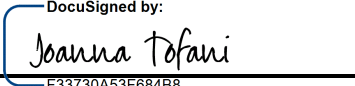




<b>Title: Non-Retaliation / Duty to Report</b>	<b>Policy Number:</b> CMP20 V.05
	<b>Page Number:</b> Page 1 of 7
<b>Issued For:</b> <input checked="" type="checkbox"/> BayCare Select Health Plans, Inc.	<b>Original Issue Date:</b> 09/18/2018
	<b>Select one below and input date, if applicable:</b> <input type="checkbox"/> <b>Date Last Reviewed / Revised</b> OR <input checked="" type="checkbox"/> <b>Date Last Reviewed / No Revisions</b> 05/01/2022 <b>OR</b> <input type="checkbox"/> <b>New Policy / N/A</b>
<b>Issuing Department:</b> Compliance	<b>Effective Date:</b> 05/16/2022
<b>Approved and Owned by:</b>  Joanna Tofani, Chief Compliance Officer <small>DocuSigned by:</small>  <b>Signature</b> <small>F33730A53F684B8...</small>	<b>Date Approved and By Whom:</b>  05/16/2022 Compliance Committee

**I. PURPOSE**

To ensure that the BayCare Select Health Plans, Inc. (BayCare Select) Workforce, members of the Board of Directors (Board), and BayCare Select FDRs understand and comply with BayCare Select’s policy of non-intimidation and non-retaliation. Further, to establish the available process to report suspected or actual non-compliant activity without fear of reprisal.

**II. SCOPE**

This policy applies to the BayCare Select Workforce, members of the Board and BayCare Select’s FDRs.

**III. DEFINITIONS**

**CMS:** The Centers for Medicare & Medicaid Services. This is the agency within the Department of Health and Human Services (HHS) that is responsible for directing the national Medicare program.

**First Tier, Downstream, or Related Entity (FDR):** Has the meaning of the respective terms as defined in the Medicare Managed Care Manual, Chapter 21 – Compliance Program Guidelines and Prescription Drug Benefit Manual, Chapter 9 – Compliance Program Guidelines.

**Fraud, Waste, and Abuse:** Has the meanings of the respective terms as defined in the Medicare Managed Care Manual, Chapter 21 – Compliance Program Guidelines and Prescription Drug Benefit Manual, Chapter 9 – Compliance Program Guidelines.



**Good Faith Report:** Notifying BayCare Select that an actual or suspected violation of law or policy or other instance of non-compliance or related misconduct may have occurred, with the honest and reasonable belief that the information being reported is true and accurate at the time of reporting.

**Retaliation:** Retaliation is defined as any adverse action that may include but is not limited to the following conduct: intimidation, discharge, demotion, suspension, harassment, reduction in pay, denial of promotion or departmental transfer, or any other action that discriminates against the Workforce.

**Workforce:** For purposes of this policy a workforce member includes all current employees including, permanent, temporary, full-time, and part-time employees, volunteers (e.g. unpaid interns), consultants, who have job duties related to BayCare Select's Medicare Advantage (Part C) and / or Prescription Drug (Part D) business, and members of the governing body (i.e., Board of Directors) responsible for oversight of the Medicare program under the director control of BayCare Select, whether or not they are paid by BayCare Select.

#### **IV. OWNERSHIP**

The Chief Compliance Officer (CCO) is responsible for administration and oversight with regard to performance under this policy and procedure.

