

## Chapter 8: Your rights and responsibilities

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### Introduction

This chapter includes your rights and responsibilities as a member of our plan. We must honor your rights. Key terms and their definitions appear in alphabetical order in the last chapter of this *Member Handbook*.

*[Note: Plans can add to or revise this chapter as needed to reflect NCQA required language or language required by state Medicaid program.]*

*[Plans should refer to other parts of the Member Handbook using the appropriate chapter number and section. For example, "refer to Chapter 9, Section A." An instruction [insert reference, as applicable] appears with many cross references throughout the Member Handbook. Plans can always include additional references to other sections, chapters, and/or member materials when helpful to the reader.]*

*[Plans must update the Table of Contents to this document to accurately reflect where the information is found on each page after plan adds plan-customized information to this template.]*

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**If you have questions**, please call <plan name> at <toll-free phone and TTY numbers>, <days and hours of operation>. The call is free. **For more information**, visit <URL>.

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## A. Your right to get services and information in a way that meets your needs

*[Plans can edit the section heading and content to reflect the types of alternate format materials available to plan members. Plans can't edit references to language except as noted below.]*

*[Plans must insert a translation of this section in all languages that meet the language threshold.]*

We must ensure **all** services, both clinical and non-clinical, are provided to you in a culturally competent and accessible manner including for those with limited English proficiency, limited reading skills, hearing incapacity, or those with diverse cultural and ethnic backgrounds. We must also tell you about our plan's benefits and your rights in a way that you can understand. We must tell you about your rights each year that you're in our plan.

- To get information in a way that you can understand, call *[insert if applicable: your care coordinator or]* Member Services. Our plan has free interpreter services available to answer questions in different languages.
- Our plan can also give you materials *[insert if required to provide materials in any non-English languages per 42 CFR § 422.2267(a): in languages other than English including <required languages> and]* in formats such as large print, braille, or audio. To get materials in one of these alternative formats, please call Member Services or write to <Plan name, address>. *[Plans must describe:*
  - o how they request a member's preferred language other than English and/or alternate format,*
  - o how they keep the member's information as a standing request for future mailings and communications so the member doesn't need to make a separate request each time, and*
  - o how a member can change a standing request for preferred language and/or format.]*

If you have trouble getting information from our plan because of language problems or a disability and you want to file a complaint, call:

- Medicare at 1-800-MEDICARE (1-800-633-4227). TTY users should call 1-877-486-2048.
- *[Plans should insert information about filing a complaint with Medicaid. Also, include any other state-required offices.]*



**If you have questions**, please call <plan name> at <toll-free phone and TTY numbers>, <days and hours of operation>. The call is free. **For more information**, visit <URL>.

- Office for Civil Rights at 1-800-368-1019. TTY users should call 1-800-537-7697.

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## B. Our responsibility for your timely access to covered services and drugs

*[Plans can edit this section to add specific requirements for minimum access to care and remedies.]*

You have rights as a member of our plan.

- You have the right to choose a primary care provider (PCP) in our network. A network provider is a provider who works with us. You can find more information about what types of providers may act as a PCP and how to choose a PCP in **Chapter 3** of this *Member Handbook*.
  - o Call *[insert if applicable: your care coordinator or]* Member Services or go to the *Provider and Pharmacy Directory* to learn more about network providers and which doctors are accepting new patients.
- *[Plans can edit this sentence to add other types of providers members can use without a referral.]* You have the right to a women's health specialist without getting a referral. A referral is approval from your PCP to use a provider that isn't your PCP. *[If applicable, replace the previous sentences with: We **don't** require you to get referrals. or We **don't** require you to use network providers.]*
- You have the right to get covered services from network providers within a reasonable amount of time.
  - o This includes the right to get timely services from specialists.
  - o If you can't get services within a reasonable amount of time, we must pay for out-of-network care.
- You have the right to get emergency services or care that's urgently needed without prior approval (PA).
- You have the right to get your prescriptions filled at any of our network pharmacies without long delays.
- You have the right to know when you can use an out-of-network provider. To learn about out-of-network providers, refer to **Chapter 3** of this *Member Handbook*.
  - *[Plans should include any additional state requirements regarding covered services or drugs here.]*



**If you have questions**, please call <plan name> at <toll-free phone and TTY numbers>, <days and hours of operation>. The call is free. **For more information**, visit <URL>.

**Chapter 9** of this *Member Handbook* tells what you can do if you think you aren't getting your services or drugs within a reasonable amount of time. It also tells what you can do if we denied coverage for your services or drugs and you don't agree with our decision.

