

## POLICY AND PROCEDURE

<b>DEPARTMENT:</b> Care Management	<b>DOCUMENT NAME:</b> Advance Directives
<b>PAGE:</b> Page 1 of 6	<b>REPLACES DOCUMENT:</b> CC.CM.10
<b>APPROVED DATE:</b>	<b>RETIRED:</b>
<b>EFFECTIVE DATE:</b> 7/10/17	<b>REVIEWED/REVISED:</b> 8/23/2017; 01/09/19; 4/2020; 9/2020
<b>PRODUCT TYPE:</b> Medicaid	<b>REFERENCE NUMBER:</b> WA.CM.10

### SCOPE:

Coordinated Care of Washington, Inc. (CCW) 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, 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 or not 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

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withdraw life-sustaining treatment, consent for, or refusal of, particular medications or inpatient admission for your mental health condition.

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 Medical Management 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 Medical Management 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 assists 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.

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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.

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 Contract.

- 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 or not 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](mailto:HSQAComplaintINtake@doh.wa.gov); or
  - Go online to DOH at [www.doh.wa.gov](http://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 conducts an investigation.

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  
2018 Apple Health IMC contract  
Current NCQA 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.

Mental Health Advance Directive: a written document that describes directions and preferences for treatment and care during times having difficulty communicating and making decisions. It can inform others about what treatment is wanted or not wanted, and it can identify a person called an “agent” who is trusted to make decisions and act on an individual's behalf.

Physician's Orders for Life Sustaining Treatment (POLST): 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.

REVISION	DATE
Updated Policy Management Correction on Revision Dates	01/2019
Minor grammatical updates and contract name changes	04/2020
Added POLST references	09/2020

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## 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

## **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.