Chapter 8: Your rights and responsibilities

**Introduction**

This chapter includes your rights and responsibilities as a member of the 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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# A. 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 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 must also describe how members 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 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, seven days a week. TTY users should call 1-877-486-2048. [Plans should insert information about filing a complaint with Texas Medicaid.]

# B. 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 because of any of the following:

* 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

Under the rules of the plan, 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.

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

* 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 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. [Plans should insert contact information for the local office.]
* If you have a disability and need help accessing care or a provider, call Member Services. If you have a complaint, such as a problem with wheelchair access, Member Services can help.
* You have the right to be treated fairly and with respect.
* Your medical records and discussions with your providers will be kept private and confidential.

# C. Our responsibility 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:

* You have the right to a reasonable opportunity to choose a health plan and primary care provider (PCP) in the plan’s network. A network provider is a provider who works with the health plan.
* A PCP is the doctor or health care provider you will see most of the time and who will coordinate your care. 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 change to another plan or provider in a reasonably easy manner. That includes the right to:
  + Be told how to choose and change your health plan and your PCP.
* Choose any health plan you want that is available in your area and choose your PCP from that plan.
* Be told the frequency you can change plans.
* Be told about other plans available in your area.
* [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 care that is urgently needed without prior approval.
* 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 see an out-of-network provider. To learn about out-of-network providers, see Chapter 3 [plans may insert reference, as applicable].
* You have the right to agree to or refuse treatment and actively participate in treatment decisions. That includes the right to:
* Work as part of a team with your provider in deciding what health care is best for you.
* Say yes or no to the care recommended by your provider.
* You have the right to timely access to care that does not have any communication or physical access barriers. That includes the right to:
* Have telephone access to a medical professional 24 hours a day, 7 days a week to get any emergency or urgent care you need.
* Get medical care in a timely manner.
* Get in and out of a health care provider’s office. This includes barrier-free access for people with disabilities or other conditions that limit mobility, in accordance with the Americans with Disabilities Act.
* Have interpreters, if needed, during appointments with your providers and when talking to your health plan. Interpreters include people who can speak in your native language, help someone with a disability, or help you understand the information.
* Be given information you can understand about your health plan rules, including the health care services you can get and how to get them.

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.

# D. 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 rights to get 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

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 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 Texas Medicaid as appropriate.]

## 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 Member Services.

[Plans may insert custom privacy practices.]

# E. 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 <toll-free 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:
* 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
* Qualifications of our network providers and pharmacies
* How we pay 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
* Rules you must follow to get covered services and drugs
* Why something 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 have got

# F. 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, see Chapter 7 [plans may insert reference, as applicable].

# G. Your right to leave the plan

No one can make you stay in our plan if you do not want to. You can leave the plan at any time during the year.

* 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 [plans may insert reference, as applicable] for more information about when you can join a new Medicare Advantage or prescription drug benefit plan.
* [Plans should include language that describes that members will get their Texas Medicaid benefits by choosing a Medicaid managed care organization.]

# H. 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. 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.** You have the right to be told about all the kinds of treatment.
* **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 doctor before deciding on 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 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.

## 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**.
* **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 Texas 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 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. 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

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)].

# I. 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. You also have the right to a fair hearing from the state at any time.

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.

You have the right to get a timely answer to a complaint.

### I1. 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:

* Member Services.
* The State Health Insurance Assistance Program (SHIP). In Texas, the SHIP is called the Health Information Counseling & Advocacy Program of Texas (HICAP). 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, seven days a week. TTY users should call 1-877-486-2048.

[If applicable, plans should insert additional contact information, such as for Texas Medicaid or the state ombudsman program.]

## I2. How to get more information about your rights

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

* Call Member Services.
* Call the State Health Insurance Assistance Program (SHIP). In Texas, the SHIP is called the Health Information Counseling & Advocacy Program of Texas (HICAP).
* Contact Medicare.
* 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
  + Call 1-800-MEDICARE (1-800-633-4227), 24 hours a day, 7 days a week. TTY users should call 1-877-486-2048.

[If applicable, plans should insert additional contact information, such as for Texas Medicaid or the state ombudsman program.]

# J. Your responsibilities as a member of the plan

[Plans may modify this section to include additional member responsibilities. Plans may add information about estate recovery and 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 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. We expect you to cancel appointments in advance when you cannot keep them and to keep your scheduled appointments.
* [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 most <plan name> members, Medicaid pays for your Part A premium and for your Part B premium.
* [Delete this bullet if the plan does not have cost sharing:] For some of your drugs covered by the plan, you must pay your share of the cost when you get the 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 to not 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, 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 Texas Medicaid know your new address when you move. See Chapter 2 [plans may insert reference, as applicable] for phone numbers for Medicare and Texas 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.
* Call Member Services for help if you have questions or concerns.
* You must abide by the health plan’s policies and procedures. That includes the responsibility to:
  + Be sure you have approval from your primary care provider before going to a specialist.
* You must share information about your health with your primary care provider and learn about service and treatment options. That includes the responsibility to:
  + Help your providers get your medical records.
  + Work as a team with your service coordinator in deciding what health care is best for you.
* If you think you have been treated unfairly or discriminated against, call the U.S. Department of Health and Human Services (HHS) toll-free at 1-800-368-1019. You also can view information concerning the HHS Office of Civil Rights online at [www.hhs.gov/ocr](http://www.hhs.gov/ocr).