



# Code of Conduct

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## **Creating and Maintaining a Culture of Absolute Ethics and Compliance**

BayCare Health Plans' leaders accept the responsibility to create and maintain a culture of compliance throughout the workplace. Our leaders understand that establishing a culture of compliance is not easy but absolutely necessary. We recognize that compliance, ethical behaviors and business practices, as well as program integrity starts at the leadership level and trickles down to all colleagues and partners in our organization. These critical elements must be integrated into every interaction that takes place in our organization, and with every communication we have with our health plan members, with our colleagues, with our business associates, regulatory agencies, contractors, subcontractors and first tier, downstream and related entities (FDRs). Compliance is everyone's responsibility, from BayCare Health Plans' Board of Directors to its staff.

BayCare Health Plans leaders and colleagues will aggressively and forthrightly set the standard of ethics, integrity and compliance excellence in everything we do. BayCare Health Plans is an organization committed to partnering with our providers and our community organizations to promote proper, efficient and effective outcomes for our members.

The values of our organization are **trust, respect and dignity**, and reflect our **responsibility** to achieve health care **excellence** for our community.

**Trust**— To have confidence in the ability, character and integrity of another.

**Respect**— To treat one another as individuals, appreciating our uniqueness and diversity; and at the same time remembering our commitment to our community.

**Dignity**— To value each person and seek to treat them with concern and care to the point that we can help them to develop their potential.

**Responsibility**— To act with a sense of ownership and obligation to one another and to the community; to do the right thing and to seek clarification and guidance when in doubt.

**Excellence**— To demonstrate our individual and team commitment to exert our best efforts in serving our community.



## **INTRODUCTION TO THE CODE OF CONDUCT**

BayCare Health Plans has responsibilities that go beyond our members and employees, but also those companies and agencies with whom we have a working relationship. We refer to them as partners. It is BayCare Health Plans' policy that all of its partners, as well as BayCare Health Plans' directors, officers, employees, representatives and agents, must comply with all relevant Federal and State rules, statutes, and regulations, including those of the Centers for Medicare & Medicaid Services (CMS), Medicare Advantage, and other applicable regulators, and adhere to the highest ethical standards in the conduct of our day to day business.

This Code of Conduct has been adopted as a guide for each employee and for all of our partners who do business with us. BayCare Health Plans' Code of Conduct is designed to alert employees and our business partners who service our members and our organization to the types of conduct we expect of them. We hold everyone to the same standard.

It is our obligation to ensure we communicate these standards clearly and provide written policies for reference. It is also our ultimate responsibility to make sure these policies are adhered to and to prove, through auditing, that our standards are not less than we expect.

For any Compliance Program to be effective, it must have the cooperation of all employees as well as BayCare Health Plans' partners.

An employee's, or partner's, failure to follow the provisions of the Code of Conduct may result in serious consequences to the employee or partner, up to, and including, disciplinary action such as dismissal and/or criminal charges, as our employee's failure and/or any of our partner's failures means BayCare Health Plans has failed. There is no difference. BayCare Health Plans is ultimately responsible for everything you do. BayCare Health Plans can be at risk of criminal prosecution, substantial civil monetary fines and penalties, and loss of our integrity and reputation with the members we serve.

BayCare Health Plans operates within a tightly regulated industry, with constantly changing needs of our members and regulatory requirements. Thus, the Code of Conduct is reviewed and periodically updated, and the Compliance Officer may



distribute memoranda and policy statements describing changes, matters of interest in the Compliance area, Medicare guidance, or very specific behaviors that require immediate action by all or some of our colleagues and business partners. These documents will be considered part of BayCare Health Plan's Code of Conduct.

## **CODE OF CONDUCT**

BayCare Health Plans has explained our commitment to providing quality, cost-effective healthcare services. Our contracted network providers have agreed to provide the same level of commitment to quality that we do. They are expected to act in a competent manner, provide information and materials that are correct and in a timely fashion, and if the provider does not have what our plan members need, every effort is made to direct the member to the appropriate organization to provide the answer, whether it is to investigate a member's drug co-pay for a particular medication, or to provide the member with BayCare Health Plans' Pharmacy Helpline.

