

CHAPTER 68 ADVANCE DIRECTIVES

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REFERENCES: 42 CFR 489.102; 42 U.S.C. § 1396(a)(57); A.R.S. § 36-3231;

AHCCCS Medical Policy Manual (AMPM) policy 640

PURPOSE

The purpose of the policy is to ensure processes are in place for hospitals, nursing facilities, hospice providers, residential service providers, and home health care or personal care services to comply with Federal and State laws regarding Advance Directives for Adult Members. [42 U.S.C. §1396(a)(57)].

DEFINITIONS

1. "Adult Member" means a Member aged 18 and over.
2. "Advance Directive" means a document by which an individual makes provision for health care decisions in the event that, in the future, the individual becomes unable to make those decisions.

3. "Member" means the same as "client" as defined in A.R.S. § 36-551.
4. "Provider" means an agency or individual operating under a contract or service agreement with the Department to provide services to Division Members.

POLICY

- A.** Providers shall ensure that Members have the right to have information provided to them about the importance of Advance Directives including their rights to establish and rescind Advance Directives at any time.
- B.** At a minimum, Providers shall comply with the following:
 1. Maintain written policies for Adult Members receiving care through their organization regarding the Member's ability to make decisions about medical care, including the right to accept or refuse medical care and the right to execute an Advance Directive;
 2. Provide written information to Adult Members regarding the Provider's policies concerning Advance Directives, including any Conscientious Objections;

3. Document in the Member's medical record whether or not the Adult Member has been provided the information, and whether an Advance Directive has been executed;
 4. Prevent discrimination against a Member because of the Member's decision to execute or not execute an Advance Directive, and not place conditions on the provision of care to the Member, because of the Member's decision to execute or not execute an Advance Directive;
 5. Provide education to staff on issues concerning Advance Directives including notification to staff who provide home health care or personal care services such as attendant care, respite, and nursing if any Advance Directives are executed by Members to whom they are assigned to provide services; and
 6. Ensure alternative Home and Community Based Services (HCBS) setting staff have immediate access to Advance Directive documents to provide to first responder requests.
- C.** Providers shall provide written information regarding Advance Directives to Adult Member, and when the Member is incapacitated or unable to receive information, to the Member's family or

surrogate as defined in A.R.S. § 36-3231, as delineated in 42 CFR 489.102(e) concerning:

1. The Member's rights, regarding Advance Directives under Arizona state law;
2. The organization's policies respecting the implementation of those rights, including a statement of any limitation regarding the implementation of Advance Directives as a matter of conscience;
3. A description of the applicable state law and information regarding the implementation of these rights;
4. The Member's right to file complaints with Arizona Department of Health Services, Division of Licensing Services' and
5. 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, shall:
 - a. Clarify institution-wide conscientious objections and those of individual physicians,

- b. Identify state legal authority permitting such objections, and
 - c. Describe the range of medical conditions or procedures affected by the conscience objection.
- D.** The Provider shall continue to provide the information outlined in section (C) to the Member once the Member is no longer incapacitated or unable to receive such information.
- E.** The provider shall have follow-up procedures in place to provide the information outlined in section (C) to the Member directly at the appropriate time.
- F.** Providers shall provide the information outlined in section (C) to a Member upon each admission to a hospital or nursing facility and each time the Member comes under the care of a home health agency, hospice, or personal care provider. [42 U.S.C. § 1396a(w)(2)]
- G.** Providers shall provide a copy of a Member's executed Advance Directive or documentation of refusal to the Member's Primary Care Provider (PCP) for inclusion in the Member's medical record, and provide education to staff on issues concerning Advance Directives.