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## C. Our responsibility to protect your personal health information (PHI)

We protect your PHI as required by federal and state laws.

Your PHI includes the personal information you gave us when you enrolled in our plan. It also includes your medical records and other medical and health information.

You have rights when it comes to your information and controlling how your PHI is used. We give you a written notice that tells about these rights and explains how we protect the privacy of your PHI. The notice is called the "Notice of Privacy Practice." *[Plans are permitted to include the Notice of Privacy Practices as required under the HIPAA Privacy Rule (45 C.F.R § 164.520).]*

### C1. How we protect your PHI

We make sure that no unauthorized people look at or change your records.

Except for the cases noted below, we don't give your PHI to anyone not providing your care or paying for your care. If we do, we must get written permission from you first. You, or someone legally authorized to make decisions for you, can give written permission.

Sometimes we don't need to get your written permission first. These exceptions are allowed or required by law:

- We must release PHI to government agencies checking on our plan's quality of care.
- We must release PHI by court order.
- We must give Medicare your PHI including information about your Medicare Part D drugs. If Medicare releases your PHI for research or other uses, they do it according to federal laws. *[Plans can insert similar information, as appropriate, about sharing medical records with Medicaid]*

### C2. Your right to look at your medical records

- You have the right to look at your medical records and to get a copy of your records. *[Insert if applicable: We may charge you a fee for making a copy of your medical records.]*
- You have the right to ask us to update or correct your medical records. If you ask us to do this, we work with your health care provider to decide if changes should be made.



**If you have questions**, please call <plan name> at <toll-free phone and TTY numbers>, <days and hours of operation>. The call is free. **For more information**, visit <URL>.

- You have the right to know if and how we share your PHI with others for any purposes that aren't routine.

If you have questions or concerns about the privacy of your PHI, call Member Services.

*[Plans can insert custom privacy practices.]*

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## D. Our responsibility to give you information

*[Plans can edit the section to reflect the types of alternate format materials available to plan members and/or languages primarily spoken in the plan's service area.]*

As a member of our plan, you have the right to get information from us about our plan, our network providers, and your covered services.

If you don't speak English, we have interpreter services to answer questions you have about our plan. To get an interpreter, call Member Services. This is a free service to you. *[Plans must insert information about the availability of written materials in languages other than English, stating specifically which languages are offered.]* We can also give you information in large print, braille, or audio. *[If applicable, plans insert information about the availability of written materials in other formats.]*

If you want information about any of the following, call Member Services:

- How to choose or change plans
- Our plan, including:
  - financial information
  - how plan members have rated us
  - the number of appeals made by members
  - how to leave our plan
- Our network providers and our network pharmacies, including:
  - how to choose or change primary care providers
  - qualifications of our network providers and pharmacies
  - how we pay providers in our network
- Covered services and drugs, including:



**If you have questions**, please call <plan name> at <toll-free phone and TTY numbers>, <days and hours of operation>. The call is free. **For more information**, visit <URL>.

- o services (refer to **Chapters 3 and 4** of this *Member Handbook*) and drugs (refer to **Chapters 5 and 6** of this *Member Handbook*) covered by our plan
  - o limits to your coverage and drugs
  - o rules you must follow to get covered services and drugs
- Why something isn't covered and what you can do about it (refer to **Chapter 9** of this *Member Handbook*), including asking us to:
  - o put in writing why something isn't covered
  - o change a decision we made
  - o pay for a bill you got

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## E. Inability of network providers to bill you directly

Doctors, hospitals, and other providers in our network can't make you pay for covered services. They also can't balance bill or charge you if we pay less than the amount the provider charged. To learn what to do if a network provider tries to charge you for covered services, refer to **Chapter 7** of this *Member Handbook*.

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## F. Your right to leave our plan

No one can make you stay in our plan if you don't want to.

- You have the right to get most of your health care services through Original Medicare or another Medicare Advantage (MA) plan.
- You can get your Medicare Part D drug benefits from a drug plan or from another MA plan.
- Refer to **Chapter 10** of this *Member Handbook*:
  - o For more information about when you can join a new MA or drug benefit plan.
  - o For information about how you'll get your <Medicaid program name> benefits if you leave our plan.

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## G. Your right to make decisions about your health care

You have the right to full information from your doctors and other health care providers to help you make decisions about your health care.



