirm that they are not Ineligible Persons.
2. **Attestation:**
 - a. In certain cases, the Ethics & Compliance Department will not be able to confirm or rule out a potential match of a Screening Subject due to lack of identifiable information within the Exclusion List such as Social Security Number, Tax ID, date of birth, or other comparable information. After investigation of a potential match by the Ethics & Compliance Department and in consultation with applicable business areas, an attestation may be obtained from the Screening Subject that he/she is not the Ineligible Person on the Exclusion List.
 - b. Any doubts on the authenticity of the attestation will be immediately brought to the attention of the Chief Compliance Officer.
 - c. If an attestation is not received, the Ethics and Compliance Department will determine next steps.
3. **Actual Exclusion:**
 - a. If Banner becomes aware that a Screening Subject has become an Ineligible Person, Banner will, at a minimum, remove, or require the removal, of the 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 declared an Ineligible Person. Banner will provide notice to non-Banner entities as required by law or contract.
 - b. Banner may also terminate its relationship (e.g., employment, contractual, medical staff privileges) with the Screening Subject. 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 the Federal Health Care Program(s) from which the Screening Subject has been declared an Ineligible Person, at least until the Screening Subject is reinstated into the Federal Health Care Program(s).
4. **Pending Charges and Proposed Exclusions.** If Banner becomes aware 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, Banner will take all appropriate actions, up to and including termination of the relationship.
5. **Exceptions.** Under certain circumstances, the VP, Chief Ethics & Compliance Officer, or their designee, may decide to grant an exception and continue Banner's relationship with a Screening Subject that is, or may soon be, an Ineligible Person. However, no exception will be granted to a Screening Subject with respect to any Federal Health Care Program(s) for which the Screening Subject is excluded, debarred, suspended, or

otherwise declared ineligible. In addition, no exceptions will be given to a Screening Subject on the LEIE.

B. Disclosure Requirement

1. 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 declared an Ineligible Person.

IV. Procedure/Interventions:

A. Initial Exclusion Screenings.

1. **Employees.** During Banner's pre-employment process, Human Resources obtains the applicant's permission to conduct a background check that includes screening the Exclusion Lists. If an applicant is identified as excluded during the background check and the match is confirmed, Banner will not employ that applicant.
2. **Governing Boards.** Once elected and prior to officially joining the Board, a prospective Board member's name is sent 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 applicable 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. If a Staff Provider is identified as excluded and the match is confirmed, the CVO will stop processing his/her application for privileges and will notify Medical Staff Services for handling in accordance with applicable medical staff bylaws.
4. **Ordering Providers.** Various business areas at Banner conduct exclusion screenings of Ordering Providers. No claims for services ordered or performed by the Ordering Provider will be submitted to any Federal Health Care Programs.
5. **Contractors/Vendors and FDRs.** Before contracting with a prospective Contractor/Vendor (including a prospective FDR), one of the following processes must occur:
 - a. **Contractor/Vendor reviewed by Legal Department:** Before submitting a proposed contract to the Legal Department, a contract initiator performs an exclusion screening and includes documentation that the prospective Contractor/Vendor is not on any Exclusion Lists. The contract review process will not continue without confirmation that such screening has occurred. See [Contract Review](#) policy. 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. Once the contract is ready to be circulated for execution, if there have been more than 30 days since the initial exclusion screen, a second screening will occur prior to circulating the contract for execution.
 - b. **Contractor/Vendor not reviewed by Legal Department:** For those contracts that are not reviewed by the Legal Department, the contract initiator provides an exclusion screening to a Contracts Management Specialist, Supply Chain Services, or the Information Technology Department. The contract review process will not continue without confirmation that such screening has occurred. If any such Contractor/Vendor is identified as excluded and the match is confirmed, the contract initiator will not initiate a relationship with the prospective Contractor/Vendor. Once the contract is ready to be circulated, if there have been more than 30 days since the initial exclusion screen, the contract initiator must perform a second screening prior to circulating the contract for execution.

