

## POLICY and PROCEDURE

<b>TITLE: CP 5108 Compliance Actions</b>			
<b>Version:</b> 13	<b>Responsible Position:</b> Director of Compliance	<b>Responsible Department:</b> Compliance	
<b>Origination Date:</b> 11/01/2011	<b>Last Review Date:</b> 05/20/2020	<b>Approval Date:</b> 06/19/2020	<b>Next Review Date:</b> 06/15/2021
<b>Organization:</b> Banner Health Insurance Division			
<b>Population (Define):</b> This policy applies to all Medicaid and Medicare lines of business			
<b>Policy Replaces:</b> AD 108; CP 108, CP 6108			

### I. Purpose/Expected Outcome:

- A. To provide a mechanism that returns Banner Medicaid and Medicare Health Plans to compliance in the event that Banner Medicaid and Medicare Health Plans employees, departments or First Tier, Downstream and Related Entities (FDRs) conduct business that does not comply with AHCCCS or CMS, or other applicable requirements or regulations.

### II. Definitions:

- A. Please refer to the link below for full definitions:  
<http://sharepoint/sites/hppandp/new/Lists/Definitions/PP%20Definitions.aspx>

### III. Policy:

- A. Banner Medicaid and Medicare Health Plans will ensure that all Banner Medicaid and Medicare Health Plans Employees, Departments, and FDRs comply with AHCCCS, CMS and Banner Medicaid and Medicare Health Plans rules, or other applicable regulations and requirements. Failure to comply with such requirements shall be identified as non-compliant and will result in the issuance of a corrective action to Banner Medicaid and Medicare Health Plans Employee, Department or FDR. Banner Medicaid and Medicare Health Plans Employee, Department or FDR must address the non-compliant activity and return the Banner Medicaid and Medicare Health Plans to compliance. This policy also includes external corrective action management when corrective action requests are received from CMS, AHCCCS or other regulatory or external entities.
- B. Corrective actions must be designed to correct the underlying problem, prevent future instances or continued noncompliance, and will include a root cause analysis and timeframes for specific achievements.
- C. Exceptions to the policy include any corrective action plans (CAPs) not issued by Compliance or received from an external entity.

### IV. Procedure/Interventions:

- A. Banner Medicaid and Medicare Health Plans may identify employees, departments or FDRs who conduct Banner Medicaid and Medicare Health Plans business in a manner that is not compliant with AHCCCS, CMS, or other applicable regulations or requirements. Failure to meet AHCCCS and/or CMS or other rules, regulations or requirements will be identified as a non-compliant event (Event).

1. An Event may be identified during normal business operations, and/or during a review, audit or special study.
  2. When an Event occurs, Banner Medicaid and Medicare Health Plan's Compliance Department will assess the Event to determine whether a corrective action will be issued to Banner Medicaid and Medicare Health Plans Employee, Department or FDR.
  3. A corrective action will be issued when the Event:
    - a. Is likely to result in a sanction by AHCCCS and/or CMS; or
    - b. Will likely result in receiving a corrective action plan from AHCCCS and/or CMS; or
    - c. A Compliance Department audit resulted in a score of 94% or lower.; or
    - d. A notice of non-compliance, sanction, corrective action plan or other type of action is issued to Banner Medicaid and Medicare Health Plans.
- B. Banner Medicaid and Medicare Health Plan's Compliance Department will issue a corrective action plan (CAP), as outlined in section A above within 10 business days of identification of the Event as described in section A - 3.
- C. AHCCCS, CMS or other regulatory agencies may also issue to Banner Medicaid and Medicare Health Plans a Sanction, CAP, Warning Notice (WN) or Notice of Non-Compliance (NONC). Any Banner Medicaid and Medicare Health Plans Department receiving notification of all compliance actions from an external party must notify Banner Medicaid and Medicare Health Plans Compliance Department.
1. Banner Medicaid and Medicare Health Plans Employee, Department or FDR will create a formal CAP to address the Event. The CAP must be returned within 15 business days of issuance and contain all required elements including:
    - a. CAP Title
    - b. Submission Due Date
    - c. Category/Line of Business (LOB)
    - d. Date Submitted
    - e. FDR Name (if applicable)
    - f. Service Request Number
    - g. Primary Owner
    - h. Department
    - i. Executive Sponsor
    - j. Health Plan Liaison (if for an FDR)
    - k. Area of Deficiency
    - l. Indicate how the Event was identify
    - m. Compliance Action Steps taken to correct the Event
    - n. Process implemented to ensure that the problem / deficiency is unlikely to occur
  2. The CAP may include, but not be limited to the following interventions:
    - a. To modify existing processes and/or programs and implement new processes and/or programs.
    - b. To request IT system changes and if not possible, develop alternatives to correct.
    - c. To provide specialized and documented training for Banner Medicaid and Medicare Health Plans Employees, Departments or FDRs.
    - d. To provide standardized and documented training to employees, departments or FDRs via methods as appropriate to each situation.
    - e. To revise existing policies and procedures or create new policies and procedures.
    - f. To review existing desktops or create new desktops.
    - g. To implement internal monitoring/auditing.

