Chapter 8: Your rights and responsibilities

Introduction

In this chapter, you will find legal notices that apply to your membership in <plan name> and your rights and responsibilities as a plan member. 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.]

[Plans should refer members to other parts of the handbook using the appropriate chapter number, section, and/or page number. For example, "refer to 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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# Legal notices

## A1. Notices about laws

Many laws apply to this *Member Handbook*. These laws may affect your rights and responsibilities even if the laws are not included or explained in this handbook. The main laws that apply to this handbook are federal laws about the Medicare and Medicaid programs and state laws about the Medicaid program. Other federal and state laws may apply too.

## A2. Notice about nondiscrimination

Every company or agency that works with Medicare and Medicaid must obey laws that protect you from discrimination or unfair treatment. We don’t discriminate or treat you differently because of your age, claims experience, color, ethnicity, evidence of insurability, gender, genetic information, geographic location within the service area, health status, medical history, mental or physical disability, national origin, race, religion, or sex. [Plans may add language describing additional categories covered under state human rights laws.]

If you want more information or have concerns about discrimination or unfair treatment:

* Call the Department of Health and Human Services, Office for Civil Rights at 1-800-368-1019. TTY users can call 1-800-537-7697. You can also visit [www.hhs.gov/ocr](http://www.hhs.gov/ocr) for more information.
* Call your local Office for Civil Rights. [*Plans insert contact information for the local office.*]

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

## A3. Notice about Medicare as a second payer

Sometimes someone else has to pay first for the services we provide you. For example, if you are in a car accident or if you are injured at work, insurance or Workers Compensation has to pay first.

We have the right and responsibility to collect for covered Medicare services for which Medicare is not the first payer.

# Your right to get services and 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 ensure that **all** services are provided to you in a culturally competent and accessible manner. Each year you are in our plan, we must also tell you about the plan’s benefits and your rights in a way that you can understand.

* To get information in a way that you can understand, call Member Services. Our plan has free interpreter services available to 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, 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.
* You can also contact the Ohio Medicaid Hotline at 1-800-324-8680, Monday through Friday from 7:00 am to 8:00 pm and Saturday from 8:00 am to 5:00 pm. TTY users should call 7-1-1.
* Office of Civil Rights at 1-800-368-1019 or TTY 1-800-537-7697.

# 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.]

As a member of our plan:

* You have the right to get all services that <plan name> must provide and to choose the provider that gives you care whenever possible and appropriate.
* You have the right to be sure that others cannot hear or find you when you are getting medical care.
* 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 more about network providers and which doctors are accepting new patients.
* You have the right to use a network women’s health specialist for covered women’s health services without getting a referral. A referral is approval from your PCP to use someone that is not your PCP.
* 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.
* If you cannot get services within a reasonable amount of time, we have to pay for out-of-network care.
* You have the right to get emergency services or care that is 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 [plans may insert reference, as applicable].

Chapter 9 [plans may insert reference, as applicable] tells 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 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 personal health information (PHI)

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 be ensured of confidential handling of information concerning your diagnoses, treatments, prognoses, and medical and social history.
* You have rights related to your information and to control how your PHI is used. We 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

You have the right to be given information about your health. This information may also be available to someone who you have legally authorized to have the information or who you have said should be reached in an emergency when it is not in the best interest of your health to give it to you.

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

Except for the cases noted below, 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 are required to release PHI to government agencies that are checking on our quality of care.
* We are required to give Medicare your PHI. If Medicare releases your PHI for research or other uses, it will be done according to Federal laws. [Plans may insert similar information about sharing medical records with Medicaid as appropriate.]

## D2. You have a 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. We are allowed to charge you a fee for making a copy of your medical records if it isn’t to transfer the records to a new provider.

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 information from us. If you do not speak English, we have free interpreter services to answer any questions you may have about our health plan. To get an interpreter, just call us at <phone number>. This is a free service. [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 in large print, braille, or audio. [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:

* How to choose or change plans
* Our plan, including but not limited to:
* financial information
* how the plan has been rated by plan members
* the number of appeals made by members
* how to leave the plan
* Our network providers and our network pharmacies, including:
* how to choose or change primary care providers (PCP). You can change your PCP to another network PCP [insert how frequently a member may change their PCP (must be at least monthly)]. We must send you something in writing that says who the new PCP is and the date the change began.
* qualifications of our network providers and pharmacies
* how we pay providers in our network
* a list of providers and pharmacies in the plan’s network, in 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 (refer to Chapter 3 and 4) and drugs (refer to Chapter 5 and 6) and about rules you must follow, including:
* services and drugs covered by the plan
* limits to your coverage and drugs
* rules you must follow to get covered services and drugs
* Why something is not covered and what you can do about it (refer to Chapter 9), including asking us to:
* put in writing why something is not covered
* change a decision we made
* 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 for less than the provider charged us. To learn what to do if a network provider tries to charge you for covered services, refer to Chapter 7 [plans may insert reference, as applicable].

# Your right to get your Medicare and Part D coverage from Original Medicare or another Medicare plan at any time by asking for a change

* You have the right to get your Medicare health care services through Original Medicare or a Medicare Advantage plan.
* You can get your Medicare Part D prescription drug benefits from a prescription drug plan or from a Medicare Advantage plan.
* Refer to Chapter 10 [plans may insert reference, as applicable] for more information about when you can join a new Medicare Advantage or prescription drug benefit plan.
* You must continue to get your Medicaid services from a MyCare Ohio plan.

