

Advance Health Care Directives

Ask. Explain. Document.

Health care providers have the responsibility to **Ask** members, ages 18 and older, if they have an advance directive or living will, **Explain** what each are and **Document** in the member's medical record that this information was provided to the member.

What Is an Advance Directive?

An advance directive (also known as living will or durable power of attorney) is a written instruction 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.

Members are encouraged to complete an advance directive to help communicate their wishes about their medical treatment with their health care provider in the event they are unable to make their wishes known because of injury or illness.

What Is a Living Will?

A living will does not become effective until the member is incapacitated or is in a permanent vegetative state. Members have the right to control decisions related to their medical care, including the decision to indicate which treatments the member does or does not want applied, including the decision to prolong their life. Living will and advance directive rights may differ between states. Providers must comply with the advance directives requirements for hospitals, nursing facilities, providers of home and health care hospices, and HMOs specified in 42 CFR Part 49, subpart I, and 42 CFR Section 417.436(d).

Who Should Receive Information Regarding an Advance Directive or Living Will?

Provider offices must provide each Missouri Care member (age 18 years or older and of sound mind) with information regarding living will and advance directives. This allows the member to designate another person to make a health care decision should he or she become mentally or physically unable to do so. Missouri Care provides information on advance directives in our member handbook.

A provider shall not, as a condition of treatment, require a member to execute or waive an advance directive. The above shall not be construed to prohibit the application of any Missouri law that allows for an objection on the basis of conscience for any provider or agent of such provider

Documentation Required in the Member's Medical Record

For all members 18 and older, the provider must provide evidence that the member was asked about or executed an advance directive, including a mental health directive, and documentation of acceptance or refusal. The member does not have to have an advance directive completed. A signed statement that the member has been asked if they have an advance directive or not. **Note:** The record **must** contain evidence that the member was provided written information concerning his or her rights regarding advance directives and whether or not he or she has executed an advance directive.