Troy Medicare Policy and Procedure

POLICY PURPOSE

Troy Health, Inc. (dba Troy Medicare) is committed to handle authorized representatives within the Federal regulations and State statutes.

The purpose of this policy is to provide written guidance to the operational areas of Troy Medicare so they may establish their written procedures for the handling of individuals who state they are the member’s authorized representative to act on behalf of the member.

SCOPE

This policy applies to all employees and delegates that have interactions with members and individuals who may or may not have legal authority to act on the member’s behalf. This policy does not address HIPAA requirements for disclosing PHI.

REFERENCES

- 42 CFR §§405.910 Authorized Representatives
- Social Security Act, Section 1869
- Chapter 32C North Carolina Uniform Power of Attorney Act (2017-153-s.1.)
- North Carolina General Statutes, Article 6, §35A-1224(b)

RESPONSIBLE PARTIES

- Chief Compliance Officer

DEFINITIONS

Agent – A person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact, or otherwise. The term includes an original agent, co-agent, successor agent, and a person to which an agent’s authority is delegated.
Appointment of Representative (AOR) – a form originating from the Social Security Act and developed by Department of Health and Human Services, to permit the appointment of a representative for filing a grievance (complaint), an initial coverage request, or an appeal with a Medicare Advantage organization on a Medicare beneficiary’s behalf.

Assignee – a physician or other provider that requests an organization determination or an appeal on the member’s behalf. The assignee has no other representative rights.

Durable Power of Attorney – a power of attorney document that allows a person to appoint someone else (the agent) to make decisions and conduct financial matters on their behalf during their life. This document typically does not include health care decisions and medical directives.

Durable Health Care/Medical Power of Attorney – power of attorney document that specifically authorizes the agent to make health care decisions. This document authorizes the agent to make and carry out all health care decisions such as requesting or consenting to medical care, hospitalization, employing or discharging health care providers, admission to mental health facility, give consent to request or withhold life-prolonging measures, direct an autopsy, and other provisions.

Health Insurance Portability and Accountability Act (HIPAA) – statutes and regulations that require covered entities to protect the member/patient privacy and protected information from unauthorized disclosure to a non-covered person or entity.

Legal Guardian – an individual appointed by the state superior court to handle all business and healthcare decisions for an incapacitated individual.

Incapacity – The inability of an individual to manage property, business, or health decisions because the individual has any of the following statuses:

a. An impairment in the ability to receive and evaluate information, make, or communicate decisions even with the use of technological assistance.

b. Is missing, detained (including incarcerated in a penal system), or is outside the United States and unable to return.

Principal – an individual who grants authority to an agent in a power of attorney. In the case of this policy, the enrolled member is the principal.

Protected Health Information (PHI) - individually identifiable information that is transmitted by electronic media, maintained in electronic media, or transmitted in any other form or medium.

POLICY

Troy Medicare complies with the Federal regulation to verify a personal representative’s authority by following State statutes concerning the authority of individuals seeking to act on the individual’s behalf. These laws were established to protect the individual (the principal), and to prohibit other persons from making unauthorized decisions on the member’s (principal) behalf.

Troy Medicare, as a Covered Entity, will follow HIPAA regulations to protect the privacy and confidentiality of the member and their health information. Protected Health Information (PHI)
cannot be shared with individuals or non-Covered Entities unless the principal has given specific permission to share written or electronic records by completing a HIPAA release form.

North Carolina State statutes give the Clerk of the Superior Court the authority to appoint a Legal Guardian if the principal is incapacitated. A written request with supporting evidence is presented to the Clerk at the Superior Courthouse. The Clerk will review the evidence provided and may deem the case valid and approve the application for a legal guardianship or dismiss the case. A court-appointed Legal Guardian must provide the court-appointment document upon request or when attempting to act on the principal’s behalf. If Troy Medicare does not have a copy of the court appointment on file, the Troy Medicare employee must request a copy of the representative’s documentation of legal guardianship.

A durable power of attorney must present a valid document upon request or share it when the representative is trying to act on the principal’s behalf. The power of attorney document is available online or through an attorney; it must be signed by both parties and witnessed by a notary public. Upon signatures, the document becomes effective immediately.

Most documents have flexible options, allowing the principal to limit or expand the scope of their representative’s authority. A durable power of attorney may authorize certain health care decisions, or those decisions may be specifically excluded.

A health care power of attorney or medical power of attorney specifically authorizes the agent to communicate medical decisions to physicians or other health professionals, giving consent or withhold medical treatment, authorize surgery or tests, facility admittance or discharge, dental treatment, and to make other medical care decisions. This type of power of attorney document does not authorize the agent to make business or financial decisions.

Appointment of Representative form (AOR) (Form CMS-1696) that allows the principal to appoint an individual to act on their behalf to submit an initial coverage request (organization determination), a grievance (complaint) or an appeal (Part C reconsideration or Part D redetermination). The AOR is allowed to present evidence, obtain appeals information, and receive PHI related to the case. The AOR is limited only to these actions, and it must be presented with the request. The AOR is valid for one year and must be included with the case documentation if the case is sent to any upper-level appeal reviews.

PROCEDURE

1. For enrollment or disenrollment requests, representative documentation is not required prior to submission of the transaction to CMS. However, random monitoring of enrollment or disenrollment requests made by a purported representative will be reviewed to ensure enrollments or disenrollments are not requested in a fraudulent manner.

2. Initial coverage requests, grievances, or appeals must include either the AOR form, or legal guardianship documents, or a durable power of attorney. A medical/health care power of attorney does not give the agent authority to make a business decision to file a coverage request, grievance, or appeal.

3. Member Services may need access to the authorized representative documents, or just know who the representative is and their authority.
4. A physician or other health care professional may act on behalf of the member as an “assignee” to request an initial coverage decision or assist in filing an appeal. A physician cannot file a grievance for the member as an assignee.

5. The Appointment of Representative (AOR) is limited; it can only be used to file a grievance, initial coverage request, or appeal, and it must be presented with the request. The AOR is valid for up to one year, or the length of the appeal. A copy of the AOR must be included with case documentation if the case is sent to any upper-level appeal review.

6. Authorized Representative documents are stored in TruChart within the member record.

ATTACHMENTS/RELATED POLICIES/STANDARD OPERATING PROCEDURES

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APPROVALS

Sally A. Scott

Chief Compliance Officer

10 / 31 / 2022

Date: