

PRIMEWEST HEALTH POLICY & PROCEDURE

Title: Advance Directives	Policy Number: CC26
Effective Date: 6/1/05	Revised:

POLICY

In accordance with Federal law and regulations (42 USC 1396a(a)(57)-(58), 42 CFR 438.100 and Chapter 4, Section 160 of the Medicare Managed Care Manual), Minnesota state law (MN Statute Chapter 145C), and Minnesota Department of Human Services (DHS) contract requirements, PrimeWest Health informs all members of their rights regarding Advance Directives. PrimeWest Health will maintain written policies and procedures that ensure member's rights regarding Advance Directives.

References: DHS PMAP contract Article 17
DHS MSC/MSHO 6.1.3.A.2(c)
DHS SNBC contract 6.2.11 and Article 17

Approved By: C. McKinzie, MD, Senior Medical Director K. Rau, Director, Care Coordination QCCC Approved By: C. McKinzie, MD, Senior Medical Director K. Rau, Director, Care Coordination QCCC	Date: 09/06 Reviewed: 02/07
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6-5-08

Designated Senior Physician Acting as PrimeWest Health's Senior Medical Director
Charles McKinzie, MD/Date



6-5-08

PrimeWest Health Joint Powers Board Executive/Date

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PROCEDURE FOR: Advance Directives

1. An “Advance Directive” means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law, relating to the provision of health care when the individual is incapacitated. Minnesota law refers to Advance Directives as “Health Care Directives.” A “Health Care Directive” means a written instrument that complies with State law and includes one or more health care instructions, a health care power of attorney, or both; or a durable power of attorney for health care executed before August 1, 1998.
2. Advance Directives planning is an ongoing process based on individual member needs and cultural and religious considerations.
3. PrimeWest Health will provide the following information to its members or the member’s legal guardian, at the time of initial enrollment:
 - a. A written decryption of applicable Minnesota law on Advance Directives.
 - b. Information regarding the member’s right to accept or refuse medical or surgical treatment and to execute a living will, durable power of attorney for health care decisions, or other Advance Directive.
 - c. PrimeWest Health’s written policies respecting the implementation of these member rights. The information provided to members will include an explanation of all of the following:
 - i. PrimeWest Health cannot condition treatment, refuse treatment, or otherwise discriminate against a member based on whether or not the member has executed an Advance Directive
 - ii. The member has the right to file a complaint about an organization’s non-compliance with Advance Directive requirements with the State Survey and Certification agency
 - iii. The member has the right to file a complaint about an organization’s non-compliance with Advance Directive requirements with the State Survey and Certification Agency
 - iv. Advance Directives, or lack thereof, must be documented in a prominent part of the individual’s current medical record or file. PrimeWest Health complies with Minnesota Health Care Directive law (MN Statute Chapter 145C)
 - v. PrimeWest Health educates its staff about its policies and procedures for Advance Directives
 - vi. PrimeWest Health provides for community education regarding Advance Directives
 - d. PrimeWest Health will document in a member’s record whether or not the member has executed an Advance Directive
 - e. PrimeWest Health will conduct the following types of education regarding Advance Directives:
 - i. Staff training

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- ii. Provider education (through the PrimeWest Health provider newsletter, in the Administration Manual, and through medical record review activities)
 - iii. Care Coordination (through ongoing CCM educational sessions and through a weekly publication, *PrimeWeekly for Case Managers*)
 - iv. Disability Care Coordination (through ongoing CCM educational sessions and through written information)
 - v. Community education

- f. All changes to Minnesota State law relating to Advance Directives will be reflected in information provided to members as soon as possible, but no later than 90 days after the effective date of the State law

