

## POLICY AND PROCEDURE

<b>POLICY NAME:</b> Advance Directives	<b>POLICY ID:</b> OR.MM.117
<b>BUSINESS UNIT:</b> Trillium Community Health Plan	<b>FUNCTIONAL AREA:</b> Population Health and Clinical Management
<b>EFFECTIVE DATE:</b> 07/14/2014	<b>PRODUCT(S):</b> Medicaid, Medicare, OHP
<b>REVIEWED/REVISED DATE:</b> 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, 1/16/2025	
<b>REGULATOR MOST RECENT APPROVAL DATE(S):</b>	

### **POLICY STATEMENT:**

All Areas and Departments within Centene Corporation and its subsidiaries must have written Policies and Procedures that address core business processes related to, among other things, compliance with laws and regulations, accreditation standards and/or contractual requirements. 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 advanced 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. This Policy applies to the Lane/Douglas/Linn County OHP service area, and to the Multnomah/Washington/Clackamas County OHP service area

### **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 communication 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 advanced directives, including training regarding any changes as necessitated by changes in State law. Plan staff are educated on Advance Directives through initial onboarding and ongoing staff training if a change in policy requires re-training.

If Population Health functions have been delegated to an external entity, Trillium remains ultimately accountable for ensuring that advanced 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.
- Any limitations if the Plan cannot implement an advance directive as a matter of conscience, including the State legal authority permitting such objection
- 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](mailto: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
Medicare Managed Care Manual Ch. 4	
2025 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 as part of member handbook

#### REVISION LOG

REVISION TYPE	REVISION SUMMARY	DATE APPROVED & PUBLISHED
Annual Review	Added one bullet point under the procedure section regarding limitations	1/16/2025

#### POLICY AND PROCEDURE APPROVAL

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