Chapter 8: Your rights and responsibilities

**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 the *Member Handbook*.

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

[Plans should refer members to other parts of the handbook using the appropriate chapter number, section, and/or page number. For example, "see Chapter 9, Section A, page 1." An instruction [plans may insert reference, as applicable] is listed next to each cross reference throughout the handbook.]

[*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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# Your right to get information in a way that meets your needs

[Plans may edit the section heading and content to reflect the types of alternate format materials available to plan members. Plans may not 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 tell you about the plan’s benefits, your health and treatment options, and your rights in a way that you can understand. We must tell you about your rights each year that you are in our plan.

* To get information in a way that you can understand, call Member Services. Our plan has people who can answer questions in different languages.
* Our plan can also give you materials [plans must insert if they are required to provide materials in any non-English languages: in languages other than English and] in formats such as large print, braille, or audio. [Plans must specifically state which languages are offered. *Plans also must simply describe:*
* *how they will request a member’s preferred language other than English and/or alternate format,*
* *how they will keep the member’s information as a standing request for future mailings and communications so the member does not need to make a separate request each time, and*
* *how a member can change a standing request for preferred language and/or format*.]

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

* Medicare at 1-800-MEDICARE (1-800-633-4227). You can call 24 hours a day, 7 days a week. TTY users should call 1-877-486-2048.
* My Ombudsman at 1-855-781-9898, Monday through Friday from 9:00 A.M. to 4:00 P.M.
  + Use 7-1-1 to call 1-855-781-9898. This number is for people who are deaf, hard of hearing, or speech disabled.
  + Use Videophone (VP) 339-224-6831. This number is for people who are deaf or hard of hearing.
* MassHealth Customer Service Center at 1-800-841-2900, Monday through Friday, from 8:00 A.M. to 5:00 P.M. (TTY: 1-800-497-4648)

# Our responsibility to treat you with respect, fairness, and dignity at all times

Our plan must obey laws that protect you from discrimination or unfair treatment. **We do not discriminate** against members for any of the following reasons:

* Age
* Appeals
* Behavior
* Claims experience
* Ethnicity
* Evidence of insurability
* Gender identity
* Genetic information
* Geographic location within the service area
* Health status
* Medical history
* Mental ability
* Mental or physical disability
* National origin
* Race
* Receipt of health care
* Religion
* Sex
* Sexual orientation
* Use of services

You can also refer to Chapter 11, Section B, “Notice about nondiscrimination,” for more information.

You have the right to have your questions and concerns answered completely and courteously.

You have the right to be treated with respect and with consideration for your dignity.

Under the rules of the plan, you have the right to be free from any kind of physical restraint or seclusion that would be used as a means of coercion, force, discipline, convenience, or retaliation. (In other words, you should be free from being physically controlled or kept alone as a way to force you to do something, to punish you, or to make things easier for others.)

You have the right to make recommendations regarding your rights and responsibilities.

We cannot deny services to you or punish you for exercising your rights.

* For more information, or if you think that you might have a complaint about discrimination or that you got unfair treatment, call the Department of Health and Human Services’ **Office for Civil Rights** at 1-800-368-1019 (TTY: 1-800-537-7697). You can also visit [www.hhs.gov/ocr](http://www.hhs.gov/ocr) for more information.
* You can also call your local Office for Civil Rights. [Plans should insert contact information for the local office.]

If you have a disability and need help getting care or reaching a provider, call Member Services. If you have a complaint, such as a problem with wheelchair access, Member Services can help.

# Our responsibility to ensure that you get timely access to covered services and drugs

[Plans may edit this section to add specific requirements for minimum access to care and remedies. Include the following sentence: If you cannot get services within a reasonable amount of time, we have to pay for out-of-network care.]

As a member of our plan, these are your rights:

* You have the right to choose a primary care provider (PCP) in the plan’s network. A network provider is a provider who works with the health plan. You can find more information about choosing a PCP in Chapter 3 [plans may insert reference, as applicable].
  + Call Member Services or look in the *Provider and Pharmacy Directory* to learn which doctors are accepting new patients.
* [Plans may edit this sentence to add other types of providers that members may see without a referral.] You have the right to go to a women’s health specialist without getting a referral. A referral is approval from your PCP to see someone that is not your PCP. [If applicable, replace the previous sentences with: We do not require you to get referrals. **or** We do not require you to go to network providers.]
* You have the right to get covered services from network providers within a reasonable amount of time.
* This includes the right to get timely services from specialists.
* You have the right to get emergency services or urgent care without first getting authorization (prior approval) in an emergency.
* You have the right to get your prescriptions filled without long delays at any of our network pharmacies.
* You have the right to know when you can see an out-of-network provider. To learn about out-of-network providers, see Chapter 3 [plans may insert reference, as applicable].

