



Eligibility Operations Memo 17-08
December 15, 2017

TO: MassHealth Eligibility Operations Staff

FROM: Amy Dybas, Deputy Chief Operating Officer for Member Policy Implementation, Training, and Communications

RE: **Change to the Definition of Authorized Representative and Revision of the Authorized Representative Designation Form (ARD)**

Summary

MassHealth revised the regulations at 130 CMR 501.000 and 515.000 and the corresponding portions of the Authorized Representative Designation Form (ARD) to clarify the role and authority of an authorized representative as well as the circumstances under which an authorized representative may be designated. In particular, the revised definition and form set forth the limited circumstances under which an authorized representative may be designated without an applicant's or member's written designation including a new signature requirement.

The changes further define the role and authority of an authorized representative regarding applications, appeals, noticing, and the representation of the estate of a deceased member as well as authorize eligible authorized representatives to serve as an appeal representative at a fair hearing consistent with federal law.

Changes to the Authorized Representative Designation Form (ARD)

The revised Authorized Representative Designation Form (ARD) provides that a written designation of an authorized representative by an applicant or member expires upon the death of such applicant or member. Further, while other authorized representatives are generally able to act on behalf of the applicant or member, the specific authorities of an authorized representative designated under Section III of the ARD (ARD III) depend on the wording of the legal appointment that creates the ARD III.

ARD Section II

Section II of the ARD allows an authorized representative to be designated for an applicant or member without the applicant's or member's signature in very limited situations where written designation is not possible, such as due to a physical or mental incapacity. Consequently, MassHealth Enrollment Center (MEC) staff must ensure all the conditions for designation of an ARD II have otherwise been met as described below.

Following the revised regulations at 130 CMR 501.000 and 515.000, an authorized representative may be designated under Section II of the ARD (ARD II) *only if* all of the following four conditions are met:

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Changes to the Authorized Representative Designation Form (ARD) (*cont.*)

- 1) the applicant or member cannot otherwise provide written designation (such as in the case of physical or mental incapacity);
- 2) the applicant or member does not otherwise have an individual who can act on his or her behalf, such as an existing authorized representative, guardian, conservator, personal representative of the estate, holder of power of attorney, or invoked health care proxy;
- 3) the proposed ARD II is a person acting responsibly on behalf of the applicant or member; and
- 4) the proposed ARD II is sufficiently aware of the applicant's or member's circumstances to assume responsibility for the accuracy of the statements made on his or her behalf during the eligibility process and in other communications with MassHealth.

Therefore, the designation of an ARD II is only possible if there is not already another individual who can act on the applicant's or member's behalf on file, such as an existing authorized representative (ARD I, II, or III), guardian, conservator, personal representative of the estate, holder of power of attorney, or invoked health care proxy.

Language was also added to Section II of the ARD to make certain that any individual who wishes to be an ARD II and who is a provider, staff member, or a volunteer with an affiliation with any organization certifies that he or she will adhere to applicable state and federal laws about confidentiality and conflict of interest. Additionally, new language requires an organization-based ARD II, such as an employee of a nursing facility, to certify that the applicant or member cannot provide written designation and that they do not have any other individual who is authorized to act on the applicant's or member's behalf. This section now requires a signature from an officer of the organization to indicate acknowledgement and agreement to the requirements of ARD II.

Supplies of the ARD

The new ARD form is effective January 2018. Earlier versions of the ARD may be accepted until February 1, 2018. Although the printed version is not yet available, the form can be found on the MassHealth website and is attached to this eligibility operations memo.

Questions

If you have any questions about this memo, please have your MEC designee contact the Policy Hotline.