If you want to make a change, you can call the Ohio Medicaid Hotline at 1-800-324-8680 (TTY users should call 7-1-1), Monday through Friday from 7:00 am to 8:00 pm and Saturday from 8:00 am to 5:00 pm. Calls to this number are free.

# 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. 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** and be told about all the kinds of treatment provided in a way appropriate to your condition and ability to understand.
* **Know the risks** and be told about any risks involved.
* You must be told 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** by using another qualified network provider before deciding on treatment.
* If a qualified network provider is not able to find you, we will arrange a visit with a non-network provider at no cost to you.
* **Say “no”** and refuse any treatment or therapy.
* This includes the right to:
* leave a hospital or other medical facility, even if your doctor advises you not to.
* stop taking a drug.
* If you say no to treatment, therapy or taking a drug, the doctor or <plan name> must talk to you about what could happen and they must put a note in your medical record.
* 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** and 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 is usually not covered.** This is called a coverage decision. Chapter 9 [plans may insert reference, as applicable] tells how to ask the plan for a coverage decision.
* **Know of specific student practitioner roles** and refuse treatment from a student.

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

[**Note:** Plans must insert the language in the “You Have the Right” document located on the Ohio Department of Medicaid website, resources section (located at [*medicaid.ohio.gov/RESOURCES/Publications/Medicaid-Forms*](https://medicaid.ohio.gov/RESOURCES/Publications/Medicaid-Forms)) verbatim in this section.]

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**.
* **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.] The forms are also currently available on the following website: [www.proseniors.org/advance-directives/](http://www.proseniors.org/advance-directives/).
* **Fill it out and sign the form.** The form is a legal document. You should consider having a lawyer help you prepare it.
* **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 to make decisions for you. You may also want to give copies to close friends or family members. 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 or not.

## 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 the Ohio Department of Health by calling 1-800-342-0553 or emailing [HCComplaints@odh.ohio.gov](mailto:HCComplaints@odh.ohio.gov).

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

Chapter 9 [plans may insert reference, as applicable] tells 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. We will also send you a notice when you can make an appeal directly to the Bureau of State Hearings within the Ohio Department of Job and Family Services.

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

You are free to exercise all of your rights knowing that <plan name>, our network providers, Medicare, and the Ohio Department of Medicaid will not hold it against you.

If you believe you have been treated unfairly and it is **not** about discrimination for the reasons listed in Chapter 11 or you would like more information about your rights, you can get help by calling:

* Member Services.
* The Ohio Medicaid Consumer Hotlineat 1-800-324-8680 (TTY users call 7-1-1), Monday through Friday from 7:00 am to 8:00 pm and Saturday from 8:00 am to 5:00 pm. Calls to this number are free.
* Medicare at 1-800-MEDICARE (1-800-633-4227), 24 hours a day, 7 days a week. TTY 1-877-486-2048. (You can also read or download “Medicare Rights & Protections,” found on the Medicare website at [www.medicare.gov/Pubs/pdf/11534-Medicare-Rights-and-Protections.pdf](https://www.medicare.gov/Pubs/pdf/11534-Medicare-Rights-and-Protections.pdf).)
* The MyCare Ohio Ombudsman in the Office of the State Long-Term Care Ombudsman at 1-800-282-1206, Monday through Friday from 8:00 am to 5:00 pm. Refer to Chapter 2 [plans may insert reference, as applicable] for more information about this organization.

# Your responsibilities as a member of the plan

[Plans may modify this section to include additional member responsibilities (with the exception of prior authorization (PA) requirements stipulated in the Member Handbook, the plan cannot establish any member responsibilities which would preclude the plan’s coverage of a Medicaid-covered service). 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, refer to 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, refer to 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 whenever you get services or drugs.
* **Help your doctors** and other health care providers give you the best care.
* Give them the 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.
* 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.
* If you have any questions, be sure to ask. 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.
* **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, and other providers’ offices.
* [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:
* Medicare Part A and Medicare Part B premiums. For nearly all <plan name> members, Medicaid pays the Part A premium and Part B premium. If you pay your Part A and/or part B premium and think Medicaid should have paid, you can contact your County Department of Job and Family Services and ask for assistance.
* [Delete this bullet if the plan does not have any cost sharing for drugs:] For some of your drugs covered by the plan, you must pay your share of the cost when you get the drug.
* **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, you cannot 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 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 Medicaid know your new address when you move. Refer to Chapter 2 [plans may insert reference, as applicable] for phone numbers for Medicare and Medicaid.
* **If you move within our service area, we still need to know.** We need to keep your membership record up to date and know how to contact you. Refer to Section K in Chapter 1 for more information. You must also notify your County Caseworker at the local Department of Job and Family Services.
* Call Member Services for help if you have questions or concerns.

## J1. Estate recovery program

If you are permanently institutionalized or age 55 or older when you get Medicaid benefits, the Estate Recovery Program may recover payments from your estate for the cost of your care paid by Ohio Medicaid. The cost of your care may include the capitation payment that Ohio Medicaid pays to your managed care plan, even if the payment is greater than the cost of the services you got. Estate recovery happens after your death.