Chapter 9 [plans may insert reference, as applicable] tells you what you can do if you think you are not getting your services or drugs within a reasonable amount of time. Chapter 9 [plans may insert reference, as applicable] also tells you what you can do if we have denied coverage for your services or drugs and you do not agree with our decision.

# Our responsibility to protect your privacy and personal health information (PHI)

You have the right to have privacy during treatment and to expect confidentiality of all records and communications.

We protect your personal health information (PHI) as required by federal and state laws.

* Your PHI includes the information you gave us when you enrolled in this plan. It also includes your medical records and other medical and health information.
* You have the right to get information and to control how your PHI is used. We will give you a written notice that tells about these rights. The notice is called the “Notice of Privacy Practice.” The notice also explains how we protect the privacy of your PHI.

## D1. How we protect your PHI

We make sure that unauthorized people do not see or change your records.

In most situations, we do not give your PHI to anyone who is not providing your care or paying for your care. If we do, we are required to get written permission from you first. Written permission can be given by you or by someone who has the legal power to make decisions for you.

There are certain cases when we do not have to get your written permission first. These exceptions are allowed or required by law:

* + We must release PHI to government agencies that are checking on our quality of care.
  + We must give Medicare and MassHealth your PHI. If Medicare releases your PHI for research or other uses, it will be done according to federal laws. If MassHealth releases your PHI for research or other uses, it will be done according to federal and state laws.

## D2. You have a right to see your medical records

* You have the right to look at your medical records and to get a copy of your records. We are allowed to 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 will work with your health care provider to decide whether the changes should be made.
* You have the right to know if and how your PHI has been shared with others.

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

[Plans may insert custom privacy practices.]

# Our responsibility to give you information about the plan, its network providers, and your covered services

[Plans may 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 <plan name>, you have the right to get timely information and updates about your plan from us. If you do not speak English, we must give you the information in a language you understand free of charge. [Plans must insert information about the availability of written materials in languages other than English, stating specifically what languages are offered.] We can also give you information free of charge in large print, braille, audio, American Sign Language video clips, and other ways. [If applicable, plans should insert information about the availability of written materials in other formats.]

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

* Our plan, including:
* What financial information is available;
* How the plan has been rated by plan members;
* How many appeals our members have made; and
* How to leave the plan.
* Our network providers and our network pharmacies, including:
* How to choose or change primary care [insert as appropriate: physicians **or** providers];
* What the qualifications are of our network providers and pharmacies; and
* How we pay the providers in our network.
* For a list of providers and pharmacies in the plan’s network, see the *Provider and Pharmacy Directory*. For more detailed information about our providers or pharmacies, call Member Services or visit our website at <web address>.
* Covered services and drugs and about rules you must follow, including:
* Services and drugs covered by the plan;
* Limits to your coverage and drugs; and
* Rules you must follow to get covered services and drugs.
* Why a drug or service is not covered and what you can do about it, including:
* Asking us to put in writing why the drug or service is not covered;
* Asking us to change a decision we made; and
* Asking us to pay for a bill you got.

# Inability of network providers to bill you directly

Doctors, hospitals, and other providers in our network cannot make you pay for covered services. They also cannot charge you if we pay them less than they charged us. To learn what to do if a provider tries to charge you for covered services, see Chapter 7 [plans may insert reference, as applicable].

# Your right to leave our plan

You have the right to leave the plan. No one can make you stay in our plan if you do not want to. You can contact the MassHealth Customer Service Center at 1-800-841-2900 or TTY: 1-800-497-4648 (for people who are deaf, hard of hearing, or speech disabled) and ask to leave the plan. You can also call 1-800-Medicare to enroll in a Medicare Advantage or prescription drug plan and leave our plan. Please see Chapter 10 for more information on leaving our plan.

If you choose to leave our plan, your services will stay in place until the end of that month. For example, if you leave our plan on September 5, you will be covered by our plan until the end of September.