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**If you have questions**, please call <plan name> at <toll-free phone and TTY numbers>, <days and hours of operation>. The call is free. **For more information**, visit <URL>.

## G1. Your right to know your treatment choices and make decisions

Your providers must explain your condition and your treatment choices in a way that you can understand. You have the right to:

- **Know your choices.** You have the right to be told about all treatment options.
- **Know the risks.** You have the right to be told about any risks involved. We must tell you in advance if any service or treatment is part of a research experiment. You have the right to refuse experimental treatments.
- **Get a second opinion.** You have the right to use another doctor before deciding on treatment.
- **Say no.** You have the right to refuse any treatment. This includes the right to leave a hospital or other medical facility, even if your doctor advises you not to. You have the right to stop taking a prescribed drug. If you refuse treatment or stop taking a prescribed drug, we won't drop you from our plan. However, if you refuse treatment or stop taking a drug, you accept full responsibility for what happens to you.
- **Ask us to explain why a provider denied care.** You have the right to get an explanation from us if a provider denied care that you think you should get.
- **Ask us to cover a service or drug that we denied or usually don't cover.** This is called a coverage decision. **Chapter 9** of this *Member Handbook* tells how to ask us for a coverage decision.

## G2. Your right to say what you want to happen if you can't make health care decisions for yourself

*[Note: Plans that would like to provide members with state-specific information about advance directives can do so. Include contact information for the appropriate state agency.]*

Sometimes people can't make health care decisions for themselves. Before that happens to you, you can:

- Fill out a written form **giving someone the right to make health care decisions for you** if you ever become unable to make decisions for yourself.
- **Give your doctors written instructions** about how to handle your health care if you can't make decisions for yourself, including care you don't want.

The legal document you use to give your directions is called an "advance directive." There are different types of advance directives and different names for them. Examples are a living will and a power of attorney for health care.



**If you have questions**, please call <plan name> at <toll-free phone and TTY numbers>, <days and hours of operation>. The call is free. **For more information**, visit <URL>.



You aren't required to have an advance directive, but you can. Here's what to do if you want to use an advance directive:

- **Get the form.** You can get the form from your doctor, a lawyer, a social worker, or some office supply stores. Pharmacies and provider offices often have the forms. You can find a free form online and download it. *[Insert if applicable: You can also contact Member Services to ask for the form.]*
- **Fill out the form and sign it.** The form is a legal document. Consider having a lawyer or someone else you trust, such as a family member or your PCP, help you complete it.
- **Give copies of the form to people who need to know.** Give a copy of the form to your doctor. You should also give a copy to the person you name to make decisions for you if you can't. You may want to give copies to close friends or family members. Keep a copy at home.
- If you're being hospitalized and you have a signed advance directive, **take a copy of it to the hospital.**
  - o The hospital will ask if you have a signed advance directive form and if you have it with you.
  - o If you don't have a signed advance directive form, the hospital has forms and will ask if you want to sign one.

You have the right to:

- Have your advance directive placed in your medical records.
- Change or cancel your advance directive at any time.
- *[Insert any additional state-specific requirements as directed by the state.]*

By law, no one can deny you care or discriminate against you based on whether you signed an advance directive. Call Member Services for more information.

### G3. What to do if your instructions aren't followed

If you signed an advance directive and you think a doctor or hospital didn't follow the instructions in it, you can make a complaint with *[plans insert the name and contact information of the applicable state-specific agency]*.

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## H. Your right to make complaints and ask us to reconsider our decisions

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**If you have questions**, please call <plan name> at <toll-free phone and TTY numbers>, <days and hours of operation>. The call is free. **For more information**, visit <URL>.

**Chapter 9** of this *Member Handbook* tells you what you can do if you have any problems or concerns about your covered services or care. For example, you can ask us to make a coverage decision, make an appeal to change a coverage decision, or make a complaint.

You have the right to get information about appeals and complaints that other plan members have filed against us. Call Member Services to get this information.

## H1. What to do about unfair treatment or to get more information about your rights

If you think we treated you unfairly – and it **isn't** about discrimination for reasons listed in **Chapter 11** of this *Member Handbook* – or you want more information about your rights, you can call:

- Member Services.
- The <name of state-specific SHIP> program at <phone number>. For more details about <name of state-specific SHIP>, refer to **Chapter 2** *[insert reference, as applicable]*.
- *[Insert this section if applicable: The Ombudsperson Program at <phone number>. For more details about this program, refer to **Chapter 2** of this *Member Handbook*.]*
- Medicare at 1-800-MEDICARE (1-800-633-4227). TTY users should call 1-877-486-2048. (You can also read or download “Medicare Rights & Protections,” found on the Medicare website at [www.medicare.gov/publications/11534-medicare-rights-and-protections.pdf](http://www.medicare.gov/publications/11534-medicare-rights-and-protections.pdf).)

