

INDEPENDENT CARE HEALTH PLAN

Department: Family Care Partnership	Policy Name: Partnership Member Rights
Policy Number: FCP CM-002	Page: 1 of 9
Cross Reference: ND-003 Non-Network Exceptions Policy, CO-008 Limited English Proficiency Translation and Interpreter Services Policy, FCP QI-029 Member Incident Policy	

POLICY:

Independent Care Health Plan (*iCare*) is responsible for communicating member’s rights to each potential and current member or guardian/legal decision maker. Member rights are also communicated to members through verbal and written reminders each year of their enrollment in ways that are easily understood by the enrollee. *iCare* recognizes each member as an individual and emphasizes each member’s capabilities in the course of daily work and interactions with members. *iCare* staff and affiliated providers demonstrate dignity and respect in all interactions with members and take members’ rights into account when furnishing services to members. The communication of member rights is in compliance with Title VI of the Civil Rights Act of 1964; titles II and III of the Americans with Disabilities Act (ADA).

PROCESS:

- 1) *iCare* provides all enrollment notices, informational materials, and instructional materials relating to enrollees and potential enrollees in a format that may be easily understood. *iCare* notifies all enrollees of their right to request and obtain information once a year. The Interdisciplinary Team (IDT) Staff provides the member with a copy of the Benefits Summary and Member Handbook at the time of enrollment and reviews this material with them as they complete the introduction to the program and plan.
 - a) Members are sent a letter annually notifying them of their right to receive a Benefit Summary and Member Handbook. Minor changes to these documents will be included in the letter.
 - b) If the member handbook changes significantly all enrollees would receive a new copy. Member rights and responsibilities are reviewed during semi-annual Family Care Partnership Social Comprehensive Assessments by the IDT staff.
- 2) Protection of Member Rights: *iCare* has in effect written safeguards of the rights of enrolled participants, including a member bill of rights, in accordance with regulations and with other requirements of 42 C.F.R. § 438.100, Enrollee Rights and Protections, and of federal and state laws that are designed for the protection of members. The language and practices of *iCare* recognizes each member as an individual and emphasizes each member’s capabilities. *iCare* staff and affiliated providers demonstrate dignity and respect in all their interactions with members and takes members’ rights into account when furnishing services to members.

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iCare has written policies regarding the enrollee rights specified in this section, including but not limited to:

- a) Member choice/preference is respected; their dignity protected (Article X.A.1.2.3)
- b) Receiving information on available treatment options and alternatives, presented in a manner appropriate to the member's condition and ability to understand.
- c) Participating in decisions regarding health and long-term care, including the right to refuse treatment and the right to request a second opinion.
 - i) Upon request, iCare provides a member the opportunity to have a second opinion from a qualified network provider. If an appropriately qualified provider is not available within the network, the IDT Staff help arrange for a second opinion outside of the network with no charge to the member.
 - ii) The *Non-Network Exceptions policy (ND-003)* provides additional guidance for situations whereby use of non-contracted providers is allowed.
- d) Being free from any form of restraint or seclusion used as a means of coercion, discipline, convenience, or retaliation.
- e) Being able to request and receive a copy of his/her medical records, and to request that they be amended or corrected, as specified in 45 C.F.R. § 164.
- 3) iCare recognizes the following as the rights of an iCare member:
 - a) Freedom from unlawful discrimination in applying for or receiving the benefit.
 - b) Accuracy and confidentiality of member information.
 - c) Prompt eligibility, entitlement and cost-sharing decisions and assistance.
 - d) Access to personal, program and service system information.
 - e) Choice to enroll in an iCare plan, if eligible, and to disenroll at any time.
 - f) Information about and access to all services of the Department, Aging and Disability Resource Centers and iCare; to the extent that the member is eligible for such services.
 - g) Support in understanding member rights and responsibilities related to Family Care Partnership.
 - h) Members receive support from iCare in all the following activities, including but not limited to:
 - i) Self-identifying outcomes and long-term care needs.
 - ii) Securing information regarding all services and supports potentially available to the member through the benefit.

