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|  | Approved: 11/08/2021           | <b>POLICY</b> |
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|   | Document Owner: Ashley Hoffman |               |
| IHN Operations-08 Advance Directive Policy- SHP                                   |                                |               |

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| <input type="checkbox"/> SAHP | <input checked="" type="checkbox"/> IHN | <input type="checkbox"/> COMM | <input type="checkbox"/> SCP | <input type="checkbox"/> ADMIN |
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**APPLICATION / SCOPE**

All Samaritan Health Plan (SHP) staff and Delegated Entities.

**DEFINITIONS**

1. Advance Directive: The term, when used in this document, will be used to address the document(s) required to address any decisions or documents needed for an individual to communicate their decisions as would be appropriate for any care that the member may receive. Some examples which are defined but are not all inclusive are Advance Directive for End of Life and Mental Health Advance Directives.
2. Advance Directive End of Life: Legal document which allows for an individual to dictate their decisions about end of life care ahead of time.
3. Mental Health Advance Directive: Legal written document that describes what a person wants to happen if at some time in the future they are judged to be suffering from a mental disorder in such a way that they are deemed unable to decide for themselves or to communicate effectively. This document can inform others about what treatment they want or don't want from psychiatrists or other mental health professionals, and it can identify a person to whom they have given the authority to make decisions on their behalf. A mental health advance directive is one kind of advance health care directive.
4. Appointed Representative: A person who may act on behalf of an individual or entity in exercising his or her right to an initial determination or appeal.
5. Authorized Representative: A designated person who may assist or handle affairs related to member's health care services.
6. Incapacitated: A condition which a person is temporarily or permanently impaired by reason of mental illness, mental deficiency, physical illness or disability, use of stimulating substances and/or drugs, and is unable to act, speak or otherwise communicate for themselves.
7. Legal Guardian: A person who has the legal authority and duty to care for the personal and property interests of another individual.
8. Primary Care Provider: A health care practitioner who is chosen by an individual to provide continuous medical care, trained to treat a wide variety of health-related problems, and responsible for referral to specialist as needed.

**POLICY**

SHP ensures that all adult plan members (age 18 years or older) receive appropriate information regarding Advance Directives. SHP provides written information to all plan members as specified in 42 Code of Federal Regulations (CFR) 422.128 and Oregon Administrative Rules (OAR) 410-120-1380.

**PROCEDURE**

1. SHP informs IHN-CCO members of their right to formulate an Advance Directive, and/ or a Mental Health Advance Directive at the time of enrollment. If a member is incapacitated at the time of enrollment, SHP provides the member's legal guardian, appointed representative, family, or other authorized representative with this information.

2. SHP Contracted Dental Care Organizations (DCO) will inquire of IHN members as to whether they have an Advanced Directive currently or not.
  - A. If an IHN-CCO member does have an Advanced Directive, the DCO will obtain a copy and/or get specific information about the members wishes so that they can be followed.
3. SHP informs members of the right to formulate an Advance Directive through various means, including but not limited to the following:
  - A. Member materials, including the Evidence of Coverage (EOC), Member Handbook.
  - B. Information posted in Provider Offices
  - C. Information posted in area Hospitals
  - D. Information provided to Case Managers
  - E. Links on our websites to Oregon Health Decisions (<https://oregonhealthdecisions.org/>)
  - F. At the request of a member, SHP staff can print the form from the Oregon Health Decision website.
4. SHP ensures that members can request an Advance Directive form from Primary Care Provider (PCP) offices or from the Dental Care Organization (DCO) members are assigned to.
5. SHP requires that all contracted providers follow State and Federal regulations in informing and providing members with their right to complete an Advance Directive, most specifically before undertaking any type of operation or being hospitalized for any reason as well as to the capacitated member once he or she is no longer incapacitated.
6. SHP informs the community about Advance Directives through an educational brochure that is available through community partners (such as caseworkers) and includes education on the right to complete an Advance Directive and how to do so. The educational brochure must include:
  - A. What constitutes an advance directive.
  - B. Emphasis that an advance directive is designed to enhance an incapacitated individual's control over medical treatment.
  - C. Description of applicable State law concerning advance directives.
7. SHP provides members with the following:
  - A. The member's right under Oregon Law, including their right to accept or refuse medical or surgical treatment and the right to formulate at the individual's option an Advance Directive.
  - B. An assurance that the member's choice to execute or not execute an Advance Directive does not have an effect on the provision of their care and that they will not be discriminated against in any way.
  - C. Information on the member's right to file a complaint with the State Survey and Certification Agency against SHP for non-compliance with Advance Directive requirements.
  - D. Information on the member's right to file a complaint with Oregon Health Authority if their provider does not follow their wishes as stated in their Advance Directive.
  - E. When requested, a copy of a free Advance Directive can be provided by: [https://www.oregon.gov/DCBS/shiba/Documents/advance\\_directive\\_form.pdf](https://www.oregon.gov/DCBS/shiba/Documents/advance_directive_form.pdf)
  - F. Material informing the member of SHP's educational efforts in the community on the rules regarding Advance Directives and the importance of the member's right in completing one.
  - G. Information informing the member that SHP has and will continue to educate staff members on the process for member Advance Directives.
  - H. Details informing the member of changes in state laws regarding advance directives no later than 90 days following the changes in the law.
8. Provider documents in the member's clinical record a description of any limitation regarding the implementation of an Advance Directive as a matter of conscience by the Provider or Healthcare Facility, and the State's legal authority permitting such an exception. If SHP or a provider receives a conscience protection waiver from the Centers for Medicare and Medicaid Services (CMS) or the State, member materials must contain the following:
  - A. The difference between institution-wide conscientious objections and those raised by individual physicians.

- B. Identification of the State legal authority permitting such objection.
- C. A description of the range of medical conditions or procedures affected by the conscientious objection.
- 9. SHP Quality Department includes review of Advance Directive documentation when completing member chart reviews for randomly selected IHN-CCO members. Information stating whether or not a member has completed an Advance Directive will be clearly documented in their chart.
- 10. Members can contact Oregon Health Decisions in Portland at:
  - A. <http://www.oregonhealthdecisions.org/>
  - B. Call (503) 241-0744 or 1-800-422-4805 to learn more about Advance Directives

#### **REFERENCES**

- 42 CFR 417.436(d)
- 42 CFR 422.128
- 42 CFR 431.108(b)(2)
- 42 CFR 489.102
- OAR 410-120-1380
- Advance Directive -- Oregon Health Choice Decisions