Chapter 8: Your rights and responsibilities

Introduction

In this chapter, you will find your rights and responsibilities as a Participant of <plan name>. <Plan name> must honor your rights. Key terms and their definitions appear in alphabetical order in the last chapter of the *Participant Handbook*.

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

[The plan should refer Participants 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 [plan may insert reference, as applicable] is listed next to each cross reference throughout the handbook.]

[*Plan 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

[Plan may edit the section heading and content to reflect the types of alternate format materials available to plan Participants. The plan may not edit references to language except as noted below.]

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

We must tell you about <plan name> benefits and your rights in a way that you can understand. We must tell you about your rights each year that you are a Participant in <plan name>. We must also tell you about all of your rights and how to exercise your rights in writing prior to the effective date of coverage.

* You have the right to get timely information about <plan name> changes. This includes the right to get annual updates to the Marketing, Outreach and Participant Communications materials.
* This also means you have the right to get notice of any significant change in the way in which services are provided to you at least 30 days prior to the intended effective date of the change.
* You have the right to have all plan options, rules, and benefits fully explained, including through the use of a qualified interpreter if needed. To get information in a way that you can understand, please call Participant Services. <Plan name> has people who can answer questions in different languages.
* Our plan can also give you materials [Plan must insert if it is required to provide materials in any non-English languages: in languages other than English and] in formats such as large print, braille, or audio. [Plan must specifically state which languages are offered. Plan must also describe how Participants can make a standing request to get materials, now and in the future, in a language other than English or in an alternate format.]
* If you are having trouble getting information from <plan name> because of language problems or a disability and you want to file a grievance, 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. [Plan should insert information about filing a grievance with Medicaid.]

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

<Plan name> must obey laws that protect you from discrimination or unfair treatment. **We do not discriminate** against Participants because of any of the following:

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

Under the rules of <plan name>, you have the right to be free of any form of physical restraint or seclusion that would be used as a means of coercion, force, discipline, convenience, or retaliation. You have the right to not be neglected, intimidated, physically or verbally abused, mistreated, or exploited. You also have the right to be treated with consideration, respect, and full recognition of your dignity, privacy, and individuality.

We cannot deny services to you or punish you for exercising your rights. Your exercising of your rights will not negatively affect the way <plan name> and its providers, New York State, or CMS provide or arrange for the provision of services to you.

* For more information, or if you 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 call 1-800-537-7697). You can also visit <http://www.hhs.gov/ocr> for more information.
* You can also call your local Office for Civil Rights. [Plan should insert contact information for the local office.]
* If you have a disability and need help getting care or reaching a provider, call Participant Services. If you have a grievance, such as a problem with wheelchair access, Participant Services can help. You can reach Participant Services at <phone number>, <days and hours of operation>. TTY users call<TTY number>.

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

[Plan 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 Participant of <plan name> these are your rights:

* You have the right to get medically necessary services, items, and drugs as required to meet your needs, in a way that is sensitive to your language and culture, and that is provided in an appropriate care setting, including the home and community.
* You have the right to choose a Primary Care Provider (PCP) in <plan name>’s network. A network provider is a provider who works with <plan name>. You can also ask us to have a specialist serve as your PCP. You can find more information about choosing a PCP in Chapter 3 [*the* *plan may insert reference, as applicable*].
* Call Participant Services or look in the *Provider and Pharmacy Directory* to learn more about network providers and which providers are accepting new patients.
* You have the right to make decisions about providers and coverage, which includes the right to choose and change providers within our network.
* You have the right to go to a women’s health specialist without getting a referral or prior authorization.
* A referral is approval from your PCP to see someone that is not your PCP. Referrals are not required in <plan name>.
* Prior authorization means that you must get approval from your Interdisciplinary Team (IDT), <plan name>, or another specified provider before you can get certain services, items, or drugs or see an out-of-network provider.
* You have the right to access other services that do not require prior authorization, such as emergency and urgently needed care, out-of-area dialysis services, and Primary Care Provider visits. Please see Chapter 4 [plan may insert reference, as applicable] for more information on services requiring prior authorization and those that do not.
* 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 have telephone access to your providers through on-call services. You also have the right to access the <plan name> Nurse Advice Call Line 24 hours a day, 7 days a week in order to obtain any needed emergency or urgent care or assistance.
* You have the right to get your prescriptions filled at any of our network pharmacies without long delays.
* You have the right to access care without facing physical barriers. This includes the right to be able to get in and out of a provider’s office, including barrier-free access if you have any disabilities or other conditions limiting your mobility, in accordance with the Americans with Disabilities Act.
* You have the right to access an adequate network of primary and specialty providers who are available and capable of meeting your needs with respect to physical access, as well as communication and scheduling needs.
* You have the right to get reasonable accommodations in accessing care, in interacting with <plan name> and providers, and in getting information about your care and coverage.
* You have the right to be told where, when, and how to get the services you need, including how to get covered benefits from out-of-network providers if the providers you need are not available in <plan name>’s network. To learn about out-of-network providers, see Chapter 3 [plan may insert reference, as applicable].

