



DEPARTMENT: Compliance	ORIGINAL APPROVAL: 12/01/2004
PROCEDURE #: CO292	LAST APPROVAL: 01/11/2013
TITLE: Advance Directives	
APPROVED BY: Marie Zerda, Director, Corporate & Medicare Compliance	
DEPENDENCY: CO291 – Advance Directives Policy	

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PURPOSE

This procedure describes the methods Community Health Plan of Washington (CHPW or the Plan) will use to ensure compliance with federal and state rules and regulations related to advance directives.

PROCEDURE

An **advance directive** gives written instructions about a member’s future medical care in the event that the member is unable to express his or her medical wishes. For the state of Washington, this written instruction takes the form of two documents: a **Health Care Directive** or **Living Will** and a **Durable Power of Attorney for Health Care**. CHPW employs the following steps to assure that its members’ medical wishes are met.

NOTIFICATIONS, CONFLICTS, & OBLIGATIONS

Member Notification

Upon enrollment, the member’s case manager will make every effort to ascertain a member’s wishes regarding advance directives in order to understand the member’s expressed will regarding treatment. If expressed life-planning instructions are not on record, the case manager



shall determine if such a discussion is appropriate during the first contact based on the member's circumstances.

In addition, at the time of enrollment, and annually thereafter, all members are notified in writing of their rights to the following:

- To make decisions concerning their care, including decision about the withholding of resuscitative services or the declining or withdrawing of life-sustaining treatment.
- To accept or refuse surgical or medical treatment, and
- To execute an advance directive and to revoke it at any time.

This information is included in the Member Handbook for members enrolled in State programs and as part of the Evidence of Coverage for Community HealthFirst Medicare Advantage plan enrollees.

Members are provided a copy of CHPW's Advance Directives policy and procedure and any policy which would preclude CHPW from honoring a member's advance directive via the Member Handbook or Evidence of Coverage and on CHPW's website at www.chpw.org.

Members are given a list of their rights under state law, including the right to request an appeal or to file a complaint with CHPW or with the Washington State Department of Health (DOH). Complaints about CHPW's Advance Directive policy and/or procedure or the administration of CHPW's Advance Directives policy and/or procedure may be made to the Plan by phone:

- Medicare members: 8am-8pm, 7 days a week: 1-800-942-0247 or TTY 711
- All other members: 8am-5pm, Monday through Friday: 1-800-440-1561 or TTY 711

Complaints may be made to the DOH by calling the Washington DOH Consumer Hotline at 1-800-525-0127 or TTY 711.

Healthy Options, Basic Health, Medical Care Services, and Washington Health Program members may also file a complaint with the Washington State Health Care Authority (HCA) in writing at the following address:

Washington State Health Care Authority
P.O. Box 42682
Olympia, WA 98504-2682

The above information is provided in a language the member understands and is available on the CHPW website at www.chpw.org. Translations into other languages are available upon request. Copies of CHPW's *Advance Directives* policy and this procedure are provided to a member upon request.

Authorized Representative Notification

If the member is unable to receive information at the time of enrollment due to an incapacitating condition or mental disorder, or is unable to articulate if he or she has completed an advance



directive, the information will be provided to the member's authorized representative. The member's representative is authorized to make decisions regarding the member's health care.

If no one comes forward with a previously completed advance directive, the member's record will reflect that he/she was unable to communicate whether or not an advance directive exists. In all cases, CHPW will give the rights described above to the member as soon as he or she is no longer incapacitated.

Provider Obligations

Providers of medical services for CHPW members must:

1. Review each member's medical record prior to admittance or enrollment to determine if the member has an advance directive;
2. Clearly document on the member's medical record whether or not the member has executed an advance directive;
3. Honor the advance directive or follow the process explained under the section "Conflicts and Conscientious Objections" below; and
4. Not refuse, put conditions on care, or otherwise discriminate against a member based on whether or not the member has completed an advance directive.

Conflicts and Conscientious Objections

Neither CHPW nor its providers of medical services is required to provide care that conflicts with an advance directive. Moreover, no provider of medical services is required to implement an advance directive if, as a matter of conscience, the facility or provider organization cannot implement an advance directive and state law allows the facility or provider organization, or any agent of such a facility or organization, to conscientiously object.