* If you leave our plan, you will still be in the Medicare and MassHealth programs.
* You have the right to get most of your health care services through Original Medicare or a Medicare Advantage plan.
* You also have a right to get your MassHealth benefits directly from the MassHealth Medicaid program.
* You can get your Medicare Part D prescription drug benefits from a prescription drug plan or from a Medicare Advantage plan.

# Your right to make decisions about your health care

## H1. Your right to know your treatment options and make decisions about your health care

You have the right to get full information from your doctors and other health care providers when you get services. You also have the right to have access to doctors and other providers who can meet your needs. This includes providers who can meet your health care needs, communicate with you, and provide you with services in locations that you can physically access. Your providers must explain your condition and your treatment choices in a way that you can understand. You may also choose to have family member or caregiver involved in your services and treatment discussions. You have the right to:

* **Know your choices.** You have the right to have your medical needs explained to you, and to be told about all the kinds of treatment available to you, regardless of cost or benefit coverage.
* **Know the risks.** You have the right to be told about any risks involved in your services or treatments. You must be told in advance if any of your services or treatments are part of a research experiment. You have the right to refuse experimental treatments.
* **Get a second opinion.** You have the right to see another doctor before you decide on a 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 also have the right to stop taking a drug. If you refuse treatment or stop taking a drug, you will not be dropped from the 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 has denied care that you believe you should get.
* **Ask us to cover a service or drug that was denied or that is usually not covered.** This is called a coverage decision. Chapter 9 [plans may insert reference, as applicable] tells you how to ask the plan for a coverage decision.
* **Change your providers.** You have the right to change your providers.

## H2. Your right to say what you want to happen if you are unable to make health care decisions for yourself

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

Sometimes people are unable to make health care decisions for themselves. Before that happens to you, you can:

* Fill out a written form to **give someone the right to make health care decisions for you**; and
* **Give your doctors written instructions** about how you want them to handle your health care if you become unable to make decisions for yourself.

The legal document that you can 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.

You do not have to use an advance directive, but you can if you want to. Here is what to do:

* **Get the form.** You can get a form from your doctor, a lawyer, a legal services agency, or a social worker. Organizations that give people information about Medicare or Medicaid [plans should insert examples of those organizations] may also have advance directive forms. [Insert if applicable: You can also contact Member Services to ask for the forms.]
* **Fill it out and sign the form.** The form is a legal document. You should consider having a lawyer help you fill it out.
* **Give copies to people who need to know about it.** You should give a copy of the form to your doctor. You should also give a copy to the person you name as the one who will make decisions for you. You may also want to give copies to close friends or family members. Be sure to keep a copy at home.
* If you are going to be hospitalized and you have signed an advance directive, **take a copy of it to the hospital**.

The hospital will ask you whether you have signed an advance directive form and whether you have it with you.

If you have not signed an advance directive form, the hospital has forms available and will ask if you want to sign one.

Remember, it is your choice to fill out an advance directive.

## H3. What to do if your instructions are not followed

If you have signed an advance directive, and you believe that a doctor or hospital did not follow the instructions in it, you may file a complaint with [plans should insert the name and contact information of the applicable state-specific agency (such as the State Department of Health)].

# Your right to make complaints and to ask us to reconsider decisions we have made

Chapter 9 [plans may insert reference, as applicable] tells you what you can do if you have any problems or concerns about your covered services or care. For example, you could ask us to make a coverage decision, make an appeal to us to change a coverage decision, or make a complaint.

You have the right to get information about appeals and complaints that other members have filed against our plan. To get this information, call Member Services.

## I1. What to do if you believe you are being treated unfairly or you would like more information about your rights

If you believe you are being treated unfairly—and it is not about discrimination for the reasons listed in Section B of this chapter—or you would like more information about your rights, you can get help by calling:

* Member Services at <toll-free number>.
* The State Health Insurance Assistance Program called SHINE (Serving the Health Insurance Needs of Everyone). For details about this organization and how to contact it, see Chapter 2 [plans may insert reference, as applicable].
* Medicare at 1-800-MEDICARE (1-800-633-4227), 24 hours a day, 7 days a week. TTY users should call 1-877-486-2048.
* MassHealth at 1-800-841-2900, Monday through Friday, from 8:00 A.M. to 5:00 P.M. (TTY: 1-800-497-4648).
* My Ombudsman at 1-855-781-9898 (Toll Free), Monday through Friday from 9:00 A.M. to 4:00 P.M.
  + Use 7-1-1 to call 1-855-781-9898. This number is for people who are deaf, hard of hearing, or speech disabled.
  + Use Videophone (VP) 339-224-6831. This number is for people who are deaf or hard of hearing.
  + Email My Ombudsman at [info@myombudsman.org](mailto:info@myombudsman.org).