#### **V. POLICY**

##### **A. Duty to Report:**

1. All BayCare Select Workforce members, directors, officers, representative and agents are required to report known or suspected incidents of non-compliance and Fraud, Waste, and Abuse (FWA) within 48 hours of becoming aware of such incident(s) (see BayCare Select Code of Conduct).
2. It is an affirmative duty for Workforce members and FDRs to provide a Good Faith Report of actual or suspected issues of non-compliance. Failure to report actual or suspected issues of non-compliance may result in disciplinary action and / or termination in accordance with CMP21 Disciplinary Policy and Procedure.
3. BayCare Select FDRs must also report suspected or actual non-compliance or FWA to BayCare Select, as soon as administratively possible and in accordance with the terms of the FDR's contract.
4. BayCare Select providers and beneficiaries / members are also encouraged to report suspected or actual non-compliant activities.
5. BayCare Select is committed to investigating all reported compliance concerns promptly and confidentially to the extent possible consistent with CMP08 Compliance



## Violations Reporting and Investigation Policy and Procedure.

### **B. Non-Retaliation:**

1. There will be no Retaliation against Workforce members who make a Good Faith Report or participate in BayCare Select's Compliance Program, including but not limited to engaging in activities such as reporting actual or potential issues, conducting self-evaluations, participating in investigations, audits, remedial actions, and timely reporting issues or concerns to appropriate officials, management and leadership.
2. BayCare Select requires that its FDRs do not engage in Retaliation against their employees who make a Good Faith Report to BayCare Select or participate in BayCare Select's Compliance Program.

### **C. Responding to Reports**

1. Leadership, the CCO, Corporate Responsibility, the Special Investigations Unit (SIU) and the Team Resources staff maintain an "open-door" policy regarding the concerns of Workforce member, the Board, FDRs, providers and beneficiaries / members, including reports of Retaliation. These individuals will be receptive to individuals' concerns and opinions and offer suggestions for resolving issues.
2. When handling reports of suspected or actual non-compliance, FWA or Retaliation, confidentiality will be maintained and only those personnel who have a need to know will be informed of the matter, to the extent it is legal and practical to do so.
3. All reports of possible non-compliance, FWA or Retaliation must be communicated to the CCO as soon as practicable. It is the responsibility of the CCO, in coordination with Leadership and Team Resources, to track the report and trigger an investigation, in accordance with CMP08 Compliance Violations Reporting and Investigation.

### **D. Discipline and Violations of Policy**

1. A BayCare Select Board or Workforce member who conducts or condones Retaliation or retaliatory behavior for Good Faith Reporting in any way will be subject to disciplinary actions, up to and including termination, in accordance with CMP21 Disciplinary Policies and Procedures.
2. Any reports of non-compliance, FWA or Retaliation that are not Good Faith Reports (i.e. knowingly false, made with malicious intent, made with reckless disregard for or willful ignorance of facts that would disprove the allegation) are prohibited by this policy, and may subject the violator to disciplinary action, up to and including termination, in accordance with CMP21 Disciplinary Policies and Procedures.
3. An FDR who conducts or condones Retaliation in response to a Good Faith Report will be subject to disciplinary action, up to and including termination of contract

**E. Training and Education:**

1. The CCO is responsible for ensuring Workforce, Board members and FDRs are informed of how to report issues of non-compliance, FWA and Retaliation. The CCO may use method(s) within his or her professional discretion to do so (e.g., physical postings of information, e-mail distributions, internal websites, and individual and group meetings with the CCO).
2. The CCO must also ensure members are educated about identification and reporting of potential FWA. Education methods may include flyers, letters, pamphlets that can be included in mailings to enrollees (such as enrollment packages, Explanation of Benefits (“EOB”), and information published on sponsor websites (especially on enrollee links), etc.).

**VI. PROCEDURES**

**A. How to Report Actual or Suspected Non-Compliance, FWA or Retaliation:**

1. BayCare Select provides mechanisms for to report issues of non-compliance, FWA and Retaliation and communicates these mechanisms to the Workforce and Board members through the BayCare Select Code of Conduct (see BayCare Select Code of Conduct).
2. Any report may be made anonymously if desired, by reporting the issue via the Compliance Hotline.
3. **Workforce member Reports:** Workforce members must report actual or suspected non-compliance, FWA or Retaliation either orally or in writing via one of the following mechanisms:
  - a. Notify their supervisor, manager, or director. If, for any reason, the Workforce member feels constrained or uncomfortable notifying their direct supervisor, the Workforce member may contact any supervisor that they comfortable approaching. All management, in turn, have an obligation to report suspected violations to the CCO.
  - b. Notify the CCO. The Workforce member may do this in person, through direct person-to-person email, or by emailing the Compliance e-mail box at **BCHPCompliance@baycare.org**.
  - c. HIPAA related incidents can be reported to the CCO / Privacy Officer directly and / or **BCplusprivacyofc@baycare.org**.
  - d. Notify the BayCare Select Special Investigations Unit at **investigations@baycarehealthplans.org**.