We operate "transparently" demonstrating openness, cooperation, honesty, and integrity in our day-to-day relationships with members, providers, and regulatory agencies.

We will respect each member's dignity, privacy and rights, and will treat each member with consideration, courtesy, dignity, privacy and respect in a culturally sensitive manner.

We will uphold the members' right to receive quality healthcare services without discrimination. The health plan will comply with all laws, regulations, and policies related to nondiscrimination in all of our business practices.

We will be attentive in our evaluation of our health delivery service programs to ensure we are meeting or exceeding standards of practice.

We are committed to practicing evidenced-based medicine and will consider economics of drugs in our formulary only when two drugs are determined to be equally efficacious.



We will allow only those practitioners that are qualified, appropriately licensed or credentialed, and practicing within the scope of their license or credentials, to provide healthcare services on our members' behalf.

Our Utilization Review decisions will be strictly adjudicated based upon objective medical criteria and we will apply those criteria fairly and consistently at all times. Only a qualified physician shall make the determination to deny coverage on the basis of lack of medical necessity.

We will never provide incentives for any employee or subcontracted entities involved in Utilization Review activities to deny or withhold care.

**Employees, members, or partners who become aware of any substandard health care services being provided must immediately report the incident, via one of the mechanisms set forth in the “Reporting Non-Compliance and Investigating Issues” section of this Code of Conduct.**

## **PRIVACY ENDEAVORS**

BayCare Health Plans will strictly adhere to all aspects of the Health Insurance Portability and Accountability Act (HIPAA) privacy laws.

We are committed to using and disclosing member information only for its intended purposes. Confidential and proprietary information of BayCare Health Plans and CMS will only be accessed, used, or disclosed by employees as needed to perform specific job responsibilities.

BayCare Health Plans employees will be provided access only to those systems where there is a “need to know,” and only the minimum necessary amount of information will be accessed.

We must hold in confidence any and all confidential and proprietary information pertaining to BayCare Health Plans, our members, employees, and partners.

## **MARKETING ENDEAVORS**

BayCare Health Plans is committed to investing in and using only BayCare Health Plan employees for its marketing endeavors. We recognize that the majority of the



Medicare beneficiaries we serve are elderly and/or disabled and may have difficulty understanding or negotiating through the myriad of health care issues and plan benefit choices.

Absolute compliance with all State and CMS marketing regulations is the expectation. BayCare Health Plans has a very low tolerance for error in marketing practices, whether human or system.

All marketing materials will be developed by the Marketing Department in conjunction with the Compliance Officer and must comply with all CMS requirements prior to printing or use. BayCare Health Plans has made a commitment to use CMS-issued “Model Letters” whenever possible in its communication with our beneficiaries to prevent error. We believe the letters are a “best practice” and that our organization could not do better.

BayCare Health Plans is committed to being truthful in all marketing practices. The following activities are strictly prohibited by BayCare Health Plans:

- Deceptive marketing practices;
- Misuse of marketing or competitor information;
- Distributing marketing and sales materials without appropriate approval;
- Misleading or discriminatory enrollment practices; (i.e., enrolling Medicare beneficiaries in a MA-PD when they wanted a PDP);
- Door-to-door solicitation of potential members;
- Cold calls and other unsolicited personal contacts with potential members;
- Direct marketing or distribution of materials in hospital emergency rooms;
- Misrepresenting the Medicare Advantage or Prescription Drug Plan being marketed;
- Offering beneficiaries cash payment or any other remuneration as inducement to enroll in a plan;
- Stating that a marketing agent or broker works for or is contracted with Medicare, Office of Insurance Regulation or the Federal Government;
- Requesting a beneficiaries’ financial information or check numbers (i.e., potential identity theft by a Plan’s marketing agents);
- Require beneficiaries to pay up-front premiums; and
- Any other sales or marketing practice that is prohibited by CMS.



