

POLICY AND PROCEDURE

POLICY NAME: Advance Directives	POLICY ID: OR.MM.117
BUSINESS UNIT: Trillium Community Health Plan	FUNCTIONAL AREA: Population Health and Clinical Management
EFFECTIVE DATE: 07/14/2014	PRODUCT(S): Medicaid, Medicare, OHP
REVIEWED/REVISED DATE: 7/29/2016, 6/2017, 10/10/2017, 1/3/2018, 1/26/2018, 12/19/2018, 11/19/2019, 12/15/2020, 12/16/2021, 8/29/2022, 9/6/2023, 12/20/2023, 12/27/2023	
REGULATOR MOST RECENT APPROVAL DATE(S):	

POLICY STATEMENT:

This is the policy and procedure for Advance Directives

PURPOSE:

The purpose of this policy is to provide opportunity for and to 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..

SCOPE:

This policy applies to Population Health, Clinical Operations, Member Services and Provider Relations Departments.

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 pursuant to 42 CFR 438.3(j); 42 CFR 422.128; and 42 CFR 489.100. and ORS127.69.

Provider: has the meaning found in OAR 410-120-0000 and also includes the following types: hospitals, critical access hospitals, skilled nursing facilities, nursing facilities, home health agencies, providers of home health care (and for Medicaid purposes, providers of personal care services), hospices, and religious nonmedical health care institutions.

POLICY:

Trillium 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. Care Management staff are able to support members engaged in Population Health programs on education on Advance Directives, as well as encouraging members to discuss Advance Directives with their physician. Advance Directives are addressed by the treating physician with the member during an office visit. Trillium follows advanced directives pursuant to 42 CFR 438.3(j); 42 CFR 422.128; 42 CFR 489.100, 42 CFR 489.102. and ORS127.69.

Trillium includes education related to Advance Directive in the new member welcome packet, health risk questionnaire, member handbook and on the provider and member websites.

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 they have executed an advance directive, Trillium and its providers 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, Trillium and its providers communicate this information directly to the member once they are no longer incapacitated.

Neither Trillium nor its providers 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 facilitates 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 change. Trillium employees receive training concerning the policies and procedures for advance directives, including training regarding any changes as necessitated by changes in State law. Employees are required to take training upon hire and annually thereafter, unless change in policy necessitates re-training.

If Population Health functions have been delegated to an external entity, Trillium remains ultimately accountable for ensuring that advance directive requirements are being met and will provide oversight as outlined in CC.COMP.60 and OR.SSOR.181. All providers must abide by the same policy and requirements regarding conscientious objections

Trillium will facilitate community and provider education annually via community events, training sessions and/or through the member and provider websites. This education will include information about Advance Directives, as well as applicable policies and processes related to the Health Plan involvement and activities surrounding Advance Directives.

PROCEDURE:

Upon enrollment, all new members receive information regarding advance directives. that includes the following information:

- The member’s right to accept or refuse treatment.
- Trilliums policy for implementation of advance directives including the member’s right to complete an advance directive and how to implement that right.
- A copy of the advance directive as prescribed by applicable state or federal regulations can be provided to the member upon request.
- Trillium can provide additional information concerning the forms for advance directives.
- Information regarding filing complaints concerning noncompliance with advance directive requirements through the State’s Health Care Regulation and Quality Improvement Unit.

If a provider cannot implement and advance directive on the basis of conscience the providers statement of limitation should contain:

- clarification of any differences between institution-wide conscience those that may be raised by individual practitioners
- Identify the state legal authority permitting a conscience objection and
- Description of the range of medical conditions or procedures affected by the conscience objection.
- Providers are (Trillium does not impose any limitations on the implementation of members' advance directives):
 - not required to provide care that conflicts with an advance directive
 - are not required to implement an advance directive if, as a matter of conscience, the provider cannot implement an advance directive and State law allows any health care provider or any agent of such provider to conscientiously object.

Documentation of a member’s executed advance directive must be maintained in a prominent part of the member’s current medical record (physical, behavioral, dental) located in the provider’s office. The medical record shall also contain documentation on whether or not the member has executed an advance directive.

If a member contacts Trillium with complaints concerning noncompliance with the Advance Directive requirements may be filed with OHA.:

Health Licensing Office
 503-370-9216 (TTY users, please call 711)
 Hours: Monday through Friday, 8 a.m. to 5 p.m. PT
 Mail a complaint to:
 1430 Tandem Ave NE, Suite 180
 Salem, OR 97301
 Email: hlo.info@odhsoha.oregon.gov

Members can also contact Trillium’s Customer Service at 877-600-5472 (TTY 711) to get a paper copy of the complaint form...

REFERENCES:	
42 CFR	438.3 (j); 438.6(i)(1-2), 42 CFR 438.10(g)(2), 42 CFR 489 (Subpart I)
42 CFR	489.100; 489.102; 422.128; 42 CFR §431.20
ORS	127.69
OAR	410-120-0000, 410-120-1380
Medicare Managed Care Manual Ch. 4	
2024 CCO Contracts	Exh. E
NCQA Health Plan Standards and Guidelines	
CC.CM.10	Advance Directives

ATTACHMENTS: N/A

ROLES & RESPONSIBILITIES:

REGULATORY REPORTING REQUIREMENTS:
Policy Requires Approval by OHA

REVISION LOG

REVISION TYPE	REVISION SUMMARY	DATE APPROVED & PUBLISHED
Ad Hoc Review	Added Written communication with member for CCO contract requirements, addition of physical/behavioral/dental providers	7/29/2016
Ad Hoc Review	Addition of: ORS 127.505, 127.649, 127.625; OAR 410-122-1380; 4751 Omnibus; 42 CFR 489 (Subpart I). Addition of: Location of where member can file complaint Paragraph 3 Extensive review of OR.MM.117 and cross-reference to Corporate CC.CM.10 Advance Directive Policy. OR.MM.117 updated to read similar to CC.CM.10 and edited to keep Oregon rules and regulations intact in document. Note: Above 7/29/16 changes are no longer #3, #4.	10/9/2017
Annual Review	review of regulatory references. No edits. Current references matched Evidence Links in C360.	1/3/2018
Ad Hoc Review	Review of CCO and OHP contract criteria. Addition of language add into Procedure to meet CCO contract requirements	1/26/2018
Annual Review	Edit to References: Updated Current NCQA Health Plan Standards and Guidelines Q17: F.6	12/19/2018
Annual Review	"Members receive a member handbook" replaced with "members receive information" Procedure 1. Added "can provided to the member upon request" Procedure 1, bullet point 3 Added "The health plan representative will advise the member that" Procedure 2, sentence 2 Change location of policy from 360 to Archer	11/19/2019
Annual Review	Addition of annual training and community/staff education annually.	12/29/2020
Annual Review	No Changes	12/16/2021
Ad Hoc Review	Addition of: resource cite tied to CC.CM.10, Advance Directives. Addition of: CC.QI.14, Oversight of Delegated Activities	8/29/2022
Ad Hoc Review	Additional language added to match corporate policy CC.CM.10	9/6/2023
Annual Review	Moved to corporate template, added additional language recommended by OHA regarding provider definition and conscientious objections	12/21/2023
Ad Ho Review	Added additional verbiage requested by HSAG and OHA during submission of 2024 member handbook	12/27/2023

POLICY AND PROCEDURE APPROVAL

The electronic approval retained in RSA Archer, the Company's P&P management software, is considered equivalent to a signature.