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- iii) Actively participating in planning individualized services and making reasonable service and provider choices for supporting identified outcomes.
- iv) Identifying, eliminating, or monitoring and managing situations where a conflict of interest may exist due to a person or entity having an interest in, or the potential to benefit from, a particular decision, outcome, or expenditure.
- v) Services identified in the member’s member-centered plan.
- vi) Support in the exercise of any rights and available grievance and appeal procedures beyond those specified elsewhere in this article.
- vii) Exercise rights, and to be assured that the exercise of those rights does not adversely affect the way the iCare and its providers or any state agency treat the member.
- i) Be furnished health care services in accordance with 42 C.F.R. §438.206 through 42 C.F.R. §438.210.
- j) Exercise their rights, and that the exercise of those rights does not adversely affect the way the Managed Care Organization (MCO) and its network providers treat members.
- k) Be free from unlawful discrimination as specified in federal and state laws (including: Title VI of the Civil Rights Act of 1965; Age Discrimination Act of 1975; Rehabilitation Act of 1973; Title IX of Education Amendments of 1972; Titles II and III of the Americans with Disabilities Act; section 1557 of the Patient Protection and Affordable Care Act.
- l) Access to Member Rights Specialists
- m) Access to Ombudsman
- n) Grievances and Appeals

MEMBER RESPONSIBILITIES:

- 1) iCare encourages and supports members to carry out the following responsibilities.
 - a) Responsibilities related to individual outcomes
 - i) Members are responsible to participate in the comprehensive assessment of their strengths and needs.
 - ii) Members are responsible to participate in the identification of the outcomes important to them and in the development of a member-centered plan designed to support their identified outcomes and meet their identified needs.

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- iii) In addition, members are expected to utilize the available grievance and appeal processes to improve the quality of their own services and supports.
 - b) Responsibilities related to overall quality improvement
 - i) Members are responsible to participate in evaluating the overall quality of *iCare* through member surveys, member interviews conducted by the Department or its external quality review organization and other evaluations conducted by *iCare* or the Department.
 - ii) In addition, members’ participation in the available grievance and appeal processes provides valuable information to *iCare* and the Department about the quality of the services and supports delivered by *iCare*.
- 2) Member rights and responsibilities education:
 - a) *iCare* provides education to members on the grievance and appeal process within sixty (60) calendar days of enrollment. The Care Manager (CM) provides this education to the member during the initial ten (10) visit. The CM reviews and educates the member on *iCare*’s grievance and appeal process described in the member handbook, including information about the availability of *iCare*’s Member Rights Specialist (MRS). Independent Care works proactively with the membership to encourage the use of the internal appeal and grievance process as the first step in the resolution of issues.

**MEMBER RIGHTS SPECIALIST AND INDEPENDENT CARE HEALTH PLAN
ADVOCACY SERVICES**

- 1) *iCare* designates a MRS to serve as a member advocate within the agency.
- 3) The MRS provides support for all members in understanding their rights and responsibilities related to Partnership. These include but are not limited to the following:
 - a) Due process procedures available to them in a grievance or appeal
 - b) Other opportunities that may be available to express opinions and concerns about the Resource Center, providers with which *iCare* contracts, and services received by the member.
- 4) The Member Rights Specialist also assists members to identify all rights to which they are entitled.

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- a) If multiple grievances, review or fair hearing processes are available to the member, the MRS also offers advice about which process might best meet the member needs.
- 5) Independent Care Advocacy Services:
 - a) The Member Rights Specialist has direct access to top level management of *iCare*, and performs the following functions at a minimum:
 - i) Assist individual members with issues and concerns that relate to the care management or the services provided through *iCare*; and
 - ii) Assist in assuring quality services throughout *iCare*.
 - b) Independent Care assures that, within sixty (60) calendar days after enrollment, members have had a face-to-face contact to make certain they are aware of the advocacy services available to them.

LEGAL DECISION MAKERS:

- 1) *iCare* IDT Staff determines the identity of any and all legal decision makers for the member, including the nature and extent of each legal decision maker’s authority.
- 2) The IDT Staff includes any legal decision maker in decisions regarding the care of the member only to the extent consistent with the scope of the legal decision maker’s authority.

INFORMAL RESOLUTION:

- 1) Members obtain a prompt resolution, through established procedures, of issues raised by the members, including grievances and appeals.
- 2) Members have the option to be represented by an advocate, peer or representative in these processes.
- 3) Whenever possible, the IDT and the MRS attempt to resolve appeals and grievances through internal review, negotiation, or mediation.
 - a) Such attempts do not, however, relieve *iCare* of any responsibility to comply with all requirements of the grievance and appeals process including timely resolution and prompt notice of any decisions.