If CHPW, or a provider, contractor, vendor or business associate of CHPW has a policy or practice that would keep it from honoring a member's advance directive, that facility or organization must:

1. Tell the member prior to admission or enrollment or when the member completes the directive;
2. Provide the member with a statement which:
 - a. Clarifies the differences between institution-wide conscientious objections and those that may be raised by individual providers;
 - b. Identifies the state legal authority permitting such objection; and
 - c. Explains the range of medical conditions or procedures affected.
3. Prepare and keep a written plan of intended actions according to the requirements in RCW 70.122.060 if the member still chooses to retain that facility or organization.
4. Inform the member that, if they are dissatisfied with an organization's policy and procedure regarding advance directives or with the administration thereof, they may

file a grievance with that organization or with HCA (Medicaid and Washington Health Program) or the Washington State DOH (Medicare) if they believe that CHPW or its providers, contractors, vendors or business associates are non-compliant with advance directive requirements.

A health care practitioner may refuse to implement an advance directive, and may not be discriminated against by CHPW, or by that practitioner's facility or organization for refusing to withhold or withdraw life-sustaining treatment.

Additional Member Protections

- Neither CHPW, nor any of its contractors (including providers and delegated vendors) may condition the provision of care or otherwise discriminate against a member based on whether or not that member has completed an advance directive.
- Members or their authorized representatives must be involved in decisions related to their care concerning:
 - The withholding of resuscitative services or
 - The declining or withdrawing of life-sustaining treatment.
- CHPW and its contractors must document, in a prominent place in each member's medical record, whether or not the member has completed an advance directive and whether or not the facility received a copy of it.
- CHPW shall ensure compliance with the requirements of state and federal law (whether statutory or recognized by the courts of the state) regarding advance directives.
- Adult members of CHPW plans will be notified within 90 days of any change in federal or state laws regarding advance directives.
- Compliance policy CO291—*Advance Directives*, this procedure, and all member materials related to advance directives will be reviewed annually to ensure the most current written description is being used.

EDUCATION

Provider Education

CHPW shall educate participating providers and encourage compliance with the requirements of advance directives by:

1. Including a description of general requirements and where to find more information in the manual provided to participating providers.
2. Periodically including an article regarding advance directives in the provider newsletter to reflect any updates or policy revisions.



3. Instructing participating providers of the requirement to document in a prominent place in the adult member’s medical record whether an advance directive exists. If an advance directive does exist, a copy of it should be filed in the medical record.
4. Assessing compliance with advance directive documentation at the time of the facility/medical record assessment for primary care physicians according to established credentialing/re-credentialing time frames.

Member Education

CHPW shall inform members about advance directives by including information in the member handbook which:

1. Advises members to inform family members and their primary care physician of the existence and terms of their advance directive.
2. Includes reference sources for additional information, including community resources.

Staff Education

CHPW staff are required to complete training on advance directives within 90 days of hire and annually thereafter.

Community Education

CHPW provides for community education regarding advance directives by posting information on its website. CHPW documents its community education efforts by tracking the hits to that page on its website.

APPENDICES

None.

CITATIONS & REFERENCES

CFR	42 CFR 438.6, 42 CFR 438.10, 42 CFR 422.128, 42 CFR 489.100, 42 CFR 489 Subpart I, 42 USC 1396a, subsection (w); 42 CFR 417.436	
WAC	WAC 182-501-0125	
RCW	RCW 7.70.06; RCW 70.122.060	
CONTRACT CITATION	<input checked="" type="checkbox"/> BH (BHS, BH-SUB, BH-HCTC)	
	<input checked="" type="checkbox"/> HO/SCHIP (HO, SCHIP, S-MED, BH+)	
	<input checked="" type="checkbox"/> MCS	
	<input checked="" type="checkbox"/> WHP	
	<input checked="" type="checkbox"/> MA	MMCM Ch 4
OTHER REQUIREMENTS	-	
NCQA ELEMENTS	QI 7 D.5	



REVISION HISTORY

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08/19/2008	Approval	Alan Brandon
07/13/2009	Revised to meet 2009 NCQA requirements	Sunny Otake
09/29/2009	Revised for clarity; reformatted for template; noted NCQA factors in body of procedure	Jennifer Carlisle
10/01/2009	Approval	Alan Brandon
10/22/2009	Added language to meet NCQA QI 7	Jennifer Carlisle
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03/22/2010	Added WA DOH Phone numbers	Alan Brandon
03/22/2010	Approval	Alan Brandon
01/10/2011	Approval	Marie Zerda
02/08/2012	Approval	Marie Zerda
12/18/2012	Review	Jen Carlisle
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