- 4. If the SNBC member is under Public Guardianship of the State of Minnesota, the County MR/RC or Developmental Disabilities' staff acting as public guardian will need to be involved prior to obtaining any Advance Directives (See Minnesota Chapter Law 252A and Public Guardianship Rule #175, Minnesota Rules, parts, 9525.3010-9525.3100).
 - a. Minnesota Rules 9525.3055 outline that consent for a "do not resuscitate" order must not be given in the absence of a terminal condition, unless the physician states that initiating cardiopulmonary resuscitation would be medically futile or would harm the ward
 - b. The County staff, acting as public guardian, shall submit an application for a "do not resuscitate" order to the Public Guardianship Office of the State of Minnesota, Department of Human Services
 - c. The County staff, acting as public guardian, shall also submit an application to the Public Guardianship Office of the State of Minnesota, Department of Human Services for any orders limiting medical treatment for any SNBC member that is a Ward of the State of Minnesota. (Under this Rule, limited medical treatment is defined as "life-sustaining treatment that has been deemed through ethical decision making, to be useless or gravely burdensome to the ward"). The application must contain documentation of the following:
 - i. that the county staff acting as public guardian has visited the ward
 - ii. that the ward has been informed of the reasons and consequences of the order, and to the extent the ward is able to comprehend, the ward agrees to the order
 - iii. that the county staff acting as public guardian has made reasonable efforts to obtain the opinion of the nearest relative
 - iv. that the physician's written recommendation includes: (1) a statement indicating whether the "do not resuscitate" order is appropriate; (2) a statement of the ward's physical condition including current physical and adaptive skills, the terminal condition, and deterioration that has occurred since the onset of the terminal condition; (3) a statement that death is imminent or that

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initiating cardiopulmonary resuscitation would be medically futile or would harm the ward. For purposes of this part, death occurring within one year is considered imminent; and (4) a statement of the ward's prognosis given the terminal condition or medically futile condition

- v. a statement that the request for the order is not based on discrimination because of the ward's mental retardation
 - vi. upon request by the Department of Human Services, a report from a biomedical ethics committee, if one exists within the health care institution, that affirms that the proper procedures have been followed by the health care providers on behalf of the ward
 - vii. upon request by the Department of Human Services, a report from a biomedical ethics committee, if one exists within the health care institution, that affirms that the proper procedures have been followed by the health care providers on behalf of the ward
 - viii. a recommendation by the county staff acting as public guardian for or against the request
5. If the member resides in a SNF, an Advance Directive will be provided to him/her at the time of the admission by SNF staff.
 6. If the member has previously completed or refused to complete an Advance Directive, the CCM will review and document this on the member's care plan every six (6) months for SNBC members/Non-Elderly Waiver/Elderly Waiver and during quarterly care conferences for the SNF members.
 7. The CCM will assure that the member's Primary Care Provider has a copy of the member's current Advance Directive and communicates any changes as they occur.
 8. The CCM will assure that the member has a copy of his/her Advance Directive and, where there is a health care agent, assure that the agent also has a copy.
 9. The member or CCM will have the Advance Directive reviewed at an appointment with the Primary Care Provider at least annually.
 10. If the member has not completed or refused to complete an Advance Directive and is unable to receive information and/or articulate his/her wishes, this will be documented on the member's care plan.

Health Care Facilities: Written information must be provided by a facility (i.e., hospital or nursing facility) to a member upon each admission to a medical facility and each time the member comes under the care of a home care agency, personal care provider, or hospice.

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Provider Compliance: Each provider must comply with the member's wishes to the fullest extent possible and consistent with reasonable medical practice. If a provider is unable or unwilling to provide care, he/she must transfer the member's care to another health care provider willing to provide care. Members may file a complaint with the Office of Health Facilities Complaints at 1-800-369-7994 concerning a provider's noncompliance with Advance Directives requirements.

If necessary, PrimeWest Health will support its providers regarding their inability to implement an Advance Directive as a matter of conscience. In addition, PrimeWest Health will not require its providers to provide care that conflicts with an Advance Directive.

<p>Approved By: C. McKinzie, MD, Senior Medical Director K. Rau, Director, Care Coordination QCCC</p> <p>Approved By: C. McKinzie, MD, Senior Medical Director K. Rau, Director, Care Coordination QCCC</p>	<p>Date: 09/06</p> <p>Reviewed/Revised: 02/07</p>
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