

# ACO Partner Enforcement and Discipline

<b>Policy Title:</b> ACO Partner Enforcement and Discipline	<b>Policy #:</b> COMP-027
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## Contents

Purpose .....	3
Scope .....	3
Policy .....	3
Procedure .....	3
Definitions .....	5
Reference .....	5
Change Log .....	6



## Purpose

The purpose of this policy is to consistently enforce the CareMax, Inc. (CareMax) Code of Conduct, applicable policies and procedures, Participating Provider Agreement (PPA) provisions, and applicable laws and regulations to CareMax Medicare Accountable Care Organization (ACO) programs through appropriate disciplinary mechanisms.

## Scope

This policy applies to CareMax Partners, including board members, officers, employees, vendors, agents, ACO participating providers, and such staff of CareMax acting as agent(s) for CareMax and performing certain operational functions for, or doing business related to, CareMax Accountable Care Network, LLC (CACN), CareMax National Care Network, LLC (CNCN), and CareMax Health Partners, LLC (CHP) Medicare ACO Programs (collectively referred to as “CareMax Partners”).

## Policy

CareMax Partners are subject to appropriate disciplinary action, up to and including termination from participation in CareMax Medicare ACO programs, for failure to comply with the CareMax Code of Conduct, applicable CACN, CNCN, CHP and CareMax policies and procedures, PPA provisions, and applicable laws and regulations.

## Procedure

CareMax and its Medicare ACO Programs may be notified of possible breaches, noncompliance, or fraud, waste, abuse (FWA) via a variety of methods including, but not limited to:

1. Reports made to the CareMax Chief Compliance and Privacy Officer, Medicare ACO Compliance Officer, and/or CareMax Compliance Department.
2. Anonymous reports received through the CareMax reporting hotline (**800-672-3039**) or online at <https://reportanissue.com/caremax/>.
3. Results of a compliance audit.
4. Complaints made by CACN, CNCN, or CHP ACO beneficiaries.
5. Notification from a government agency such as the Centers for Medicare & Medicaid Services (CMS) or Center for Medicare and Medicaid Innovation (CMMI).
6. Screenings of ineligible party listings resulting in confirmation of exclusion, debarment, suspension, or other declaration of ineligibility from participating in any federal and state funded health care program.

If it is concluded after an investigation that the CareMax Code of Conduct, applicable policies and procedures, PPA provisions, and/or applicable laws and regulations have been violated, CareMax Medicare ACO leadership will meet to review the seriousness of the violation and determine disciplinary actions, if necessary.

CareMax Medicare ACO leadership may include, as needed:

1. CareMax Chief Executive Officer
1. CACN, CNCN, or CHP Board Chair
3. CACN, CNCN, or CHP Chief Medical Officer
4. CareMax Chief Compliance & Privacy Officer
5. CareMax Medicare ACO Compliance Officer



5. CareMax Human Resources
6. CareMax General Counsel

CareMax Medicare ACO leadership may also choose to engage outside counsel, as determined necessary.

**Remediation and Disciplinary Actions**

Remediation and disciplinary actions are aligned with the severity of the violation as described in the following table.

Level of Violation	Minimum Recommended Disciplinary Action(s)
Level I – low risk exposure; low impact or damage incurred; correctable	<ul style="list-style-type: none"> <li>• Retraining and re-evaluation</li> <li>• Documented verbal warning with discussion of policies, procedures, and requirements</li> </ul>
Level II – medium-to-high risk exposure; medium-to-high impact or damage incurred; correctable	<ul style="list-style-type: none"> <li>• Retraining and re-evaluation</li> <li>• Written warning with discussion of policies, procedures, and requirements</li> <li>• Scheduled on-site visit to review and retrain all staff on policies, procedures, and requirements</li> </ul>
Level III – repeat occurrence of Level II violation	<ul style="list-style-type: none"> <li>• Retraining and re-evaluation</li> <li>• Written warning with discussion of policies, procedures, and requirements</li> <li>• Scheduled on-site visit to review and retrain all staff on policies, procedures, and requirements</li> <li>• Unannounced on-site visit(s) to oversee and review office procedures</li> </ul>
Level IV – high risk exposure; high impact or damage incurred; willful act; reckless disregard  <i>Includes: (1) any CareMax Partner identified as excluded from federal or state programs; and/or (2) confirmed compliance and/or fraud, waste, and abuse violation(s).</i>	<ul style="list-style-type: none"> <li>• Termination</li> <li>• Probation</li> <li>• Suspension</li> <li>• Demotion</li> <li>• Termination of contract</li> </ul>