3. The CAP must include a timeline (Due Dates and Completion Dates).
  4. Banner Medicaid and Medicare Health Plan's Compliance Department will review and approve/disapprove the CAP prior to implementation to ensure the CAP addresses the non-compliance.
  5. Banner Medicaid and Medicare Health Plan's Compliance Department or Banner Medicaid and Medicare Health Plans subject-matter expert will monitor the CAP implementation progress to ensure the CAP will be fully implemented within the timeline outlined.
  6. Banner Medicaid and Medicare Health Plans Employee, Department or FDR will be required to provide evidence to Banner Medicaid and Medicare Health Plans Compliance Department or Banner Medicaid and Medicare Health Plans subject-matter expert that demonstrates implementation for the action step.
    - a. During the course of implementing the CAP, there may be unforeseen circumstances that cause a delay in meeting the CAP timeline. If the CAP cannot be completed within the agreed upon timeframe, Banner Medicaid and Medicare Health Plans Employee, Department or FDR shall update the CAP to include a revised timeline and provide an explanation for the delay. Banner Medicaid and Medicare Health Plans Compliance Department or subject-matter expert must approve any CAP extensions.
  7. Banner Medicaid and Medicare Health Plans Employee, Department or FDR will notify Banner Medicaid and Medicare Health Plan's Compliance Department or subject-matter expert when the CAP is fully implemented and considered closed. This includes notifying Banner Medicaid and Medicare Health Plan's Compliance Department that a CAP issued by an external party is closed by that party. The internal CAPs will be re-assessed by Banner Medicaid and Medicare Health Plan's Compliance Department or subject-matter expert for return to compliance.
  8. Banner Medicaid and Medicare Health Plan's Compliance Department will close the CAP and collect and retain supporting documentation provided as evidence of implementation.
- D. Banner Medicaid and Medicare Health Plan's Compliance Department will monitor the status of the assigned CAPs until completion. The monitoring process may include, but not be limited to the following steps:
1. The Compliance Department will run the CAP Service Request report monthly to verify the status of all CAPs and distribute the report to the department auditors.
  2. The Compliance Department will meet with each department, as needed, to discuss the status of each CAP assigned to that department.
- E. Should Banner Medicaid and Medicare Health Plans Employee, Department or FDR continue to demonstrate non-compliance, additional action may be taken, including but not limited to:
1. Banner Medicaid and Medicare Health Plans employees may receive formal disciplinary action including, but not limited to verbal and written warnings or termination of employment with Banner Health in accordance with Banner Health Policy: Corrective Action Policy.
  2. Banner Medicaid and Medicare Health Plans Departments may be subject to focused and ongoing audits by the Compliance Department and interventions may be implemented as determined by Banner Medicaid and Medicare Health Plans Leadership.

3. Banner Medicaid and Medicare Health Plan's FDRs may be subject to other actions as documented within their contracts.
4. Banner Medicaid and Medicare Health Plan's Compliance Department will prepare monthly and quarterly reports on the overall status of all CAPs via Gauge Reporting. The Gauge Reports will be reviewed at the Quarterly Compliance Committee.

**V. Performance and Outcome Measures:**

- A. All active CAPs will be tracked for timely completion.
- B. Banner Medicaid and Medicare Health Plan's Compliance Department will collect and retain supporting documents provided which demonstrate a return to compliance.
- C. Banner Medicaid and Medicare Health Plan's Compliance Department will prepare a monthly and quarterly report on the overall status of all CAPs via the Gauge Reporting. The Gauge reports will be reviewed at the Quarterly Compliance Committee and on a quarterly basis by the Executive Team.

**VI. References:**

- A. AHCCCS Complete Care Contract, Section D, Paragraph 36 and 58
- B. AHCCCS EPD Contract, Section D, Paragraph 33 and 64
- C. Medicare Managed Care Manual, Chapter 21 and Prescription Drug Benefit Manual Chapter 9, Section 50.7.2 – Corrective Actions
- D. Banner Health Insurance Division Compliance Program and FWA Plan
- E. Banner Medicaid and Medicare Health Plan's Corrective Action Plan document
- F. Medicare Managed Care Manual, Chapter 1, Section 20.1-Application Procedures and Conditions for Entering an MA Contract and 110.4 P&Ps for Assessing Contracting Provider Groups' Administrative and Fiscal Capacity to Manage Financial Risk.

**VII. Related Policies/Procedures:**

- A. Banner Health Policy 262: Compliance: Program Obligations.
- B. Banner Health Policy 418: Corrective Action Policy.
- C. Insurance Division Policy: CP 5001 Compliance Program
- D. Insurance Division Policy: CP 5227 Monitoring and Auditing

**VIII. Keywords and Keyword Phrases:**

- A. Corrective Actions
- B. Compliance Action
- C. Sanction
- D. Non-Compliance