My Ombudsman is an independent program that can help you address concerns or conflicts with your enrollment in One Care or your access to One Care benefits and services.

[If applicable, plans should insert additional contact information.]

# Your responsibilities as a member of the plan

[Plans may modify this section to include additional member responsibilities. Plans may add information about other requirements mandated by the state.]

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

* **Read the *Member Handbook*** to learn what is covered and what rules you need to follow to get covered services and drugs. For details about your:
  + - Covered services, see Chapters 3 and 4 [plans may insert reference, as applicable]. Those chapters tell you what is covered, what is not covered, what rules you need to follow, and what you pay.
    - Covered drugs, see Chapters 5 and 6 [plans may insert reference, as applicable].
* **Tell us about any other health or prescription drug coverage** you have.We are required to make sure you are using all of your coverage options when you get health care. Please call Member Services if you have other coverage.
* **Tell your doctor and other health care providers** that you are enrolled in our plan.Show your Member ID Card every time you get services or drugs.
* **Help your doctors** and other health care providers give you the best care.
  + Choose a primary care provider.
  + Call your [*insert primary care provider, Care Coordinator, or other appropriate individual per the plan’s care model*] when you need health care or within forty-eight hours of any emergency or out-of-network treatment.
  + Give them the information they need about you and your health that is complete and accurate. Learn as much as you can about your health problems. Follow the treatment plans and instructions that you and your providers agree on.
  + Make sure your doctors and other providers know about all of the drugs you are taking. This includes prescription drugs, over-the-counter drugs, vitamins, and supplements.
  + Make sure you ask any questions that you have. Your doctors and other providers must explain things in a way you can understand. If you ask a question and you do not understand the answer, ask again.
  + Understand the role of your primary care provider, your Care Coordinator, and your Care Team in providing your care and arranging other health care services that you may need.
  + Follow the Individualized Care Plan (ICP) you and your Care Team agree to.
  + Understand your benefits and what is covered and know what is not covered.
* **Be considerate.** We expect all our members to respect the rights of other patients. We also expect you to act with respect in your doctor’s office, hospitals, other providers’ offices, and in your home when your providers are visiting you.
* [Plans may edit as needed to reflect the costs applicable to their members.] **Pay what you owe.** As a plan member, you are responsible for these payments:
  + [Delete this bullet if the plan does not have cost sharing:] For some of your [insert if the plan has cost sharing for long-term services and supports or drugs: long-term services and supports [or drugs]] covered by the 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: copay (a fixed amount) **or** coinsurance (a percentage of the total cost)]. [Insert if the plan has cost sharing for long-term services and supports: Chapter 4 [plans may insert reference, as applicable] tells what you must pay for your long-term services and supports.] Chapter 6 [plans may insert reference, as applicable] tells what you must pay for your drugs.
  + **If you get any services or drugs that are not covered by our plan, you must pay the full cost.** If you disagree with our decision not to cover a service or drug, you can make an appeal. Please see Chapter 9 [plans may insert reference, as applicable] to learn how to make an appeal.
* **Tell us if you move.** If you are going to move, it is important to tell us right away. Call Member Services.
  + **If you move outside of our service area, youcannot stay in this plan.** Only people who live in our service area can get <plan name>. Chapter 1 [plans may insert reference, as applicable] tells you about our service area.
  + We can help you figure out whether you are moving outside our service area. [Plans that do not offer plans outside the service area may delete the following sentence:] During a special enrollment period, you can switch to Original Medicare or enroll in a Medicare health or prescription drug plan in your new location. We can let you know if we have a plan in your new area.
  + Also, be sure to let Medicare and MassHealth know your new address when you move. See Chapter 2 [plans may insert reference, as applicable] for phone numbers for Medicare and MassHealth.
  + **If you move but stay in our service area, we still need to know.** We need to keep your record up to date and know how to contact you.
* **Tell us if your personal information changes.** It is important to tell us right away if you have a change in personal information such as telephone, marriage, additions to the family, eligibility, or other health insurance coverage.
* Call Member Services at <toll-free number> for help if you have questions or concerns.

## J1. Estate recovery

[Plans must include language related to estate recovery as required by the state. The state will provide plans additional guidance or requirements for this section.]