



Section: <b>Customer Services</b>	Policy Name: <b>Medicare Member Advance Directives</b>	Policy Number: <b>MHL 06.01</b>
Owner: <b>Customer Service Manager</b>	Reviewed By: <b>Sarah Ameter</b>	Total Pages: <b>4</b>
Required By: <input checked="" type="checkbox"/> <b>BBA</b> <input type="checkbox"/> <b>MDHHS</b> <input type="checkbox"/> <b>NCQA</b> <input checked="" type="checkbox"/> <b>Other (please specify):</b> <u><b>MHL 3-Way Contract</b></u>	Final Approval By:  <i>Sarah Ameter</i>	Date Approved:  <b>Aug 2, 2022</b>
Application: <input checked="" type="checkbox"/> <b>SWMBH Staff/Ops</b> <input checked="" type="checkbox"/> <b>Participant CMHSPs</b> <input checked="" type="checkbox"/> <b>SUD Providers</b> <input checked="" type="checkbox"/> <b>MH/IDD Providers</b> <input type="checkbox"/> <b>Other (please specify):</b> _____	Line of Business: <input type="checkbox"/> <b>Medicaid</b> <input type="checkbox"/> <b>Other (please specify):</b> <input type="checkbox"/> <b>Healthy Michigan</b> _____ <input type="checkbox"/> <b>SUD Block Grant</b> <input type="checkbox"/> <b>SUD Medicaid</b> <input checked="" type="checkbox"/> <b>MI Health Link</b>	Effective Date: <b>2/20/2015</b>

**Policy:** Southwest Michigan Behavioral Health (SWMBH) and 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:** Member Services

**Responsibilities:** SWMBH Member Services department 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. SWMBH will review this policy for compliance with current state law and MDHHS Contract and Technical Requirements on regular basis. Policy and procedures will be amended as necessary to comply with changes. Information will reflect any changes in State law as soon as possible, but no later than 90 days after the effective date of the State law.
- 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 CMHSPs 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.
  - 2. Asking customers and potential customers about their Advance Directive status.
  - 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.
  - 6. Informing providers of Advance Directive designations.
  - 7. Honoring Advance Directive decisions as required.
  - 8. Informing customers that they may file complaints regarding non-compliance with Advance Directives with Member Services.
- D. Mental Health providers contracted by SWMBH 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 life and compliance is not appropriate under the circumstances

**E. SWMBH/Participant CMSHP's 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 489.102
- B. MI Health Link 3-Way Contract: Section 2.14.4.1.1.7
- C. The Michigan Do-Not Resuscitate Procedure Act (MDNRPA), MCL 333.1051 et seq.
- D. The Patient Advocate Act, Part 5 of the Estates and Protected Individuals Code (EPIC) MCL 700.5506 et seq

**Attachments:** None



**Revision History**

Revision #	Revision Date	Revision Location	Revision Summary	Revisor
1	2/20/15	SWMBH		
2	4/24/15	SWMBH		
3	6/1/17	SWMBH		
4	1/1/20	Policy, Definitions, Standards and Guidelines: D, E, References	Updated per 3-way contract and Regulations	Heather Woods
5	8/20/21	Standards and Guidelines: C8	Adding information on filing complaints regarding AD.	Heather Woods
6	7/15/22	Annual Review	No Changes	Heather Woods






# MHL 06.01 Medicare Member Advance Directives

Final Audit Report

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