*[Plans should insert additional contact information, such as for the state Medicaid agency.]*

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## I. Your responsibilities as a plan member

*[Plans can modify this section to include additional member responsibilities. Plans can add information about estate recovery and other requirements mandated by the state.]*

As a plan member, you have a responsibility to do the things that are listed below. If you have any questions, call Member Services.

- **Read this *Member Handbook*** to learn what our plan covers and the rules to follow to get covered services and drugs. For details about your:
  - o Covered services, refer to **Chapters 3 and 4** of this *Member Handbook*. Those chapters tell you what's covered, what isn't covered, what rules you need to follow, and what you pay.



**If you have questions**, please call <plan name> at <toll-free phone and TTY numbers>, <days and hours of operation>. The call is free. **For more information**, visit <URL>.

- o Covered drugs, refer to **Chapters 5 and 6** of this *Member Handbook*.
- **Tell us about any other health or drug coverage** you have. We must make sure you use all of your coverage options when you get health care. Call Member Services if you have other coverage.
- **Tell your doctor and other health care providers** that you're a member of our plan. Show your Member ID Card when you get services or drugs.
- **Help your doctors** and other health care providers give you the best care.
  - o Give them information they need about you and your health. Learn as much as you can about your health problems. Follow the treatment plans and instructions that you and your providers agree on.
  - o Make sure your doctors and other providers know about all the drugs you take. This includes prescription drugs, over-the-counter drugs, vitamins, and supplements.
  - o Ask any questions you have. Your doctors and other providers must explain things in a way you can understand. If you ask a question and you don't understand the answer, ask again.
- **Be considerate.** We expect all plan members to respect the rights of others. We also expect you to act with respect in your doctor's office, hospitals, and other provider offices.
- *[Plans should edit the bullets below as needed to reflect the costs applicable to their members.]* **Pay what you owe.** As a plan member, you're responsible for these payments:
  - o Medicare Part A and Medicare Part B premiums. For most <plan name> members, Medicaid pays for your Medicare Part A premium and for your Medicare Part B premium.
  - o *[Delete this bullet if the plan doesn't have cost sharing:]* For some of your *[insert if the plan has cost sharing for long-term services and supports: long-term services and supports [or drugs]]* covered by our plan, you must pay your share of the cost when you get the *[insert if the plan has cost sharing for services: service [or drug]]*. This will be a *[insert as appropriate: [copayment/copy] (a fixed amount)]*. *[Insert if the plan has cost sharing for long-term services and supports: Chapter 4 [plans can insert reference, as applicable] tells what you must pay for your long-term services and supports.]* **Chapter 6** *[plans can insert reference, as applicable]* tells what you must pay for your drugs.



**If you have questions**, please call <plan name> at <toll-free phone and TTY numbers>, <days and hours of operation>. The call is free. **For more information**, visit <URL>.

- o **If you get any services or drugs that aren't covered by our plan, you must pay the full cost.** (Note: If you disagree with our decision to not cover a service or drug, you can make an appeal. Please refer to **Chapter 9** [plans can insert reference, as applicable] to learn how to make an appeal.)
- **Tell us if you move.** If you plan to move, tell us right away. Call [insert if applicable: your care coordinator or] Member Services.
  - o **If you move outside of our service area, you can't stay in our plan.** Only people who live in our service area can be members of this plan. **Chapter 1** of this *Member Handbook* tells about our service area.
  - o We can help you find out if you're moving outside our service area. [Plans that don't offer plans outside the service area can delete the following sentence:] During a special enrollment period, you can switch to Original Medicare or enroll in a Medicare health or drug plan in your new location. We can tell you if we have a plan in your new area.
  - o Tell Medicare and <Medicaid program name> your new address when you move. Refer to **Chapter 2** of this *Member Handbook* for phone numbers for Medicare and <Medicaid program name>.
  - o **If you move and stay in our service area, we still need to know.** We need to keep your membership record up to date and know how to contact you.
  - o **If you move, tell Social Security (or the Railroad Retirement Board).**
- **Call [insert if applicable: your care coordinator or] Member Services for help if you have questions or concerns.**