6. **Managed Care Contracts.** Before contracting with a new insurance plan, Managed Care performs an exclusion screening. A contract with the new insurance plan will not be executed until such screening has occurred. If an insurance plan is identified as excluded and the match is confirmed, Managed Care will not initiate a relationship with the new insurance plan.
7. **Students.** Students are required to undergo a background check that includes screening of the Exclusion Lists. If any Student is identified as excluded during the background check and the match is confirmed, Banner Center for Health Careers staff will not approve the student for placement at Banner.
8. **Volunteers.** During Banner's Volunteer application process, Volunteers Directors (or their equivalent) at the applicable hospital, clinic, or business area obtain the prospective Volunteer's permission to conduct a background check that includes the screening of 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 Exclusion Screening

1. **Monthly Screenings.** On a monthly basis, various business areas provide lists of Screening Subjects to the Ethics & Compliance Department, which are then submitted to the Screening Vendor. The Screening Vendor generates a report documenting the screening results, which is 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 at the hospital, Health Plan, clinic, or business area to facilitate the deactivation, removal, or termination of the Ineligible Person. Under certain circumstances, however, the VP, Chief Ethics & Compliance Officer, or their designee, may continue the relationship with an Ineligible Person provided adequate measures are implemented to prevent Banner from receiving compensation related to that Ineligible Person from the applicable Federal Health Care Program.
2. **Corrective Actions.** The Ethics & Compliance Department addresses any potential repayment, reimbursement, or cost reporting issues, determines whether to report the match to governmental authorities (including the OIG under the CIA), and takes any other appropriate actions.

C. Insurance Division

1. **BHN/BPA/BNC 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 a BHN/BPA Credentialed Provider is identified as excluded and the match is confirmed, BHN and/or BPA will terminate the relationship with the provider.
 - b. **BPA Non-Contracted Providers:** The Ethics & Compliance Department receives a monthly list from BPA of claims paid the prior month to Non-Contracted Providers. The Ethics & Compliance Department submits this list to the Screening Vendor. If any Non-Contracted Provider is identified as excluded and the match is confirmed, the Ethics & Compliance Department facilitates the deactivation of the provider from the Banner claims system to prevent claims from being paid to the Ineligible Person.
 - c. BPA will not pay claims to Contracted or Non-Contracted Providers for the FHCP(s) from which they have been excluded, at least until they have been reinstated into the FHCP(s). Claims related to Contracted and Non-Contracted Providers included on CMS' Preclusion List may be paid until the claim rejection/payment denial date on the file.

2. Banner Health Plans Screening Subjects.

- a. Sales Persons/Brokers: Prior to contracting and certifying, Sales Persons/Brokers for the Health Plans, the Independent Marketing Organization (IMO) conducts exclusion screenings for any potential sales persons/brokers. If any sales person/broker is identified as excluded and the match is confirmed, the IMO will not proceed with the potential Health Plans sales person/broker. For recurring screenings, the Ethics & Compliance Department investigates any potential matches in consultation with the Legal Department (as necessary). If a match is confirmed, the IMO's contract with that sales person/broker may be terminated.
- b. Banner Health Plans Contracted Providers: The Banner Health Plans Credentialing Department uses a CVO to conduct the exclusion screening of Banner Health Plans Contracted Providers, regardless of their location. The CVO provides the information to the Banner Health Plans Credentialing Department, which enters it into the Banner system. If any Banner Health Plans Contracted Provider is identified as excluded and the match is confirmed, the Banner Health Plans Credentialing Department deactivates that provider from the appropriate Banner systems.
- c. Banner Health Plans Non-Contracted Providers: The Ethics & Compliance Department receives a monthly list from Banner's Finance Department and/or BPA of claims paid the prior month to Non-Contracted Providers. The Ethics & Compliance Department submits this list to the Screening Vendor. If any Banner Health Plans Non-Contracted Provider is identified as excluded and the match is confirmed, the Ethics & Compliance Department facilitates the deactivation of that provider from the appropriate Banner systems.

3. Banner Health Plans Screening Requirements:

- a. Actual Exclusion: For any confirmed Federal and/or Arizona matches, the Banner Health Plan immediately (a) reports the exclusion/suspension to Arizona Health Care Cost Containment System (AHCCCS), other State Medicaid plans if appropriate, 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 Banner Health Plans' departments regarding the Ineligible Person.
- b. Documentation of Exclusions. The Banner Health Plans maintain documentation showing screening results. The Banner Health Plans annually submits a Disclosure of Ownership and Control Form to AHCCCS and other State Medicaid plans as applicable, which includes an attestation that exclusion screening has been performed for Banner Health Plans Screening Subjects. Upon request, the Banner Health Plans provide exclusion screening results to AHCCCS, other State Medicaid plans as applicable, and/or CMS.
- c. Banner Health Plans will not pay claims to Contracted or Non-Contracted Providers for the FHCP(s) from which they have been excluded, at least until they have been reinstated into the FHCP(s). Claims related to Contracted and Non-Contracted Providers included on CMS' Preclusion List may be paid until the claim rejection/payment denial date on the file.

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/SAM/pages/public/searchRecords/search.jsf>
- 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 Providers and Disallowed Doctors](#)
- B. [Contract Review](#)

IX. Keywords and Keyword Phrases:

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

X. Appendix:

- A. N/A