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ADVANCE DIRECTIVES:

- 1) *iCare* complies with requirements of federal and state law with respect to advance directives (e.g., living wills, durable power of attorney for health care).
- 2) *iCare* does not base the provision of care or otherwise discriminate against a member based on whether the member has executed an advance directive.
- 3) This provision is not to be construed as requiring the provision of care that conflicts with an advance directive.
- 4) *iCare* completes the following:
 - a) Provides written information at time of *iCare* enrollment to all adults receiving medical care through *iCare* regarding:
 - i) The individual’s rights under Wisconsin law (whether statutory or recognized by the courts of Wisconsin) to make decisions concerning such medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives;
 - ii) The individual’s right to file a grievance with the Department of Health Services, Division of Quality Assurance, regarding noncompliance with advance directive requirements. If requested, assist the member in filing a grievance with the Division of Quality Assurance regarding noncompliance with advance directive requirements, and
 - iii) *iCare*’s written policies respecting the implementation of such rights, including a statement on any limitation regarding implementation of advance directives as a matter of conscience.
 - b) Document in the member record whether the member has executed an advance directive.
 - c) Provide education for Staff and the community on issues concerning advance directives including information and/or training about ways to recognize and minimize or eliminate any potential conflicts of interest associated with providing counseling and assistance to members in executing advance directives.
 - d) Provide referral to appropriate community resources, including the Aging and Disability Resource Center, for any member or individual seeking assistance in the preparation of advance directives.
 - e) Has written policies and procedures regarding advance directives for all members that include all requirements listed in this section.

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- i) The written information reflecting changes in State law related to advance directives as soon as possible, but no later than ninety (90) calendar days after the effective date of change.
- ii) The above provisions are not to be construed to prohibit the application of any Wisconsin law which allows for an objection based on conscience for any health care provider or any agent of such provider who, as a matter of conscience cannot implement an advance directive.

PROVISION OF INTERPRETERS:

- 1) Independent Care provides interpreter services for members, as necessary, to ensure availability of effective communication regarding treatment, medical history, health education, case management, and information provided to members.
- 2) The IDT Staff offer an interpreter, such as a foreign language or a sign language interpreter or a transcriber, in all situations, including crucial situations, that require language assistance as soon as it is determined that the member is of limited English proficiency or needs other interpreter services.
- 3) Independent Care meets the following requirements in the provision of interpreter services:
 - a) Availability: Independent Care provides for twenty-four (24) hour a day, seven (7) days a week access to interpreters conversant in languages spoken by the members in iCare. In a specific situation when a member needs care from the benefit package and requests interpreter services iCare shall make all reasonable efforts to acquire an interpreter in time to assist adequately with all necessary care.
 - b) Professional Interpreters: Professional interpreters are used when needed where technical, medical, or treatment information is to be discussed.
 - c) Relatives or Legal Guardians as Interpreters: Relatives or legal guardians, especially children, may not be used as interpreters for discussion of technical, medical or treatment information or in assessments, therapy and other situations where impartiality is critical.
 - i) Civil Rights Act of 1964: Provision of interpreter services must be in compliance with Title VI of the Civil Rights Act.

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- ii) Members with special communications needs may request written material in adapted format from the IDT Staff. Vital documents are available for these members and staff reference the *Limited English Proficiency Translation and Interpreter Services Policy, CO-008*.

REQUEST FOR RECEIVING MATERIALS ELECTRONICALLY

- 1) Independent Care provides materials electronically upon request to members and legal decision makers, as necessary, to ensure availability of effective communication regarding treatment, medical history, health education and information provided to members.
- 2) Member/ Legal Decision Maker can request any materials to be delivered electronically.
- 3) Member/Legal Decision Maker fill out the consent to receive materials electronically form which is found on the *iCare* website and include all materials that may be sent electronically.
- 4) Independent Care has the following safeguards in place to ensure the delivery of electronic materials:
 - a) The member can opt out of electronic delivery of materials at any time by cancelling in writing.
 - b) The members contact information is reviewed for accuracy and a discussion is held with the member/Legal Decision Maker to identify important materials.
 - c) In case electronic materials are not delivered, the IDT Staff mails out a hard copy to the member/Legal Decision Maker.
 - d) Independent Care ensures that its electronic delivery system is in compliance with confidentiality laws.

Responsible Department: Family Care Partnership
Responsible Party: Program Manager
Reviewing Department(s): Family Care Partnership

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References: DHS Division of LTC Contract

Recommended Distribution: All staff via Independent Care’s SharePoint Site

Approvals:

Approved By: Jayme Moker	Director-FCP	Date: 9/8/2021 12:56 PM
Comments:		
Approved By: Margaret Kristan	VP- LTC & Community Inc	Date: 9/8/2021 1:46 PM
Comments:		
Approved By: Tony Mollica	CEO/President	Date: 9/15/2021 12:06 PM
Comments:		

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