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

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

Your PHI includes the information you gave us when you enrolled in <plan name>. It also includes your conversations with your providers, 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 give you a written notice called the “Notice of Privacy Practice” that tells about these rights. The notice also explains how we protect the privacy of your PHI.

You have the right to ask that any communication that contains protected PHI from <plan name> be sent by alternative means or to an alternative address.

## 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 are required to release PHI to government agencies that are checking on our quality of care.
* We are required to give Medicare and Medicaid your PHI and drug information. If Medicare or Medicaid releases your PHI for research or other uses, it will be done according to Federal laws. You have the right to ask for information on how your health and other information has been released by <plan name>.

## 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.

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 Participant Services at <toll-free number>, <days and hours of operation>. TTY users call <toll-free TTY number>.

[Plan may insert custom privacy practices.]

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

[Plan may edit the section to reflect the types of alternate-format materials available to plan Participants and/or languages primarily spoken in the plan’s service area.]

As a Participant of <plan name>, you have the right to get timely information and updates from us**.** If you do not speak English, we must give you the information free of charge in a language that you can understand.

* We must also provide you with a qualified interpreter, free of charge, if you need one during appointments with providers.
* If you have questions about <plan name> or you are in need of interpreter services, just call us at <toll-free number>. This is a free service.
* [Plan 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 other formats, like large print, braille, or audio. [If applicable, the plan should insert information about the availability of written materials in other formats.]

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

* How to choose or change plans
* Our plan, including:
* Financial information
* How <plan name> has been rated by plan Participants
* The number of appeals made by Participants
* How to leave <plan name>
* 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
* For a list of providers and pharmacies in <plan name>’s network, see the *Provider and Pharmacy Directory*. For more detailed information about our providers or pharmacies, call Participant Services, or visit our website at <web address>.
* Covered services, items, and drugs and about rules you must follow, including:
* Services, items, and drugs covered by <plan name>
* Limits to your coverage and drugs
* Rules you must follow to get covered services, items, and drugs
* Why a service, item, or drug is not covered and what you can do about it, 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, items, or drugs. They also cannot charge you if we pay less than the provider charged us or if we don’t pay them at all. You have the right to not be charged any copays, premiums, deductibles, or other cost-sharing. To learn what to do if a network provider tries to charge you for covered services, items, or drugs, see Chapter 7 [plan may insert reference, as applicable] or call Participant Services.

# Your right to leave <plan name>

No one can make you stay in our plan if you do not want to.

* You have the right to get most of your 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.
* See Chapter 10 [the plan may insert reference, as applicable] for more information about when you can join a new Medicare Advantage or prescription drug benefit plan.
* You will get your Medicaid services through Medicaid Fee-For-Service (Original Medicaid).

