Provider Reference Guide

Advance Directives and End of Life Care

Overview

Mercy Care would like to provide you further clarification regarding Advance Directives and End of Life Care. An Advance Directive is a document by which a person makes provision for health care decisions in the event that, in the future, he/she becomes unable to make those decisions.
It's important for providers to attain this information for their adult members and add it to their medical records. You can find this information under **Chapter 100 - Mercy Care Provider Manual General Terms, Chapter 4 – Provider Responsibilities** on our **Provider Manual** web page, where it states the following:

4.20 - Advance Directives

Providers are required to comply with federal and state law regarding advance directives for adult members. The advance directive must be prominently displayed in the adult member's medical record. Requirements include:

- Providing written information to adult members regarding each individual's rights under state law to make decisions regarding medical care and any provider written policies concerning advance directives (including any conscientious objections).
- Documenting in the member's medical record whether the adult member has been provided the information and whether an advance directive has been executed.
- Not discriminating against a member because of his or her decision to execute or not
- execute an advance directive and not making it a condition for the provision of care.

Arizona Advance Directives Registry:

The **Arizona Advance Directive Registry** is a free registry maintained by the **State of Arizona** to electronically store and access medical directives. Their secure and confidential program grants peace of mind to registrants and their families, and easy access to all health care providers. Healthcare providers must assist adult members who are interested in developing and executing an advance directive. Forms available are:

- Medical Health Care Power of Attorney
- Behavioral Health Care Power of Attorney
- Living Will

All forms are available under the **Life Care Planning** document provided by The Office of the Arizona Attorney General.

Health Care Power of Attorney

A health care power of attorney gives an adult member the right to designate another adult member to make health care treatment decisions on his or his/her behalf. The designee may make decisions on behalf of the adult member if/when he/she is found incapable of making these types of decisions. The designee, however, must not be a provider directly involved with the health treatment of the adult member at the time the health care power of attorney is executed.

Behavioral Health Care Power of Attorney

A behavioral health care power of attorney gives an adult member the right to designate another adult member to make behavioral health care treatment decisions on his or her behalf. The designee may make decisions on behalf of the adult member if/when he/she is found incapable of making these types of decisions. The designee, however, must not be a provider directly involved with the behavioral health treatment of the adult member at the time the behavioral health care power of attorney is executed.

FOR MERCY CARE LONG TERM CARE

An update was noted regarding the inclusion of Advance Directives and DNR availability/access monitoring in certain placement settings in the **AHCCCS Medical Policy Manual (AMPM)** under **Policy 640 - Advance Directives**. The AMPM states:

> Members have the right to have information provided to them about the importance of Advance Directives including their rights to establish and rescind Directives at any time. Providers shall comply with:
>
> - Ensure alternative Home and Community Based Services (HCBS) setting staff have immediate access to advance directive documents to provide to first responder requests.
>
> The rationale is that 1st responders arriving to a facility/home do not know whether there were DNR/DNI orders for an individual, and without them, they were required to perform resuscitative functions. If the DNR orders were readily available, this would help the 1st responders upon arrival.

FOR MERCY CARE RBHA

Advance directives not only identify services a member would desire if he or she becomes unable to decide, but they also:

- Promote individual treatment planning;
- Provide opportunities to create a team approach to treatment; and
- Foster recovery approaches.

If changes occur in State law regarding advance directives, adult members receiving behavioral health services must be notified by their provider regarding the changes as soon as possible, but no later than 90 days after the effective date of the change.

Power and Duties of Designee(s)

The designee:

- May act in this capacity until his or her authority is revoked by the adult member or by court order;
- Has the same right as the adult member to receive information and to review the adult member's medical records regarding proposed healthcare treatment and to receive, review, and consent to the disclosure of medical records relating to the adult member's treatment;
- Must act consistently with the wishes of the adult member as expressed in the health care power of attorney or mental health care power of attorney. If, however, the adult member's wishes are not expressed in a health care power of attorney or behavioral health care power of attorney and are not otherwise known by the designee, the designee must act in good faith and consent to treatment that she or he believes to be in the adult member's best interest; and
- May consent to admitting the adult member to an inpatient behavioral health facility licensed by the Arizona Department of Health Services if this authority is expressly stated in the behavioral health care power of attorney or health care power of attorney.

See **A.R.S. §36-3283** for a complete list of the powers and duties of an agent designated under a behavioral health care power of attorney.

