



## **Member Rights Preservation**

Community Care members have the same rights as everyone unless limited by the court. Wisconsin Chapter 51 (State of Wisconsin Mental Health Act) lists these five rights:

1. the right to make and receive telephone calls;
  2. the right to wear one's own clothing and use one's own possessions;
  3. the right to secure storage space;
  4. the right to privacy in toileting and bathing; and
  5. the right to see visitors.
- Additional information relative to many other rights that members have can be found at the following Wisconsin Department of Health Services web site:  
<http://www.dhs.wisconsin.gov/clientrights/limitDenial.htm>
  - Rights can be restricted or limited only if the member, when exercising the right, poses a security problem, an adverse effect on member's treatment; or interferes with the rights or safety of others.
  - Rights restrictions or limitations can be imposed for only as long as necessary to protect security, treatment, or rights/safety of others.

### **Rights Limitation/Denial Process- Provider Action**

- If any or all of the five rights noted above are to be limited or denied, complete the form found at this link: <http://www.dhs.wisconsin.gov/forms1/f2/f26100.pdf> and provide the form to the care team.
- If any other right is being limited/denied, the member needs to be informed of the following information in writing:
  - what right is being limited/denied,
  - the reason,
  - conditions to meet to have the right restored,
  - date the limitation/denial is to begin,
  - the member comments at the hearing if one is requested,
  - the hearing outcome,
  - signature of the person holding the hearing,
  - and the review date of the restriction/denial.
- *Denial* of a right may only be made when there are documented reasons to believe there is not a less restrictive way of protecting the threatened security, treatment, or rights/safety interests of others.
- No right may be denied when a limitation can accomplish the purpose, and no limitation may be more stringent than necessary to accomplish the purpose.
- Because members' challenging behaviors are directly correlated with rights limitations/denials, providers must inform the care team and the care team will meet with the Behavioral Health Specialist/Coordinator to determine if the member requires a behavior support plan.
- If a behavior support plan is required, providers should work with the care team to develop behavior tracking data that will help determine if the rights limitation/denial is maintained or the right should be restored.
- In the event of any disagreement concerning a rights limitation or denial, please contact the care team, who can have their Behavioral Health Specialist/Coordinator review and assess the member's behaviors.
- Community Care also has a Coordinator for Member Rights Preservation who can provide technical assistance and/or an appeals panel if needed.

### **Additional information can be found at:**

Wisconsin Department of Health Services (DHS) Chapter 51: Mental Health Act  
<http://docs.legis.wisconsin.gov/statutes/statutes/51.pdf>

Wisconsin Department of Health Services (DHS) Chapter 94 : Patient Rights and Resolution of Patient Grievances  
[http://docs.legis.wisconsin.gov/code/admin\\_code/dhs/030/94.pdf](http://docs.legis.wisconsin.gov/code/admin_code/dhs/030/94.pdf)

Wisconsin DHS Guidelines and Requirements for the Use of Restrictive Measures  
[https://www.dhs.wisconsin.gov/sites/default/files/legacy/bdds/waivermanual/app\\_r.pdf](https://www.dhs.wisconsin.gov/sites/default/files/legacy/bdds/waivermanual/app_r.pdf)