# Your right to make decisions about your health care

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

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 help you meet your health care needs, communicate with you in a way that you can understand, and provide you with services in locations that you can physically access. You may also choose to have a family member or caregiver involved in your services and treatment discussions. You have the right to appoint someone to speak for you about the care you need. You have the right to:

* **Know your choices.** You have the right to be told about all the kinds of treatment. You have the right to talk with and get information from providers on all available treatment options and alternatives, regardless of cost, and to have these options presented in a way you understand.
* **Know the risks.** You have the right to 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.** You have the right to see another provider before deciding on treatment.
* **Say “no.**” You have the right to accept or refuse any treatment. This includes the right to leave a hospital or other medical facility, even if your provider 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 <plan name>. 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.
* **Get a written explanation.** If covered services, items, or drugs were denied, you have the right to get a written explanation without having to ask for one.
* **Ask us to cover a service, item, or drug that was denied or is usually not covered.** This is called a coverage decision. Chapter 9 [plan may insert reference, as applicable] tells how to ask <plan name> or your Interdisciplinary Team (IDT) for a coverage decision.
* **Participate in your care planning.** As a Participant in <plan name>, you will get a comprehensive assessment upon enrollment. You will also meet with your IDT to develop your Life Plan (LP) and to update it, when necessary. You have the right to ask for a new comprehensive assessment or an update to your LP at any time. For more information, see Chapter 1 [plan may insert reference, as applicable].
* **Get complete and accurate information related to your health and functional status from your provider, your IDT, and <plan name>.**

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

[**Note:** If the plan would like to provide Participants 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**.
* **Give your providers 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. When you enroll in the plan, we will inform you about your right to make an advance directive. You will also be told about this right when your Life Plan is updated.

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 Primary Care Provider, a lawyer, a legal services agency, or a social worker. Organizations that give people information about Medicare or Medicaid [plan should insert examples of those organizations] may also have advance directive forms. You can also contact Participant 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 prepare it.
* **Give copies to people who need to know about it.** You should give a copy of the form to your Primary Care Provider. 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. 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 or not.

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

<Plan name> and our providers must honor your instructions. If you have signed an advance directive, and you believe that a provider did not follow the instructions in it, you may file a complaint with the New York State Department of Health Hospital Complaint Line at 1-800-804-5447 or the Managed Long Term Care Technical Assistance Center at 1-866-712-7197.

# Your right to ask for help

Chapter 2 [plan may insert reference, as applicable] contains contact numbers for many helpful resources. You have the right to ask for help without interference from <plan name>. You can ask for help from agencies like the Independent Consumer Advocacy Network (ICAN) or the NY State Long Term Care Ombudsman.

* ICAN can provide information and assistance related to your <plan name> coverage. ICAN can be reached at 1-844-614-8800 (TTY users call 711, then follow the prompts to dial 844-614-8800).
* The NY State Long Term Care Ombudsman can provide information and assistance regarding your rights as a resident of a long-term care facility. Call 1-800-342-9871 for information about contacting your local long-term care ombudsman.

There are other resources available to you, including those listed in Chapter 2. You have the right to ask for help from the entities listed in Chapter 2 or from any other entity you identify.

# Your right to file a grievance and to ask us to reconsider decisions we have made

Chapter 9 [plan 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 file a grievance.

You have the right to get information about appeals and grievances that other Participants have filed against <plan name>. To get this information, call Participant Services.

## J1. What to do if you believe you are being treated unfairly or your rights are not being respected

If you believe you have been treated unfairly—andit is **not** about discrimination for the reasons listed on page <page number>—you can get help in these ways by calling:

* Participant Servicesand file a grievance with <plan name> as outlined in Chapter 9 [plan may insert reference, as applicable].
* You can call the Health Insurance Information, Counseling and Assistance Program (HIICAP) at 1-800-701-0501.
* Medicare at 1-800-MEDICARE (1-800-633-4227), 24 hours a day, 7 days a week. TTY users call 1-877-486-2048.
* Medicaid at 1-800-541-2831. TTY users call 1-877-898-5849.
* You can call the Independent Consumer Advocacy Network (ICAN) at 1-844-614-8800 (TTY users call 711, then follow the prompts to dial 844-614-8800).

Under all circumstances, you have the right to file an internal grievance with <plan name>, an external grievance with Medicare or the New York State Department of Health (NYSDOH), or an appeal of any coverage decision. The processes for filing any of these are outlined in Chapter 9 [plan may insert reference, as applicable].

