

## **ACO Beneficiary Freedom of Choice**

<b>Policy Title:</b> ACO Beneficiary Freedom of Choice	<b>Policy #:</b> COMP-025
<b>Department:</b> Compliance	<b>Version:</b> 1.0
<b>Approved By:</b> CareMax Policy and Procedure Committee	<b>Original Effective Date:</b> April 3, 2023

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## Purpose

The purpose of this policy is to ensure the protection of Medicare Accountable Care Organization (ACO) beneficiaries' freedom to choose their health care providers and ensure that the practices of CareMax, Inc. (CareMax) and its Medicare ACO programs, namely, CareMax Accountable Care Network, LLC (CACN), CareMax National Care Network, LLC (CNCN), and CareMax Health Partners, LLC (CHP), are consistent with this policy.

## Scope

This policy applies to 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, CACN, CNCN, and CHP Medicare ACO programs (collectively referred to as "CareMax Partners").

## Policy

Pursuant to Section 1802(a) of the Social Security Act and Section 5.07A of the ACO Realizing Equity, Access, and Community Health (ACO REACH) Participation Agreement, CareMax Partners are prohibited from committing any act or omission, or adopting any policy, that inhibits Medicare ACO beneficiaries from exercising their freedom to obtain health services from providers and suppliers who are not CACN, CNCN, or CHP Participant Providers or Preferred Providers.

This prohibition does not apply to referrals made by CareMax Partners who are operating within the scope of their employment or contractual arrangement with the employer or contracting entity, provided that the employees and contractors remain free to make referrals without restriction or limitation if a beneficiary expresses a preference for a different provider or supplier, or the referral is not in the beneficiary's best medical interests in the judgment of the referring party.

## Procedure

1. Beneficiaries are free to obtain health services and supplies from providers and suppliers who are not CACN, CNCN, or CHP ACO Participants or Preferred Providers.
2. CareMax Partners will not limit the ability of an ACO Participant Provider or Preferred Provider to make decisions in the best interests of the beneficiary, including the selection of devices, supplies, and treatments used in the care of the beneficiary.
3. CareMax Partners may communicate to Medicare ACO beneficiaries the benefits of receiving care with CareMax Medicare ACOs. All such communications will be deemed as "Marketing Activities". To ensure that beneficiaries are not misinformed or misled by Marketing Activities, CareMax Partners will comply with all applicable marketing requirements in all communications, including adherence to applicable laws, rules, and regulations and CMS regulatory/sub-regulatory guidance, in compliance with *P&P-COMP-022 Marketing Activities Policy*.
4. If CareMax Medicare ACO leadership has reasonable cause to believe a CareMax Partner is in violation of this policy, an investigation will be promptly initiated. Confirmed violations of this policy will be managed pursuant to the *CareMax ACO Partner Enforcement and Discipline Policy*.

## Definitions

**Accountable Care Organization (ACO):** means a legal entity that is recognized and authorized under applicable State, Federal, or Tribal law, is identified by a Taxpayer Identification Number (TIN), and is formed by one or more ACO participants(s) that is(are) defined at § 425.102(a) and may also include any other ACO participants described at § 425.102(b).

**Beneficiary:** an individual who is enrolled in Medicare.

**Marketing Activities:** the distribution of marketing materials and other outreach activities conducted by or on behalf of CareMax or its Participant Providers or Preferred Providers, when used to educate, notify, or contact beneficiaries regarding CareMax services, including CareMax ACOs.

## Reference

- ACO REACH Model First Amended and Restated Participation Agreement, 2022
- P&P-COMP-022 Marketing Activities
- CareMax ACO Partner Enforcement and Discipline Policy
- Sec. 1802. 42 U.S.C. 1395a - Free choice by patient guaranteed

## 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