

Health Care Agents, Power of Attorneys, Guardians and the Nurse Care Manager

Note: The following applies to Tufts Medicare Preferred HMO and Tufts Health Plan Senior Care Options members.

1. Health care proxy and durable power of attorney documents allow a member to move smoothly through continuum.
2. Health care proxy allows people to retain control over medical decisions.

Impact healthcare agents, power of attorneys and guardians have on the role of the nurse care manager

1. Health care agents, power of attorneys, and guardian of person and/or estate need to be consulted and included in care plan meetings, discharge planning meetings and all decision-making processes that are directly related to member's immediate and/or future needs.
2. Nurse care managers will provide the health care agent, power of attorney, guardian of person and/or estate with necessary information and education needed for the guardian to make an informed decision(s) as related to current or future needs.
3. Nurse care managers and the health care agent, power of attorney, and guardian of person and/or estate will work together to advocate on member's behalf.

Information and Definitions

Health Care Proxy: a legal document in which an individual designates another person to make health care decisions if he/she is rendered incapable of making his/her wishes known. The health care proxy has the same rights to request or refuse treatment that the individual would have if capable of making and communicating decisions. Also may be called a healthcare agent, healthcare surrogate and durable power of attorney for healthcare.

Proxy: a person appointed to make decisions for someone else, as in a health care proxy, also called a surrogate or agent.

Health Care Proxy Activation: Principal's physician has determined that the principal has sustained loss of his/her capacity to make health care decisions (loss can be temporary or permanent). Principal's physician must write an order activating the health care proxy. As a member moves through the care continuum, member should be re-evaluated at each setting to determine if member continues to lack capacity and health care proxy should remain activated. Documentation should support physician's assessment.

Durable Power of Attorney: is a document in which you, as principal, appoint another person to serve as your attorney in fact (in other words, as your agent) in business and financial matters affecting you or your property. A power of attorney is "durable" if the power is conferred and remains effective even though you later become incapacitated. Some durable power of attorney documents also include a health care proxy. Each durable power of attorney document should be examined closely and carefully to determine when the document becomes effective and if the document includes the health care proxy.

Decision-Making Capacity: the ability to make choices that reflect an understanding and appreciation of the nature and consequences of one's actions.

Legal Guardian: an individual appointed by the Massachusetts Probate and Family Court to care for the person of someone who has become incapable of caring for him/herself. Legal guardians coordinate and monitor professional services needed by the incapacitated person (hiring a caretaker, in-home, etc.). Legal guardian acts as an advocate and acts on behalf of the incapacitated person to the extent of the court order.

Standards for Guardianship: an individual has a clinical diagnosis which impairs ability to receive and evaluate information or make or communicate decisions regarding physical health, safety or self-care.

Guardian's responsibilities may include:

- Determine and monitor residence (court approval may be needed)

- Consent to and monitor medical treatment
- Consent to and monitor non-medical services such as education and counseling
- Consent and release of confidential information
- Make end-of-life decisions
- Act as a representative payee
- Maximize independence in least restrictive manner
- Report to the court about guardianship status

Limited Guardianship: allows the court to address the specific areas of incapacity and tailor a guardianship decree to meet and individual's unique circumstances.

Standards for Conservatorship: Two incidents where conservatorship may be granted:

1. The individual is unable to manage property and business affairs due to clinical diagnosis which impairs his/her ability to receive and evaluate information or make or communicate decisions.
2. The individual detained or unable to return to the United States and the individual has property that requires management or requires money for support, care and welfare of that individual.

Conservator's responsibilities may include:

- Marshal and protect assets
- Obtain appraisals of property
- Protect property and assets from loss
- Receive income for the estate
- Make appropriate disbursements
- Obtain court approval prior to selling any asset
- Report to court or estate status