**Any employee, plan member, prospective member or business partner who becomes aware of prohibited marketing practices being used by any BayCare Health Plans employee, provider or other entity must report the practice immediately to BayCare Health Plans' Compliance Officer or directly to CMS.**

### **FINANCIAL ENDEAVORS**

- We shall ensure that all communications and representations in billing are accurate, complete and truthful, and comply with applicable laws and regulations to the best of our ability.
- We are committed to paying our providers timely and correctly for clean claims submission.
- We will ensure that payments or other benefits to providers be supported by proper documentation that demonstrates the services were provided, on the correct date of service, as billed.
- We are committed to providing access to quality health care without discrimination at prices which are reasonable and competitive.
- We expect every employee to use only legal and legitimate competitive practices in the promotion of BayCare Health Plans' business.
- We are committed to executing contracts that clearly specify BayCare Health Plans' Compliance expectations for absolute program integrity.

**Any employee, plan member, prospective member or business partner who becomes aware of prohibited financial practices being used by any BayCare Health Plans employee, provider or other entity is required to report the practice immediately to BayCare Health Plans' Compliance Officer or directly to CMS.**

### **CONFLICTS OF INTEREST**

A conflict of interest may occur if your outside activities or personal interests influence or appear to influence your ability to make objective decisions in the course of your job responsibilities. A conflict of interest may also exist if the demands of any outside activities hinder or distract you from the performance of your job or cause you to use Health Plan resources for other than Health Plan purposes. It is your obligation to ensure that you remain free of conflicts of interest in the performance of your responsibilities at the Health Plan. If you have any





question about whether an outside activity might constitute a conflict of interest, you must obtain the approval of your manager before pursuing the activity.

We will refrain from and avoid conflicts or the appearance of conflicts between our private interests and the best interests of BayCare Health Plans. Employees should report potential conflicts of interest to the Compliance Officer.

- We shall not offer or give anything of monetary value greater than \$15.00, including gifts, gratuities, favors, entertainment or loans, to an employee, vendor, subcontractor, or partner that BayCare Health Plans has, or is seeking to obtain, a contractual or other business or financial relationship or that regulates BayCare Health Plan's activities or operations.

We may not accept cash gifts of any amount provided in consideration of our employment at BayCare Health Plans. However, non-cash gifts of nominal value (\$50 or less) and reasonable meal and entertainment courtesies are not prohibited. Non-cash gifts that exceed \$50 in value may not be accepted and must be immediately reported to the Compliance Officer.

- We may not accept gifts, payments, fees, services, discounts, valued privileges or other favors (even those of nominal value) where these would, or might appear to, improperly influence performance of duties.
- Our employees may not offer, give, solicit or accept any type of gift (even token gifts) to or from any federal, state, or municipal government official unless such activity has been reviewed in advance and approved by BayCare Health Plans' Compliance Officer. Such activity may, in certain instances, violate certain applicable laws.
- There are specific regulatory guidelines regarding the giving of gifts, incentives, promotions, entertainment, and other outreach to former, current, or potential health plan enrollees. The guidelines state that the aggregate annual value of nominal gifts that a Medicare Advantage health plan may provide may not exceed \$75. You should be aware of regulatory guidelines relative to giving to Medicare beneficiaries and strictly abide by the regulatory guidance. If you have questions regarding guidance on giving you should contact your manager or the health plan Compliance department.





- BayCare Health Plans staff may not engage in any outside employment that interferes with our ability to adequately perform our duties for the company.
- BayCare Health Plans cannot become involved in political campaigns or affairs. No corporate funds may be expended in support of or in opposition to any political candidate or political party. Federal funds may not be used to lobby or influence a member of Congress for contracts, loans or grants.

BayCare Health Plans has an obligation to report the possible existence of a conflict of interest for ourselves or any other person. Anyone who suspects that any of his or her actions or the intended actions of another employee may represent a potential conflict of interest should disclose the facts of the situation to his or her immediate supervisor.

## **REGULATORY RELATIONSHIPS**

It is BayCare Health Plan's strong belief that all regulatory and accreditation agencies are our partners in providing the highest level of quality care for our beneficiaries. Therefore:

- Deliberate false statements by employees to a government agency or other regulatory body, any of our partners, beneficiaries and/or other employees will not be tolerated. The employee will risk termination of employment at BayCare Health Plans and possible criminal penalties.
- We will certify and attest that all reports or other information required to be provided to any federal, state or local government agency shall be filed on time, accurately and in conformance with the applicable laws and regulations governing such report or information.
- We will comply fully with all law enforcement agencies and cooperate with any governmental audit or investigation.

