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March 12, 2009

## **Questions and Answers Definition of Medical Representative and Facilitator KFMAM and KEESM Implementation Memo, July 1, 2008**

### **Medical Representative**

- Question 1: In the past we have allowed The Hospital Assistance Program (HAP), The Medical Assistance Program (MAP) and The Midland Group to serve as a medical representative based on the release form they have the individual sign. Does this change mean those groups can no longer serve as a medical representative?
- Answer: Based on the new definition, these groups could not serve as a medical representative since their primary interest is in collecting on a medical bill rather than fully representing the interest and needs of the individual. These groups could serve as a facilitator if granted that limited authority via the KHPA authorization form (Appendix, item P-11).
- Question 2: What about an application for a deceased individual? Can The Hospital Assistance Program (HAP), The Medical Assistance Program (MAP) or The Midland Group file on their behalf?
- Answer: Any responsible person may file an application on behalf of a deceased individual [KEESM 1411.3(1)]. That could include representatives from these groups.
- Question 3: When a child enters a state hospital, the administrator at the facility files the application with us. Can we continue to accept these applications?
- Answer: The new definition of medical representative did not change how these applications should be handled. The administrator may file on behalf of any individual who is not able to act in their own behalf only after others who may file have been given the opportunity to do so. Those others would include parents,

spouses, guardian/conservators, durable power of attorney for financial decisions, and representative payee for Social Security benefits [KEESM 1411.3(2)].

Question 4: Can the guardian/conservator of a legally incapacitated person appoint a medical representative for that individual? Does the medical representative form have to be completed every year? Would the guardian/conservator be listed on the ADAD screen?

Answer: A guardian/conservator can appoint a medical representative for the incapacitated individual – as long as that person meets the new definition of medical representative. The medical representative authorization is valid until revoked – it does not need to be renewed at the annual review. It would be appropriate to list the guardian/conservator on the ADAD screen.

### **Facilitator**

Question 5: Is there a place in KAECSES where we can identify a facilitator so they can receive notices?

Answer: Facilitators can be included on the ADAD screen in KAECSES. After the initial determination, they must be removed if they are not to receive additional correspondence. Under no circumstance should a facilitator be included on the ADDR screen. This field is for medical representatives only, and also identifies the address to which the review application is mailed.

Question 6: Our local hospital traditionally files the medical application for the individual. Can we continue to accept these applications?

Answer: The hospital can continue to file the application as long as the individual has signed the form. But, the hospital (or designated staff) is not the responsible person. They may serve as a facilitator for application purposes based on the limited authority granted via the KHPA authorization form (Appendix, item P-11).

Question 7: We receive many applications from one of our local hospitals where they have included their own release form. Are they now required to use the KHPA authorization form (Appendix, item P-11)?

Answer: The hospital (and all facilitators) should be encouraged to use the KHPA authorization form. Alternate authorization forms may be used, but each one would have to be reviewed by the KHPA HIPAA Compliance Officer to ensure it is HIPAA compliant. If it is not HIPAA compliant, we could not honor the authorization.

- Question 8: Does the eligibility worker have to initiate the form, or can the hospital? Is it okay for the hospital to have these forms?
- Answer: The hospital can (and in most instances, would) initiate the form. They should be encouraged to keep a supply of the KHPA form on hand. Again, the hospital can use their own release form, but it could potentially be rejected if not HIPAA compliant.
- Question 9: How do we submit an agency's release form to the HIPAA Compliance Officer?
- Answer: Forms should be faxed to the attention of Beth Shafer at (785) 296-8017.
- Question 10: There is an organization out of Florida that files QMB applications on behalf of Kansas residents. How should we treat those applications?
- Answer: The organization can file the application as long as the individual has signed the form. The organization would not be the responsible person. Nor would the organization be a facilitator, unless granted that limited authority via the KHPA authorization form (Appendix, item P-11).

## **Conclusion**

If you have any questions about the material included in this memo, please contact:

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