



Section: Customer Services	Policy Name: Advance Directives	Policy Number: 06.03
Owner: Customer Services Manager	Reviewed By: Sarah Ameter	Total Pages: 4
Required By: <input checked="" type="checkbox"/> BBA <input checked="" type="checkbox"/> MDHHS <input type="checkbox"/> NCQA <input type="checkbox"/> Other (please specify): _____	Final Approval By: <i>Sarah Ameter</i> Sarah Ameter (Jun 1, 2022 16:12 EDT)	Date Approved: Jun 1, 2022
Application: <input checked="" type="checkbox"/> SWMBH Staff/Ops <input checked="" type="checkbox"/> Participant CMHSPs <input checked="" type="checkbox"/> SUD Providers <input checked="" type="checkbox"/> MH/IDD Providers <input type="checkbox"/> Other (please specify): _____	Line of Business: <input checked="" type="checkbox"/> Medicaid <input type="checkbox"/> Other (please specify): <input checked="" type="checkbox"/> Healthy Michigan <input checked="" type="checkbox"/> SUD Block Grant <input checked="" type="checkbox"/> SUD Medicaid <input type="checkbox"/> MI Health Link	Effective Date: 4/1/21

Policy: Southwest Michigan Behavioral Health (SWMBH)/Participant Community Mental Health Service Providers (CMHSP) and Contract Providers shall honor valid Durable Powers of Attorney as presented for medical and psychiatric care. SWMBH shall honor decisions made by identified Patient Advocates unless unable or otherwise not required by law. SWMBH shall honor decisions regarding the terminal care of a patient, made by a legally designated patient surrogate, if a person is terminally ill, including requests for hospice care. SWMBH shall honor valid Do-Not-Resuscitate Orders when required to do so by Michigan law.

Purpose: To provide guidelines regarding application of Michigan Law for SWMBH service recipients to make decisions concerning their medical care – including the right to accept or refuse medical treatment and to formulate “Advance Directives.”

Scope: Customer Services

Responsibilities: SWMBH Customer Service Department and delegated entities, as applicable, shall ensure compliance with the standards and guidelines outlined in this policy and guiding documents.

Definitions:

- A. Advance Directive: Written instruction such as a living will or durable power of attorney for health care, recognized under State law (whether by statute or by the courts of the state) and relating to the provision of health care when the individual is incapacitated.



- B. Medical Advance Directive: Written instructions regarding physical/medical health care. Examples of decisions made include hospital care, medication regimes, Do Not Resuscitate Orders, or organ/tissue donation.
- C. Psychiatric Advance Directive: Written instructions regarding care for psychiatric/mental health care decisions. Examples may include psychiatric hospitalization, MH treatment participation, medication regimes, or any specific psychiatric treatments such as ECT.
- D. Do Not Resuscitate Order: In the State of Michigan, established through MCLA 333.1051 et seq, individuals are able to execute a document directing that in the event that the individual's heart and breathing should stop, no person shall attempt to resuscitate the individual.
- E. Durable Power of Attorney: In regards to Healthcare Decisions, (DPOA) In the State of Michigan, established through MCLA 700.5506 et seq. the state of Michigan allows an adult 18 years of age or older of sound mind to designate a Patient Advocate who is able to make decisions concerning the care, custody and medical treatment if that individual is unable to participate in his/her medical and/or mental health treatment decisions.
- F. Plan for Difficult Times (Crisis Planning): A plan established by a customer of Specialty Mental Health Services within the context of their Person-Centered Plans (PCP). Education about this option is required by the Michigan Department of Health and Human Services (MDHHS). The plan is intended to direct care when a customer begins to experience increased difficulty in managing his/her life or becomes genuinely incapacitated and an appointed agent acts on his/her behalf.

Standards and Guidelines:

- A. In accordance with Medicaid Managed Care Regulations (42 CFR 422.128 and 42 CFR 438.6), SWMBH will maintain written policies and procedures for advance directives.
 - 1. SWMBH shall provide adult beneficiaries with written information on advance directive policies and a description of applicable state law and their rights under applicable laws.
 - 2. If a beneficiary is incapacitated at the time of initial enrollment 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, SWMBH/Participant CMHSPs and Contract Providers may give advance directive information to the beneficiary's family or surrogate in the same manner that it issues other materials about policies and procedures in accordance with State law. The agency is not relieved of its obligation to provide this information to the enrollee once he or she is no longer incapacitated or becomes able to receive such information. Follow-up procedures must be in place to ensure that the information is given to the individual directly at the appropriate time.
 - 3. The information must be continuously updated to reflect any changes in state law as soon as possible but no later than 90 days after it becomes effective.
 - 4. SWMBH shall inform individuals that grievances concerning noncompliance with the advance directive requirements may be filed with Customer Services.
 - 5. SWMBH will educate staff concerning policies and procedures on advance directives.
- B. SWMBH will perform the following for the entire network of services provided:
 - 1. Evaluation of Michigan laws to develop SWMBH policies.
 - 2. Development of educational materials to customers.
 - 3. Develop and distribute training and educational materials to staff of the network.



4. Monitor CMHSP's for local implementation of procedures.
- C. Specific Procedures utilized throughout SWMBH will be developed by the CMHSP's for local implementation and will identify tasks/steps such as:
 1. Providing training to Network provider staff about advance directives.
 2. Asking customers and potential customers about their Advance Directive status at the time of enrollment in services and annually thereafter.
 3. Providing Advance Directive information and forms to complete.
 4. Offering assistance to complete Advance Directive documents.
 5. Documenting Advance Directive designations in customer record.
 - a. Document in a prominent part of the customer's record if they have executed an advance directive
 6. Informing providers of Advance Directive designations.
 7. Honoring Advance Directive decisions as required.
- D. SWMBH/Participant CMHSPs and Contract Providers are not required to provide care that conflicts with an advance directive.
- E. SWMBH/Participant CMHSPs and Contract Providers are not bound to follow expressed desires of any directive(s) if any of the following apply:
 1. In the mental health professional's opinion, compliance is not consistent with generally accepted community practice standards of treatment.
 2. The treatment requested is not reasonably available.
 3. Compliance is not consistent with applicable law.
 4. Compliance is not consistent with court ordered treatment.
 5. In the mental health professional's opinion, there is psychiatric emergency endangering the life of the patient or another individual and compliance is not appropriate under the circumstances.
 6. As a matter of conscience, the organization cannot implement an advance directive and State law allows any health care provider or any agent of the provider to conscientiously object.
- F. SWMBH/Participant CMHSPs and Contract Providers will not:
 1. Provide legal or medical advice or service if a customer expresses a desire to execute an Advance Directive.
 2. Discriminate or condition the provision of treatment based on whether or not the individual has executed an Advance Directive.

References:

- A. Medicaid Managed Care Regulations: 42 CFR 422.128, 42 CFR 438.3(j), 42 CFR 438.6
- B. MDHHS/PIHP Contract: General Requirements (Q5) Advance Directives Compliance
- C. The Michigan Do-Not Resuscitate Procedure Act (MDNRPA)
- D. MCLA 333.1051 et seq.
- E. The Patient Advocate Act, Part 5 of the Estates and Protected Individuals Code (EPIC) MCLA 700.5506 et seq

Attachments: None






06.03 Advance Directives

Final Audit Report

2022-06-01

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