## **WORKPLACE CONDUCT**

BayCare Health Plans will treat all employees with respect, dignity, fairness, and courtesy. We recognize that our employees *are* BayCare Health Plans. Our organization constantly seeks to create a productive environment in which fairness, equal opportunity and professional development are constantly nurtured for each



employee as well as having a strong commitment to creating engaged employees who are critical in making our company a success.

We vigilantly strive to be a responsible employer, by providing opportunities for professional satisfaction, pride of work, and career growth for our employees. We maintain a drug free workplace and are an equal opportunity employer. We offer equal hiring, benefit, compensation, training, and advancement opportunities and have a strong desire to promote from within, regardless of religion, color, genetic information, or ethnic group.

BayCare Health Plans searches to employ those best qualified to perform the necessary work by skills, experience and/or education.

BayCare Health Plans will not tolerate any form of sexual harassment or intimidation. Unwelcome sexual advances, requests for sexual favors and other unwanted verbal or physical conduct of a sexual nature are serious violations of the Code of Conduct and will not be tolerated.

BayCare Health Plans does not tolerate verbal or physical intimidation or threats of violence towards any employee.

Any action of retaliation or reprisal to be taken against an employee who reports a violation of law, regulation, company policy or Code of Conduct will not be tolerated.

Any form of financial misconduct will not be tolerated.

All communication systems, electronic mail, Internet access, or voice mail is the property of BayCare Health Plans and are to be used primarily for BayCare Health Plans business.

BayCare Health Plans employees will not engage in any formal or informal discussions with a competitor related to any of BayCare Health Plans' members or proprietary business matters.

It is the supervisor's duty to listen to his/her employees' issues, take immediate action on their concerns to find the answers and deal with problems. Supervisors are required to set an ethical example for their employees.



It is the Board of Director's specific directive to hold Management and Supervisory staff accountable for making sure their employees understand BayCare Health Plans' Code of Conduct as well as the Compliance Officer's responsibility.

## **POTENTIAL COMPLIANCE ISSUES**

Potential compliance issues exist when a business process or behavior does not follow or is inconsistent with the plan's Code of Conduct, laws, regulations, sub-regulatory guidance, and/or policies and procedures. BayCare Health Plans provides compliance-related training classes and annual refresher courses to help you identify compliance issues. You are required to report potential compliance issues.

## **FRAUD WASTE AND ABUSE**

Fraud, waste and abuse (FWA) are special types of potential compliance issues. FWA is a big problem in the Medicare and Medicaid Programs and we are obligated to report any FWA issues we see in our day-to-day jobs. FWA can be committed by various entities, including but not limited to providers, brokers, health plans, pharmacies, pharmacy benefit management companies, our members, and even our fellow employees.

In addition, it is illegal to knowingly present, or cause to be presented, a false or fraudulent claim or statement to the government (False Claims Act). False claims, fraud, dishonesty, or criminal conduct of any sort, on the part of any employee, officer, director, or anyone doing business with BayCare Health Plans, will not be tolerated.

## **REPORTING NON-COMPLIANCE AND INVESTIGATING ISSUES**

All health plan employees, partners, FDRs, directors, officers, representatives and agents are **required** to report known or suspected incidents of non-compliance and Fraud, Waste, and Abuse (FWA).