Requirements for Adult Member at Time of Enrollment

At the time of enrollment, all adult members, and when the individual is incapacitated or unable to receive information, the enrollee's family or surrogate, must receive information regarding (see **42 C.F.R. § 422.128**):

- The member's rights, in writing, regarding advance directives under Arizona State law;
- A description of the applicable state law and information regarding the implementation of these rights;
- The healthcare member's right to file complaints directly with AHCCCS; and
- Written policies including a clear and precise statement of limitations if the provider cannot implement an advance directive as a matter of conscience. This statement, at a minimum, should:
    - Clarify institution-wide conscience objections and those of individual physicians;
    - Identify state legal authority permitting such objections; and
    - Describe the range of medical conditions or procedures affected by the conscience objection.

If an enrollee is incapacitated at the time of enrollment, healthcare providers may give advance directive information to the enrollee's family or surrogate in accordance with state law.

Healthcare providers must also follow up when the member is no longer incapacitated and ensure that the information is given to the member directly.

Other Requirements for Health Care Providers

Healthcare providers must:

- Document in the adult member's clinical record whether the adult member was provided the information and whether an advance directive was executed;
- Note condition provision of care or discriminate against an adult member because of his or her decision to execute or not to execute an advance directive;
- If provider is not the Primary Care Physician (PCP), provide a copy of a member's executed advanced directive, or documentation of refusal, to the PCP for inclusion in the member's medical record; and
- Provide education to staff on issues concerning advance directives including notification of direct care providers of services, such as home health care and personal care, of any advance directives executed by behavioral health members to whom they are assigned to provide services.

For additional resources about Advance Directives, contact Mercy Care Member Services at 800-564-5465.

4.21 – End of Life Care

End of life care is member-centric care that includes Advance Care Planning, and the delivery of appropriate health care services and practical supports. The goals of end of life care focuses on providing treatment, comfort, and quality of life for the duration of the member's life. The end of life concept of care strives to ensure members achieve quality of life through the provision of services such as:

- Physical and/or behavioral health medical treatment to:
  - Treat the underlying illness and other comorbidities;
  - Relieve pain; and
  - Relieve stress.
- Referrals to community resources for services such as, but not limited to:
  - Pastoral/counseling services; and
  - Legal services.
- Practical supports are non-billable services provided by a family member, friend or volunteer to assist or perform functions such as, but not limited to:
  - Housekeeping;
  - Personal Care;
  - Food preparation;
  - Shopping;
  - Pet care; and
  - Non-medical comfort measures.

Members aged 21 years and older who receive end of life care may continue to receive curative care until they choose to receive hospice care. Members under the age of 21 may receive curative care concurrently with end-of-life care and hospice care.

Advance Care Planning

Advance Care Planning is initiated by the member's qualified health care professional for a member at any age that is currently or is expected to experience declining health or is diagnosed with a chronic, complex or terminal illness. For the purposes of Advance Care Planning, a qualified health care professional is a MD, DO, PA, or NP. Advance Care Planning is meant to be an ongoing process for the duration of the member's life.

Advance Care Planning often results in the creation of an Advance Directive for the member. Providers must perform the following as part of the End of Life concept of care when treating qualifying members:

- Conduct a face-to-face discussion with the member/guardian/designated representative to develop Advance Care Planning;
- Teach the member/guardian/designated representative about the member's illness and the healthcare options that are available to the member to enable them to make educated decisions;
- Identify the member's healthcare, social, psychological and spiritual needs;
- Develop a written member-centered plan of care that identifies the member's choices for care and treatment, as well as life goals;
- Share the member's wishes with family, friends, and his or her physicians;
- Complete Advance Directives;
- Refer to community resources based on member's needs; and
- Assist the member/guardian/designated representative in identifying practical supports to meet the member's needs.
- Refer to MCCC, Mercy RBHA and MCLTC Care Management team to assist with coordination of care.

Mercy Care shall provide care/case management to qualifying members and coordinate with and support the member's provider in meeting the member's needs. In addition, the care/case manager will assist the member, guardian, or designated representative in ensuring practical supports and community referrals are maintained or revised to meet the member's current needs.

Advance Care Planning is a covered, reimbursable service when provided by a qualified health care professional. The provider may bill for providing Advance Care Planning separately during a well or sick visit.