## J2. How to get more information about your rights

There are several ways to get more information about your rights:

* Call Participant Services.
* Call the Health Insurance Information, Counseling and Assistance Program (HIICAP) at 1-800-701-0501.
* Contact Medicare.
* You can visit the Medicare website to read or download “Medicare Rights & Protections.” (Go to <https://www.medicare.gov/Pubs/pdf/11534-Medicare-Rights-and-Protections.pdf>.)
* Or you can call 1-800-MEDICARE (1-800-633-4227), 24 hours a day, 7 days a week. TTY users call 1-877-486-2048.
* Call Medicaid at 1-800-541-2831. TTY users call 1-877-898-5849.
* Call the Independent Consumer Advocacy Network (ICAN) at 1-844-614-8800 (TTY users call 711, then follow the prompts to dial 844-614-8800).

## J3. How to get help understanding your rights or exercising them

You can call the Independent Consumer Advocacy Network (ICAN) at 1-844-614-8800 (TTY users call 711, then follow the prompts to dial 844-614-8800). ICAN provides free information and assistance. It is not affiliated with our plan.

# Your right to suggest changes

You have the right to recommend changes in policies and services to <plan name>, Medicare, the New York State Department of Health, Office for People With Developmental Disabilities or any outside representative of your choice.

# Your responsibilities as a Participant of <plan name>

[Plan may modify this section to include additional Participant responsibilities. Plan may add information about estate recovery and other requirements mandated by the state.]

As a Participant of <plan name>, you have a responsibility to do the things that are listed below. If you have any questions, call Participant Services.

* **Read the *Participant Handbook*** to learn what is covered and what rules you need to follow to get covered services, items, and drugs.This includes choosing a Primary Care Provider and using network providers for covered services, items, and drugs.If you don’t understand something, call Participant Services. For details about your:
* Covered services and items, see Chapters 3 and 4 [plan 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 [plan 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 Participant Services if you have other coverage.
* **Tell your Primary Care Provider and other providers that you are enrolled in our plan.**Show your Participant ID Card whenever you get services, items, or drugs.
* **Help your Primary Care Provider and other providers give you the best care.**
* Call your Primary Care Provider or Care Manager if you are sick or injured for direction right away. When you need emergency care from out-of-network providers, notify <plan name> as soon as possible. In case of emergency, call 911.
* Give your providers 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 that your Primary Care Provider 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 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 Manager, and your Interdisciplinary Team (IDT) in providing your care and arranging other health care services that you may need.
* Participate in the development of your Life Plan (LP) with your IDT and keep appointments or notify your Care Manager or IDT if an appointment cannot be met.
* **Be considerate.** We expect all of our Participants to respect the rights of other Participants. We also expect you to act with respect in your Primary Care Provider’s office, hospitals, other providers’ offices, and when dealing with <plan name> employees.
* [Plan may edit, as needed, to reflect the costs applicable to their Participants.] **Pay what you owe.** As a <plan name> Participant, you are responsible for paying the full cost of any services, items, or drugs that are not covered by the plan.
* If you disagree with your IDT’s decision or <plan name>’s decision to not cover a service, item, or drug, you can make an appeal. Please see Chapter 9 [plan 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 Participant 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 [plan may insert reference, as applicable] tells about our service area.
* The Enrollment Broker can help you figure out whether you are moving outside our service area and can help you identify alternative Medicare and Medicaid coverage.
* Also, be sure to let Medicare and Medicaid know your new address when you move. See Chapter 2 [plan 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 participation record up to date and know how to contact you.
* **Tell us if you have any changes in your personal information, including your income or assets.** You must provide <plan name> with accurate and complete information.
* It is important to tell us right away if you have a change in personal information such as phone number, address, marital status, additions to your family, eligibility, or other health insurance coverage.
* If your assets in bank accounts, cash in hand, certificates of deposit, stocks, life insurance policies, or any other assets change, please notify Participant Services and New York State.
* Call Participant Services for help if you have any questions or concerns. Let us know about any problems immediately.