- e. Notify Corporate Responsibility at [corporate.responsibility@baycare.org](mailto:corporate.responsibility@baycare.org).
  - f. If the Workforce Member wishes to remain anonymous, the Workforce member may contact the **Compliance Hotline** which is available 24 hours a day, 7 days a week. Hotline Reports are confidential, **can be made anonymously** and are handled through an outside party.
    - i. 1-(833) 490-0002 (*English*)
    - ii. 1-(800) 216-1288 (*Spanish*)
    - iii. Website: [www.lighthouse-services.com/baycare](http://www.lighthouse-services.com/baycare)
4. **Board member Reports:** Board members must report actual or suspected non-compliance, FWA or Retaliation either orally or in writing via one of the following mechanisms:
- a. Notify the Chair of Board, who will in turn inform the CCO.
  - b. See various mechanisms for Workforce Member instructions and available mechanisms to report issues above.
5. **FDR Reports:** FDRs must report actual or suspected non-compliance, FWA or Retaliation either orally or in writing via one of the following mechanisms:
- a. Notify their BayCare Select operational contact. All BayCare Select operational contacts, in turn, have an obligation to report suspected violations to the CCO.
  - b. See various mechanisms for Workforce Member instructions and available mechanisms to report issues above.

## **VII. REGULATORY REFERENCES / CITATIONS**

Medicare Managed Care Manual, Chapter 21 – Compliance Program Guidelines and Prescription Drug Benefit Manual, Chapter 9 – Compliance Program Guidelines, Section 50.4

42 C.F.R. 422.503(b)(4)(vi)(D)

42 C.F.R. 423.504(b)(4)(vi)(D)

Department of Health and Human Services Office of Inspector General, Compliance Program Guidance for Medicare + Choice Organizations (64 Fed. Reg. 61893; November 15, 1999)

United States Sentencing Commission, Guidelines Manual, §8B2.1

45 C.F.R. 164.504 Uses and disclosures: Organizational requirements.

## **VIII. RELATED POLICIES & PROCEDURES**

BayCare Select Code of Conduct

CMP08 Compliance Violations Reporting and Investigation Policy and Procedure

CMP21 Disciplinary Policy and Procedure

**IX. ATTACHMENTS**

None

**VERSION & REVIEW HISTORY:**

<b>Version #</b>	<b>Action (Original Issue, Reviewed, Revised)</b>	<b>Date Action Taken</b>	<b>Brief Summary of Revision, if applicable</b>	<b>Individual Taking Action</b>	<b>Effective Date</b>	<b>Date Approved and By Whom</b>
01	Original Issue	09/01/2018	N/A	Unknown	09/01/2018	N/A
02	Reviewed	07/25/2019	Annual review; no substantive changes.	Paul Christy, CCO	08/01/2019	N/A, Larry Costello, President
03	Revised	04/15/2020	Substantive changes made throughout policy.	Joanna Tofani, CCO	05/13/2020	Compliance Committee 05/13/2020
04	Reviewed	4/27/2021	Annual review; updated definition of Workforce Member. Added privacy inbox and corresponding regulatory reference. Consolidated policy and procedure language.	Joanna Tofani, CCO	05/13/2021	Compliance Committee 05/13/2021
05	Reviewed	05/01/2022	Annual review; no changes.	Joanna Tofani, CCO	05/16/2022	Compliance Committee 05/16/2022