**Appeal Process**

CareMax Partners have the right to contest or appeal the decision made by CareMax Medicare ACO leadership. To formally contest or appeal, the CareMax Partner must state in writing within 30 days:

- The reasons for disagreeing with the CareMax Medicare ACO leadership decision and remediation action.
- Documentation to support the CareMax Partner’s position. Examples of supporting documentation might include, but are not limited to:
  - information obtained from CMS/CMMI
  - information obtained from CareMax
- A contact name, title, and contact information including a phone number, address, and email address.

Appeals can be submitted by emailing [compliance@caremax.com](mailto:compliance@caremax.com) or by mailing the required information stated above to:

CareMax ACO Programs  
1000 NW 57<sup>th</sup> Ct, Suite 400  
Miami, FL 33126

Appeals will be reviewed by members of CareMax Medicare ACO leadership and the Chair of the respective Medicare ACO Board. CareMax leadership may also choose to engage outside counsel, as determined necessary.

The CareMax Partner should expect a response within 30 days of receipt of the appeal.

## Definitions

**ACO Participant** – An entity identified by a Medicare-enrolled billing TIN through which one or more ACO Providers/Suppliers bill Medicare, that alone or together with one or more other ACO Participants compose an ACO, and that is included on the list of ACO Participants that is required under 42 C.F.R. § 425.118.

**ACO Provider** – A hospital, skilled nursing facility, outpatient rehabilitation facility, home health agency, or hospice that is Medicare-enrolled and bills for items and services furnished to Medicare fee-for-service beneficiaries under a Medicare billing number assigned to the TIN of an ACO Participant in accordance with applicable Medicare regulations, and is included on the list of ACO Providers/Suppliers that is required under 42 CFR § 425.118.

**Fraud, Waste, and Abuse (“FWA”)** under 18 U.S.C. § 1347 –

- **Fraud** is knowingly and willfully executing, or attempting to execute, a scheme or artifice to defraud any health care benefit program or to obtain (by means of false or fraudulent pretenses, representations, or promises) any of the money or property owned by, or under the custody or control of, any health care benefit program.
- **Waste** is the overutilization of services, or other practices that, directly or indirectly, result in unnecessary costs to the Medicare program. Waste is generally not considered to be caused by criminally negligent actions but rather the misuse of resources.
- **Abuse** includes actions that may, directly or indirectly, result in: unnecessary costs to the Medicare Program, improper payment, payment for services that fail to meet professionally recognized standards of care, or services that are medically unnecessary. Abuse involves payment for items or services when there is no legal entitlement to that payment and the provider has not knowingly and/or intentionally misrepresented facts to obtain payment.

## Reference

- 18 U.S.C. § 1347
- 31 U.S.C. § 3730(h)
- Federal Sentencing Guidelines, Chapter 8 - §8B2.1. Effective Compliance and Ethics Program
- U.S. Dept Health & Human Services, Office of Inspector General, Special Advisory Bulletin on the Effect of Exclusion from Participation in Federal Health Care Programs (May 8, 2013)
  - § 42 C.F.R 1001.1901

- § 42 C.F.R. 1003.102(a)(2) and (a)(3)
- 42 C.F.R. § 425 – Medicare Shared Savings Program
- Accountable Care Organization Realizing Equity, Access, and Community Health (ACO REACH) Model First Amended and Restated Participation Agreement
- CareMax Code of Business Conduct and Ethics
- P&P-COMP-024 Incident Reporting Policy

## Change Log

Version	Major/Minor Revision?	Date	Name	Comments
1.0	Major	April 3, 2023	Chief Compliance Officer	Original version
1.0	None	March 11, 2024	Chief Compliance Officer	Annual review; no edits