Any actual or suspected non-compliance or Fraud, Waste and Abuse must be reported by any of these methods:



- Notify your supervisor, manager, or director. Management, in turn, have an obligation to report suspected violations to the Health Plan Compliance Officer.
- Notify the Health Plan Compliance Officer or the health plan Compliance Department. You may do this in person, through direct person-to-person email or by emailing the Compliance e-mail box at [BCHPCompliance@baycare.org](mailto: BCHPCompliance@baycare.org)
- Notify the Special Investigations Unit at [investigations@baycarehealthplans.org](mailto: investigations@baycarehealthplans.org)
- Notify Corporate Responsibility at [corporate.responsibility@baycare.org](mailto: corporate.responsibility@baycare.org)
- Through the compliance hotline, 24 hours a day, 7 days a week. Hotline Reports are confidential, **can be made anonymously** and are handled through an outside party.
  - 1-(833) 490-0002 (*English*)
  - 1-(800) 216-1288 (*Spanish*)
  - Website: [www.lighthouse-services.com/baycare](http: www.lighthouse-services.com/baycare)

*An example of non-compliance (Fraud) would be you suspect that a member let someone else use her health plan ID card to obtain health services. In this scenario you should report it through one of the mechanisms described above along with any details that you may have to support your suspicions.*

BayCare Health Plans is committed to investigating all reported compliance concerns promptly and confidentially to the extent possible. We expect all employees, partners, vendors, agents, and FDRs to cooperate with investigation efforts. The Compliance Department will work with the appropriate staff to coordinate any findings from the investigations and immediately recommend corrective action or changes that need to be made.

Where an internal investigation substantiates a reported violation, it is the policy of the organization to promptly initiate appropriate corrective action, including, as appropriate, making prompt restitution of any overpayment amounts, notifying the appropriate governmental agency, instituting whatever disciplinary action is necessary, and implementing systemic changes to prevent a similar violation from recurring in the future.



## **BAYCARE HEALTH PLANS COMPLIANCE HOTLINE**

If you are uncomfortable discussing your issue(s) with your supervisor or manager or wish to remain anonymous, you can call the BayCare Health Plans Compliance Hotline. The Hotline is a non-traceable number and there are no caller identification mechanisms in place. It is a method of reporting concerns confidentially and anonymously, if desired. BayCare Health Plans will protect your anonymity to the extent permitted by law. The Hotline is operated by an outside party and available for anyone to call 24 hours per day, 7 days per week, and 365 days per year. The telephone number and web address for the Hotline are:

**1-(833) 490-0002 (*English*)**

**1-(800) 216-1288 (*Spanish*)**

**[www.lighthouse-services.com/baycare](http://www.lighthouse-services.com/baycare)**

This line and website are not intended to replace your normal reporting process but serve as another resource for reporting issues and concerns of non-compliance, including if your manager's act is the cause of your concern. Always remember the Compliance Officer has an open-door policy too. Hotline calls and web reports are handled confidentially, and the caller is protected from any form of retaliation or retribution. Any employee who deliberately makes a false accusation with the purpose of harming or retaliating against another employee will be subject to disciplinary action.

## **COMPLIANCE TRAINING**

The Compliance Officer, in conjunction with managers and directors, is charged with ensuring that all their employees receive compliance and fraud, waste and abuse training within 90 days of their date of hire and annually thereafter. Should any employee choose not to participate in Compliance Training, BayCare Health Plans will suspend the employee without pay until Compliance Training is completed. Compliance training is serious business and you are the front line to detect, prevent and report non-compliance and fraud, waste and abuse.

## **POLICY OF NON-INTIMIDATION AND NON-RETALIATION**

It is the policy of BayCare Health Plans to ensure that all employees who have concerns or ~~suspect~~ possible violations of the Code of Conduct, policies/procedures, laws, or regulations will be received openly and timely. It is the commitment of BayCare Health Plans to ensure that there will be no intimidation or direct or indirect retaliation against anyone who, in good faith,



reports an actual or suspected issue of non-compliance or who participates in an investigation of non-compliance.

## **DISCIPLINARY STANDARDS**

The health plan is committed to ethical and legal conduct that is compliant with all relevant laws and regulations and to correcting wrongdoing wherever it may occur in the organization. Each employee has an individual obligation and responsibility for reporting activity by any employee, physician, subcontractor or vendor that appears to violate applicable laws, rules, regulations, or this Code.

All violators of the Code will be subject to disciplinary action. The precise discipline utilized will depend on the nature, severity, and frequency of the violation and may result in any of the following disciplinary actions:

- 1.) Verbal warning
- 2.) Written warning
- 3.) Written reprimand
- 4.) Suspension
- 5.) Termination

You are obligated to report known or suspected non-compliance or Fraud, Waste, and Abuse. If you do not report a situation that you reasonably should have identified as a potential compliance issue, you will be subject to disciplinary action. That's why we make it as easy as possible for you to report potential compliance issues. As noted above, you have several ways to report and can even do so anonymously.

