

POLICY AND PROCEDURE

DEPARTMENT: Population Health & Clinical Outcomes	DOCUMENT NAME: Advance Directives
PAGE: Page 1 of 5	REPLACES DOCUMENT: CC.CM.10
APPROVED DATE:	RETIRED:
EFFECTIVE DATE: 7/10/17	REVIEWED/REVISED: 8/2017; 1/2019; 4/2020; 9/2020; 11/2021; 11/2022, 11/2023, 9/2024
PRODUCT TYPE: Medicaid	REFERENCE NUMBER: WA.CM.10

SCOPE:

Coordinated Care of Washington, Inc. (CCW) Care Management, Member Services and Provider Relations Departments

PURPOSE:

To provide opportunity for and to educate members about their right to be involved in decisions regarding their care, including documentation of advance directives, mental health advance directives and Physician Orders for Life Sustaining Treatment (POLST), including allowance of the member's representative to facilitate care, or make treatment decisions when the member is unable to do so.

POLICY:

CCW will provide and/or ensure that network practitioners are providing written information to all adult members receiving medical and/or behavioral health 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 and/or behavioral health care, including the right to accept or refuse medical, mental health, or surgical treatment and the right to formulate advance directives. Health Care Advance Directives are addressed by the treating physician with the member during an office visit. An adult with capacity may execute a Mental Health Advance Directive and has the option of naming an agent:

- Who is at least 18 years old.
- Who knows the member and knows what the member wants when doing well.
- Who can inform treatment providers about the member preferences and can advocate for them.
- By law, the agent cannot be the member's doctor, case manager or residential provider unless that person is also the member's spouse, adult child, or sibling.

If a member is incapacitated at the time of initial enrollment or at the time that medical or mental health 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 or received a POLST, CCW may give advance directive and POLST information to the member's family or surrogate in accordance with State law. If the member's incapacitating condition is temporary in nature, CCW will communicate this information directly to the member once he or she is no longer incapacitated.

Neither CCW nor its providers will condition the authorization or provision of care or otherwise discriminate against a member based on whether the member has executed an advance directive. CCW 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, forgo, or withdraw life-sustaining treatment, consent for, or refusal of, medications or inpatient admission for your mental health condition.

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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 change. CCW Population Health and Clinical Outcomes' employees will receive training concerning the policies and procedures for advance directives and POLST, including training regarding any changes as necessitated by changes in State law.

If Population Health and Clinical Outcomes' functions have been delegated to an external entity, CCW will remain ultimately accountable for ensuring that advance directive and POLST requirements are being met and will provide oversight.

PROCEDURE:

- I. Upon enrollment, all CCW members receive a member handbook containing information regarding advance directives that includes the following information:
 - The member's right to accept or refuse treatment.
 - CCW's policies for implementation of advance directives including the member's right to complete an advance directive, mental health advance directive, or to receive a POLST, and how to implement that right.
 - Any limitations if CCW cannot implement an advance directive or a POLST 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 or POLST requirements through the State's complaint hotline and/or survey and certification agency.

CCW Coordination of Care services' staff assist enrollees in relapse/crisis prevention planning that goes beyond crisis intervention to include development and incorporation of recovery action plans and advance directives for individuals with a history of frequent mental health readmissions or crisis system utilization.

Care Managers (including Health Home Care Coordinators) document in the member's care management plan, within the first thirty days of care plan development, discussion of advance directives or POLST, providing information on form requirements and ensuring a copy of the signed form is kept in the member record.

Care Managers will inform members receiving mental health services, their right to a mental health advance directive, and will provide technical assistance to members who express an interest in developing and maintaining a mental health advance directive.

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CCW will collaborate with the BH-ASO to develop and implement strategies to coordinate care with community behavioral health providers for individuals with a history of frequent crisis system utilization. Coordination of care strategies will seek to reduce utilization of Crisis Services by promoting relapse/crisis prevention planning and early intervention and outreach that addresses the development and incorporation of wellness recovery action plans and Mental Health Advance Directives (MHAD) in treatment planning consistent with requirements in Section 14 of the IMC/IFC Contracts.

- II. If CCW 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.
- III. CCW's policy regarding advance directives, mental health advance directives, and POLST are 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 located in the provider's office. The medical record shall also contain documentation on whether the member has executed an advance directive or received a POLST.
- IV. If CCW has conscientious objections related to medical conditions or procedures and the member's advance directive or POLST, CCW shall contact the appropriate CMS/State Division of Medicaid (DOM) for a conscience protection waiver and/or legal ruling. CCW shall abide by all legal rulings issued by the CMS/State DOM regarding conscientious objection decisions. If a member contacts CCW with complaints regarding a provider's noncompliance with a mental health advance directive, CCW will direct the member to Washington State Department of Health (DOH) or the following:
 - Call DOH at 1-360-236-2620;
 - Email DOH at HSQAComplaintIntake@doh.wa.gov; or
 - Go online to DOH at www.doh.wa.gov

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All complaints are reviewed by DOH to decide if there is a violation of the law or if DOH has authority to take legal action. If there is a violation of the law and authority to take legal action DOH will investigate.

Providers identified as noncompliant with a member's advance directive, POLST or treatment decision are reviewed by the Peer Review committee, in accordance with *QI.19 - Peer Review Committee and Process*.

REFERENCES:

QI.19 – Peer Review Committee and Process
Medicaid Apple Health contract

ATTACHMENTS:

DEFINITIONS:

“Advance Directive” means a written instruction, such as a living will or durable power of attorney for health care, recognized under the laws of the state of Washington, relating to the provision of health care when an individual is incapacitated (WAC 182-501-0125, 42 C.F.R. § 438.3, 438.10, 422.128, and 489.100). “Mental Health Advance Directive” means a written document in which the principal makes a declaration of instructions, or preferences, or appoints an agent to make decisions on behalf of the principal regarding the principal's mental health treatment, or both, and that is consistent with the provisions of chapter 71.32 RCW.

“Physician's Orders for Life Sustaining Treatment (POLST)” means a set of guidelines and protocols for how emergency medical personnel shall respond when summoned to the site of an injury or illness for the treatment of a person who has signed a written directive or durable power of attorney requesting that he or she not receive futile emergency medical treatment (RCW 43.70.480).

REVISION	DATE
Updated Policy Management Correction on Revision Dates	1/2019
Minor grammatical updates and contract name changes	4/2020
Added POLST references	9/2020
Minor grammatical updates	11/2021
Mental Health Advance Directive definition, minor changes in department naming convention (Medical Management to Population Health and Clinical Outcomes)	11/2022

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Minor grammatical updates	11/2023
POLST, Advance directive and mental health advance directive definition change	9/2024

POLICY AND PROCEDURE APPROVAL

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

Director, Medical Management: Approval on File
Manager, Medical Management: Approval on File