

## POLICY AND PROCEDURE

<b>DEPARTMENT:</b> Case Management	<b>DOCUMENT NAME:</b> Advance Directives
<b>PAGE:</b> Page 1 of 5	<b>REPLACES DOCUMENT:</b> CC.QI.16
<b>APPROVED DATE:</b> 9/28/10	<b>RETIRED:</b>
<b>EFFECTIVE DATE:</b> 9/28/10	<b>REVIEWED/REVISED:</b> 9/15/11; 09/13; 08/14
<b>PRODUCT TYPE:</b> Medicaid, Medicare and HIM	<b>REFERENCE NUMBER:</b> CC.CM.10

### SCOPE:

Corporate and Plan Case Management, Member Services and Provider Relations Departments

### PURPOSE:

To provide opportunity for and educate members about their right to be involved in decisions regarding their care including documentation of advance directives and allowance of the member's representative to facilitate care or make treatment decisions when the member is unable to do so.

### POLICY:

Plan will provide and/or ensure that network practitioners are providing written information to all adult members receiving medical care with respect to their rights under State law (whether statutory or recognized by the courts of the State) to make decisions concerning their medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives and information regarding the implementation of such a directive by the Plan.

If a member is incapacitated at the time of initial enrollment or at the time that medical care is initiated and is unable to receive information (due to the incapacitating condition or a mental disorder), or articulate whether or not he or she has executed an advance directive, the Plan may give advance directive information to the member's family or surrogate in accordance with State law. If the member's incapacitating condition is temporary in nature, the Plan will communicate this information directly to the member once he or she is no longer incapacitated.

Neither the Plan nor its providers will condition the authorization or provision of care or otherwise discriminate against a member based on whether or not the member has executed an advance directive. The Plan will facilitate communications between a member or member's representative and the member's provider if/when the need is identified to ensure that they are involved in decisions to withhold resuscitative services, or to forgo or withdraw life-sustaining treatment.

This information must remain current and reflect changes in State law as soon as possible, but no later than 90 calendar days after the effective date of the

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change. Plan Medical Management employees will receive training concerning the policies and procedures for advance directives, including training regarding any changes as necessitated by changes in State law.

If Medical Management functions have been delegated to an external entity, the Plan will remain ultimately accountable for ensuring that advance directive requirements are being met and will provide oversight as outlined in *CC.QI.14 - Oversight of Delegated Quality Management*.

### PROCEDURE:

- I. Upon enrollment, all new Plan members receive a member handbook containing information regarding advance directives that includes the following information:
  - The member's right to accept or refuse treatment
  - The Plan's policies for implementation of advance directives including the member's right to complete an advance directive and how to implement that right
  - Any limitations if the Plan cannot implement an advance directive as a matter of conscience, including the State legal authority permitting such objection;
  - Clarification of differences between institution-wide conscientious objections and those that may be raised by individual physicians;
  - Information regarding filing complaints concerning noncompliance with advance directive requirements through the State's complaint hotline and/or survey and certification agency.
  
- II. If the Plan has received a conscience protection waiver from the Centers for Medicare and Medicaid Services (CMS) or the State, member materials must contain:
  - A clarification of any differences between Plan-wide conscience objections and conscience objections that may be raised by individual practitioners;
  - The source of the State's legal authority permitting a conscience objection;
  - A description of the range of medical conditions, procedures and limitations affected by the conscience objection.

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- III. The Plan's policy regarding advance directives is included in the Provider Manual. Documentation of a member's executed advance directive must be maintained in a prominent part of the member's current medical record. The medical record shall also contain documentation on whether or not the member has executed an advance directive.
- IV. If the Plan has conscientious objections related to medical conditions or procedures and the member's advance directive, the Plan shall contact the appropriate CMS/State Division of Medicaid (DOM) for a conscience protection waiver and/or legal ruling. The Plan shall abide by all legal rulings issued by the CMS/State DOM regarding conscientious objection decisions.
- If a member contacts the Plan with complaints regarding a provider's noncompliance with an advance directive, the Plan shall direct the member to the State Survey and Certification Unit to file a complaint.
  - Providers identified as noncompliant with a member's advance directive or treatment decision are reviewed by the Peer Review committee, in accordance with *CC.QI.19 - Peer Review Committee and Process*.

### REFERENCES:

CC.CM.01 – Case Management Program Description or Plan Case Management Program Description  
CC.QI.13 - Medical Record Review  
CC.QI.14 - Oversight of Delegated Quality Management  
CC.QI.19 – Peer Review Committee and Process  
42 CFR 438.6(i)(1), 42 CFR 438.10(g)(2), 42 CFR 489 (Subpart I), 42 CFR 489.100  
NCQA 2014 Health Plan Standards and Guidelines

### ATTACHMENTS:

Advance Directive Member Communication

### DEFINITIONS:

Advance Directive: a written instruction, such as a living will or durable power of attorney for health care, recognized under State law (whether statutory or as recognized by the courts of the State), relating to the provision of health care when the individual is incapacitated.

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<b>REVISION</b>	<b>DATE</b>
Updated NCQA Reference to 2011 Standards; Changed P&P category from QI to Case Management	09/28/10
Update reference to LA CCN-P Medicaid Contract; NCQA 2011 Standards; Removed reference to Mississippi Division State Department of Health on Attachment A.	9/15/11
Removed reference to LA CCN-P Medicaid Contract.	3/5/12
Annual Review: Updated references & NCQA 2012 Standards and Guidelines; minor formatting changes; updated approver title.	9/13/12
Annual review; Updated approver titles, Updated reference to NCQA for current year; Deleted reference to 42 CFR 422.128 for Medicare Advantage; Updated/corrected policy names and numbers; Under III. Removed last sentence regarding medical record reviews, as NCQA no longer has a standard covering medical record review.	08/30/13
Updated NCQA for current year; changed "Product Type" from "all" to "Medicaid, Medicare and HIM; Updated approver titles; updated CC.CM.01 reference with note of "or plan case management program description."	08/14/14

### POLICY AND PROCEDURE APPROVAL

The electronic approval retained in Compliance 360, Centene's P&P management software, is considered equivalent to a physical signature.

Director, Medical Management (Complex Care Products): Approval on File  
 Sr. Manager, Medical Management Operations: Approval on File  
 Sr. Director, Medical Management Operations: Approval on File  
 Corporate Vice President, Medical Management Operations: Approval on File

## **Advance Directives**

You have a right to make decisions about your medical care. An advance directive is a form you can fill out to protect your rights. It can help your family and your doctor know your wishes about your care. You have a right to accept or refuse treatment. You also have the right to plan and direct the types of health care you may receive in the future.

With an advance directive you can:

- Let your doctor know if you would or would not like to use life-support machines before something serious happens
- Let your doctor know if you would like to be an organ donor
- Decide right now what medical care you want or don't want
- Give someone the power to say "yes" or "no" to your medical treatments when you are no longer able

You may have a wish that a certain doctor or hospital cannot follow because of a moral or religious belief. If that happens the doctor or hospital should tell you so that you can decide if you want a different provider for your health care.

If you have an advance directive and your doctor does not follow your wishes you can file a complaint with State Survey and Certification Unit, Health Facilities Licensure and Certification Division.

You can let your doctor know about your feelings by completing a living will or power of attorney for health care form. Contact your doctor for more information.