## **NON-EXCLUSION FROM FEDERAL CONTRACTING**

An excluded person or entity is one that is not allowed to participate in Medicare, state Medicaid or any federal health care programs for any reason. Most commonly, these are individuals that have been found guilty of fraudulent billing or misrepresentation of credentials. BayCare Health Plans cannot, directly or indirectly, employ or contract with any excluded person or entity, this includes FDRs. The health plan, plan partners and FDRs must ensure that no persons or entities contracted or affiliated with them is "excluded." If a person or entity contracted with the health plan, plan partners or FDRs becomes excluded, BayCare Health Plans must immediately stop such person or entity from directly or indirectly providing any covered services for reimbursement to health plan



members.

## **INTERNAL COMPLIANCE AUDIT AND HEALTH PLAN MONITORING**

The Health Plan is committed to the ongoing and regular monitoring of compliance with regulatory requirements and policies, including monitoring and auditing of our contracted FDRs to verify their compliance. Much of this monitoring effort is achieved by internal audits of issues that have regulatory or compliance implications. The organization also routinely seeks other means of ensuring and demonstrating compliance with laws, regulations, and Health Plan policy.

## **CODE OF CONDUCT ACKNOWLEDGEMENT**

It is important to BayCare Health Plans to ensure that we have a mechanism in place to demonstrate to anyone who has reason to ask, that we have taken our Compliance Program and subsequent training seriously and to further objectively show to any organization who asks, that all employees, colleagues, and partners have taken Compliance Training education at very specific time intervals. We do that by asking you to sign a BayCare Health Plans Code of Conduct Attestation that we use for our Compliance files in order to meet this basic standard.





**BAYCARE HEALTH PLANS CODE OF CONDUCT ATTESTATION**

This is to attest that I have received, read and understand the BayCare Health Plans Code of Conduct for Medicare Advantage Plan. I understand that all employees, business associates and partners (FDRs) of BayCare Health Plans are expected to abide by the Code of Conduct and that the Code is not intended (and cannot be interpreted) as a guarantee of employment or a continuing business arrangement. I understand that it is a company requirement and my responsibility to report questions or concerns regarding laws, regulations, contract provisions, or policies related to or affecting BayCare Health Plans, and any actual or suspected non-compliance issues or concerns, via one of the reporting mechanisms set forth herein above.

I understand that I will not be subject to intimidation or retaliation for raising or reporting an actual or suspected issue of non-compliance. I understand that any violation of the Code of Conduct may result in corrective action and/or disciplinary action up to and including termination of employment or business association.

Signed: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_



## **REFERENCES**

- Title XVIII of the Social Security Act
- Medicare regulations governing Parts C and D found at 42 C.F.R. §§ 422 and 423 respectively
- Patient Protection and Affordable Care Act (Pub. L. No. 111-148, 124 Stat. 119)
- Health Insurance Portability and Accountability Act (HIPAA) (Public Law 104-191)
- False Claims Acts (31 U.S.C. §§ 3729-3733)
- Federal Criminal False Claims Statutes (18 U.S.C. § 287, 1001)
- Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b))
- The Beneficiary Inducement Statute (42 U.S.C. § 1320a-7a(a)(5))
- Civil monetary penalties of the Social Security Act (42 U.S.C. § 1395w-27(g))
- Physician Self-Referral (“Stark”) Statute (42 U.S.C. § 1395nn)
- Fraud and Abuse, Privacy and Security Provisions of the Health Insurance Portability and Accountability Act, as modified by HITECH Act
- Prohibitions against employing or contracting with persons or entities that have been excluded from doing business with the Federal Government (42 U.S.C. § 1395w-27(g)(1)(G))
- Fraud Enforcement and Recovery Act of 2009
- All sub-regulatory guidance produced by CMS and HHS such as manuals, training materials, HPMS memos, and guides