

POLICY AND PROCEDURE	
POLICY # AND TITLE: HPA10 Whistleblowers and Workforce Crime Victims	
PRIMARY POLICY OWNER: Compliance	POLICY #: HPA10
Impacted/Secondary policy owner: Select the department(s) that are responsible for compliance with all, or a portion of the policy or procedure as outlined	
1) <input checked="" type="checkbox"/> All Departments 2) <input type="checkbox"/> Behavioral Health (BH) 3) <input type="checkbox"/> Benefits Administration (BA) 4) <input type="checkbox"/> Care Management (CM) 5) <input type="checkbox"/> Claims (CLMS) 6) <input type="checkbox"/> Community Marketplace & Member Engagement (MAR) 7) <input type="checkbox"/> Compliance (CMP/HPA) 8) <input type="checkbox"/> Configuration (CFG) 9) <input type="checkbox"/> Provider Contracting (CONT) 10) <input type="checkbox"/> Cultural & Linguistics (CL) 11) <input type="checkbox"/> Customer Service (CS)	12) <input type="checkbox"/> Facilities (FAC) 13) <input type="checkbox"/> Finance (FIN) 14) <input type="checkbox"/> Human Resources (HR) 15) <input type="checkbox"/> Information Technology / Core Systems (IT) 16) <input type="checkbox"/> Pharmacy (PH) 17) <input type="checkbox"/> Provider Networks (PRO) 18) <input type="checkbox"/> QI Health Equity (GRV/HE/HEQ/PHM/QM) 19) <input type="checkbox"/> Utilization Management (UM)
PRODUCT TYPE: <input checked="" type="checkbox"/> Medi-Cal	SUPERSEDES POLICY NUMBER: N/A

I. PURPOSE

To establish the rules and guidelines for the Workforce of San Joaquin County Health Commission ("Commission"), operating and doing business as Health Plan of San Joaquin and Mountain Valley Health Plan ("Health Plan") or a Business Associate (BA) to follow when witnessing or becoming aware of instances that potentially endanger one or more Health Plan members, the Workforce, or the public.

II. POLICY

A. Health Plan is not in violation of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule when the Health Plan

Workforce discloses PHI in good faith. Such disclosures are permissible when it is believed that Health Plan has engaged in unlawful conduct, violated professional or clinical standards, or that the services provided by Health Plan potentially endangered one or more Health Plan members, the Workforce, or the public. These disclosures are acceptable only when made to one of the following:

1. A Health Plan oversight agency or public health authority authorized by law to investigate or oversee the relevant conduct or conditions of Health Plan (e.g., DHCS, DMHC).
 2. An appropriate health care accreditation organization for the purpose of reporting the failure to meet professional standards or misconduct by Health Plan.
 3. An attorney retained by the Workforce member or BA to determine their legal options regarding Health Plan's conduct.
- B. Health Plan does not retaliate against whistleblowers, in accordance with CMP03 Code of Conduct and Ethics policy.
- C. Workforce members are allowed to, under certain circumstances, disclose PHI to law enforcement officials if they are the victim of a criminal act. Disclosures by whistleblowers or crime victims will not constitute a violation of the HIPAA Privacy Rule by Health Plan.¹
- D. Knowledge of a violation of this Policy must be reported directly to the Compliance Department. Workforce members who disclose member PHI in violation of this or any other Health Plan policies subject themselves to disciplinary actions, and Health Plan may face civil penalties.
- E. The Chief Compliance Officer reviews this Policy at least annually and revises it as necessary.

III. PROCEDURE

- A. Health Plan Workforce members are encouraged to report suspected violations in accordance with P&P HPA07 Reporting Suspected Security Incidents and Breaches. Health Plan is not in violation of the HIPAA Privacy Rule when Workforce members who are victims of a crime disclose PHI, provided that:
1. The disclosed PHI is about the suspected perpetrator of the criminal act.
 2. The disclosed PHI is limited to the following information:

¹ 45 CFR § 164.502(j)

- a. Name and address
 - b. Date of birth
 - c. Place of birth
 - d. Social Security Number
 - e. ABO blood type and Rh factor
 - f. Type of injury
 - g. Date and time of treatment
 - h. Date and time of death, if applicable
 - i. A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence, or absence of facial hair (beard or moustache), scars, and tattoos.
- B. Health Plan ensures the Workforce is aware of Health Plan's non-retaliation policy, CMP12 Non-retaliation for Reporting Violations.
- C. Knowledge of a violation or potential violation of this Policy must be reported directly to the Compliance Department or via the anonymous Hotline in accordance with HPA07 Reporting and Mitigating Suspected Security Incidents and Breaches.
- D. Failure of an Health Plan Workforce member to report any such violation or possible violation is grounds for disciplinary action. Violations may be reported to Human Resources in compliance with HR Corrective Action Policy.

IV. ATTACHMENT(S)

- A. DHCS Medi – Cal Managed Care Plans Definitions (Exhibit A, Attachment I, 1.0 Definitions)
- B. [Glossary of Terms Link](#)
- C. Medi-Cal Managed Care Contract Acronyms List (Exhibit A, Attachment I, 2.0 Acronyms)

V. REFERENCES

- A. 45 CFR Parts §160, §162 and §164 HIPAA Regulations
- B. California Civil Code §56 - §56.37 Confidentiality of Medical Information Act
- C. HPA07 Reporting Suspected Security Incidents and Breaches
- D. CMP03 Code of Conduct and Ethics
- E. CMP05 Fraud, Waste and Abuse Reporting
- F. CMP08 Compliance Program
- G. CMP12 Non-retaliation for Reporting Violations
- H. CMP15 Prompt Response to Detected Offenses
- I. CMP24 Compliance Program Training and Education

- J. Health Plan Code of Conduct and Business Ethics
- K. HR Corrective Action Policy and Procedure
- L. Knox-Keene Act §1348 Antifraud plan

VI. REVISION HISTORY

Version*	Revision Summary	Date
001	Conducted annual review of policy, revised to meet formatting standards, and placed policy in current template.	11/10/2023
002		
003		
004		
Initial Effective Date: 6/22/2023		

VII. COMMITTEE REVIEW AND APPROVAL

Committee Name	Version	Date
Compliance Committee	001	2/15/2024
<ul style="list-style-type: none"> • Privacy & Security Oversight Committee (PSOC) 		
<ul style="list-style-type: none"> • Program Integrity Committee 	001	12/11/2023
<ul style="list-style-type: none"> • Audits & Oversight Committee 		
<ul style="list-style-type: none"> • Policy Review 	001	12/20/2023
Quality and Utilization Management		
<ul style="list-style-type: none"> • Quality Operations Committee 		
<ul style="list-style-type: none"> • Grievance 		

VIII. REGULATORY AGENCY APPROVALS

Department	Reviewer	Version	Date
Department of Healthcare services (DHCS)	N/A	N/A	N/A
Department of			



Managed Care (DMHC)	N/A	N/A	N/A
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IX. APPROVAL SIGNATURE*

Signature	Name Title	Date
	PRC Chairperson	
	Policy Owner	
	Department Executive	
	Chief Executive Officer	