


COMMUNITY MENTAL HEALTH AUTHORITY

ADMINISTRATIVE POLICY AND PROCEDURES MANUAL				
Chapter Program Standards	Section Clinical Guidelines	Chapter 06	Section 02	Subject 38
Subject Advance Directives/Durable Power of Attorney/Plan for Difficult Times	Authorization 			Approved: 08/31/04 Replaces: None

Reviewed/No Updates: October 2022; October 2023

- I. PURPOSE:** To describe the relationship and responsibilities between the Community Mental Health Authority (CMHA) and its recipients regarding the creation of medical directives to guide the recipient’s care should they become unable to participate in making their medical decisions. This is a recipient driven effort and may not be mandated by CMHA. CMHA has the responsibility to educate individual adult members of how to enact medical directives.
- II. APPLICATION:** All programs and services.
- III. DEFINITIONS:**
- A. Advance Directive:** A written instruction such as living will or durable power of attorney for healthcare, recognized under State law (whether statutory or as recognized by the courts of the State), relating to the provision of health care when the individual is incapacitated.
 - B. Do Not Resuscitate (DNR) Order:** Directs that in the event that a declarant's heart and breathing should stop, no person shall attempt to resuscitate the declarant.
 - C. Durable Power of Attorney (DPOA) in the State of Michigan is established in Act 386 of 1998, Part 5 Sections 700.5501 - 700.5513 and Section 700.5520:** This Act allows an adult 18 years of age or older and 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 treatment decisions.
 - D. Plan for Difficult Times (Crisis Planning):** A plan established by a consumer for Specialty Mental Health Services within the context of their Person Centered Plan (PCP). The Plan for Difficult Times is intended to direct care when a consumer begins to experience increased difficulty in managing his/her life or becomes genuinely incapacitated and the appointed agent acts on his/her behalf.
- IV. POLICY:** CMHA shall provide recipients with written information on advance directives, a description of applicable State law and their rights under applicable laws. CMHA will educate recipients and offer the opportunity to develop an advance directive for their care. CMHA shall provide written materials for the education of staff and recipients or their legal representatives as to the specific advance directive options available to them. There may be separate tracks for implementation of this policy depending on the recipient served as the regulations and laws may impact adults with mental illness and adults with intellectual/developmental disabilities differently.

V. PROCEDURE:

ADVANCE DIRECTIVE/DURABLE POWER OF ATTORNEY

- A.** The State of Michigan, through the language utilized in both Acts (See References and Legal Authority section), requires that an adult must be of "sound mind" in order to sign an Advance Directive. This explicit language indicates the guardian of an adult with intellectual/developmental disabilities may need to seek a different legal avenue to establish the authority for acting in terms of an Advance Directive on behalf of their wards.
- B.** Education: Primary case holders will educate recipients/guardians regarding Advance Directives, Durable Power of Attorney, and Plan for Difficult Times through the provision of information and discussion regarding each recipient needs. Documentation of the education process and decision of each recipient will be documented in the Biopsychosocial Assessment and Individual Plan of Services.
- C.** Primary case holders will determine the need for assisting the recipient/guardian in obtaining DNR orders or other Advance Directives.
- D.** In the situation where the Probate Courts have jurisdiction, the primary case holder's role will be to assist in accessing the necessary legal resources that allow the guardian to participate in the decisions regarding the provision of medical care in these "extraordinary" procedures.
- E.** If the Advance Directive is completed, a copy of the Advance Directive shall be located in the medical record. In addition, the primary care coordinator is responsible to assure that the proper health care professionals are informed of the Directive and have a copy of it.

PLAN FOR DIFFICULT TIMES

- A.** Education about this option is required by the Michigan Department of Health and Human Services. CMHA primary case holders will educate recipients/guardians on the Plan for Difficult Times and how to complete the regional form or create their own Plan for Difficult Times. This process is discussed and completed in the context of the Person Centered Planning process. The Plan for Difficult Times is reviewed annually, upon review of the Person Centered Plan, whenever the recipient chooses to amend the plan, or whenever a change in the recipient's level of care occurs.
- B.** CMHA has adopted a regional form to utilize if an individual chooses to create a plan for managing their illness during a crisis. The recipient may choose to use a different format or the DPOA form endorsed by the State Bar of Michigan.

VI. REFERENCES AND LEGAL AUTHORITY: The legal authority for this right are stated in the Balanced Budget Act of 1997, Section 438.6(I) (3) and the relevant Michigan statutes are: The Michigan Do-Not Resuscitate Procedure Act (MDNRPA), 1996PA 193, MCL 33.1051 *et seq*; MSA 14.15(1051) *et seq*; and The Patient Advocate Act, 1998 PA 386, Part 5 of the Estates and Protected Individuals Code (EPIC) sections 700.5501 through 700.5513 and Section 700.5520.

VII. EXHIBITS: Advance Directives Brochure; Durable Power of Attorney for Health Care and Appointment of a Patient Advocate pamphlet; Designation of Patient Advocate Form and Directions for Health Care booklet