

POLICY AND PROCEDURE

DEPARTMENT: Medical Management – Care Management	DOCUMENT NAME: Advance Directives
PAGE: 1 of 5	REPLACES DOCUMENT:
APPROVED DATE: 7/2/14	RETIRED:
EFFECTIVE DATE: 6/28/2007	REVIEWED/REVISED: 7/29/2016, 6/2017, 10/10/2017, 1/3/2018, 1/26/2018, 12/19/2018
PRODUCT TYPE: Medicaid, Medicare, OHP	REFERENCE NUMBER: OR.MM.117

SCOPE:

Care 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:

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. Advance Directives are addressed by the treating physician with the member during an office visit.

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, Trillium 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 will communicate this information directly to the member once he or she is no longer incapacitated.

Neither Trillium 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.

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 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, Trillium remains ultimately accountable for ensuring that advance directive requirements are being met and will provide oversight as outlined in current NCQA QI Guidelines.

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PROCEDURE:

1. 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.
 - Trillium’s requirements 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.
 - The name of a person who can provide additional information concerning the forms for advance directives.
 - A statement regarding any limitations Trillium has on the implementation of Advance Directives as a matter of conscience.
 - Conscientious objections that may be raised by individual physicians.
 - a Clarification of differences between institution-wide conscientious objections and those that may be raised by individual physicians
 - b Identification of the state legal authority permitting any limitations to implementing the advance directive
 - c Description of the range of medical conditions or procedures affected by the conscience objection
 - Information regarding filing complaints concerning noncompliance with advance directive requirements through the State’s Health Care Regulation and Quality Improvement Unit.
2. Trillium’s requirements 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 (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.
3. If a member contacts Trillium with complaints regarding a provider’s noncompliance with an advance directive, Trillium shall direct the member to the Health Care Regulation and Quality Improvement Unit to file a complaint:

Health Care Regulation and Quality Improvement
800 NE Oregon Street #465
Portland, OR 97232
Email: Mailbox.hclc@state.or.us
Phone: 971-673-0540; TTY: 711 | Fax: 971-673-0556

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REFERENCES:	
42 CFR	438.3 (j); 438.6(i)(1)
42 CFR	438.10(g)(2)
42 CFR	489 (Subpart I)
42 CFR	489.100; 489.102; 422.128
42 CFR	422.112(a)(6)(iii)
ORS	127.649
ORS	127.505, 127.625
§4751 of the Omnibus Reconciliation Act of 1990 (OBRA '90)	
OAR	410-122-1380
Medicare Managed Care Manual Ch. 4	Section 160
CCO Contract 2018:	
E.15	Advance Directives
E.15.b	Rights Under Oregon Law
E.15.c	Informing Members that Complaints Concerning Non Compliance with Advance Directives May be Filed with OHA
Current NCQA Health Plan Standards and Guidelines	Q17: F.6

ATTACHMENTS:

DEFINITIONS: <u>Advance Directive:</u> 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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REVISION	DATE
Added # 4 – Written communication with member for CCO contract requirements E.15 a-c	7/29/2016
Added to #3 the addition of physical/behavioral/dental providers	7/29/2016
Annual review. Removed Paragraph 2(instructions for receiving an AD and entering into old LipaCap system), screenshot of LipaCap and LipaCap directions	6/23/2017
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 and review of regulatory references. No edits. Current references matched Evidence Links in C360.	1/3/2018
Review of CCO and OHP contract criteria. Addition of: Procedure bullet 3,4,5 and a,b,c to meet CCO contract requirements	1/26/2018
Annual review of policy and regulatory references. Edit to References: Updated Current NCQA Health Plan Standards and Guidelines Q17: F.6	12/19/2018

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