Hospice Services

For further information regarding hospice services, please refer to our **Claims Processing Manual** or the **AHCCCS AMPM Policy 310-J**.

Training

Mercy Care requires that providers and their staff must be educated in the concepts of end-of-life

care, advance care planning and advance directives.

Arizona Law Regarding Advance Directives

(**http://www.azsos.gov**)

- **R9-10-311(B)(4)(d)(i). Patient Rights:** all facilities, administrator required to cover right to health care directives
- **R9-10-318(A)(6)(d)(i). Patient Rights** (under 18 years of age): representative informed of right to health care directives
- **R9-10-402(j). Supplemental Application Requirements** (for nursing care institutions): patients informed of right to health care directives
- **R9-10-407(d). Admission** (nursing care institutions admissions policy of informing patient of right to health care directives)
- **R9-10-410 (A)(b)(4)(d)(i). Resident Rights:** residential treatment facility policy of informing resident right to health care directives
- **R9-10-502(C)(1)(l). Facilities treating those with intellectual disabilities:** administrator responsibility to inform patients of right to health care directives
- **R9-10-511. Resident Rights:** rights of those in residential rehabilitative settings to receive information about right to health care directives
- **R9-10-603. Administration, Hospice:** responsibility of hospice administrations to provide information to patients about rights to health care directives
- **R9-10-608(A). Care Plan:** responsibility of all health care centers to include patient's health care directives in care plan
- **R9-10-610(B)(3)()(iii). Patient Rights:** patient in hospice representative is informed of patient's right to health care directives
- **R9-10-703(C)(1)(j). Behavioral Health Residential Facilities:** responsibility of administration to inform residents of right to health care directives
- **R9-10-711(B)(4)(d)(i). Resident Rights in BHRF**: right to health care directives
- **R9-10-803(C)(1)(o): Assisted Living Facilities:** Manager is to inform patients of their right to health care directives
- **R9-10-807(F)(1)(c). Residency and Residency Agreements:** assisted living facility manager responsibility to inform resident or representative of right to health care directives
- **R9-10-810(B)(3)(a)(i). Resident Rights:** assisted living facility resident right to health care directives
- **R9-10-902(C)(1)(h). Administration:** outpatient surgical center responsibility to inform patients of right to heath care directives
- **R9-10-907(D)(4) Admission:** outpatient surgical center responsibility to inform patients at admission of right to health care directives
- **R9-10-909(B)(3)(d). Patient Rights:** outpatient surgical center administration to implement t policy that maintains patient right to health care directives
- **R9-10-1003(d)(1)(e) Administration:** outpatient treatment center administration responsibility to make policy involving patient/client of right to health care directives
- **R9-10-1008(B)(3)(d). Patient Rights:** outpatient treatment center responsibility to inform patient or representative of right to health care directives

- **R9-10-1031(F)(1)(d)(. Colocation Requirements:** co-location outpatient center agreement with exempt health care provider to have language about advance directives
- **R9-10-1107(B)(9). Enrollment:** adult day care facilities inform participant of right to health care directives
- **R9-10-1110(B)(3)(d)(iii). Participant Rights:** adult day care facilities participant right to be informed of health care directive policy
- **R9-10-1203(C)(1)(h). Administration:** home health agencies to include policy on patients' right to health care directives
- **R9-10-1208(B)(3)(d)(iii). Patient Rights:** home health agencies responsibility to inform patients on their right to health care directives
- **R9-10-1210(D)(2). Home Health Services:** registered nurse to review patient's health care directives
- **R9-10-1302(C)(1)(m). Administration:** behavioral health specialized transitional facility establishes policy for providing client right to health care directives
- **R9-10-1309(2)(e)(i). Patient Rights:** client of behavioral health specialized transition facility receives information about policy about health care directives
- **R9-10-1312(C)(8). Medical Records:** physical health clinic patient record contains information about health care directives
- **R9-10-1702(C)(1)(m). Administration:** unclassified health care institution administration develops policy for patient health care directives
- **R9-10-1907(B)(3)(c)(i). Patient Rights:** counseling facility responsibility to inform client or representative of right to health care directives
- **R9-10-2102(C)(1)(j). Administration:** recovery care center policy established to cover patient health care directives
- **R9-10-2107(B)(4). Admission:** recovery care center informs patient or representative of right to health care directives at admission
- **R9-10-2110(B)(3)(d). Patient Rights:** recovery care center informs patient of health care directives