

**441—76.9(249A) Responsible persons and authorized representatives.**

**76.9(1)** *Responsible person.* If an applicant or member is unable to act on the applicant's or member's own behalf because the applicant or member is a minor or is incompetent, incapacitated, or deceased, a responsible person may act for the applicant or member.

*a.* Except as provided in paragraph 76.9(1)“*d*,” when the applicant or member is incompetent, incapacitated, or deceased, the responsible person shall be a family member, friend or other person who has knowledge of the applicant's or member's financial affairs and circumstances and has a personal interest in the applicant's or member's welfare.

*b.* Except as provided in paragraph 76.9(1)“*d*,” when the applicant or member is unable to act on the applicant's or member's own behalf solely because the applicant or member is a minor, the responsible person shall be an adult in the child's household or family as described in paragraph 76.2(1)“*a*.”

*c.* The responsible person shall assume the applicant's or member's position and responsibilities during the application process or for ongoing eligibility. The responsible person may designate an authorized representative pursuant to subrule 76.9(2) to represent the applicant or member. However, the designation of an authorized representative does not relieve the responsible person from assuming the applicant's or member's position and responsibilities during the application process or for ongoing eligibility.

*d.* When there is no person as described in paragraphs 79.6(1)“*a*” through “*c*” to act on behalf of the minor, incompetent, incapacitated, or deceased applicant or member, any individual or organization may be allowed to act as the responsible person if the individual or organization conducts a diligent search and completes the required form, attesting to the individual's or organization's inability to find a responsible person to act on behalf of the minor, incompetent, incapacitated, or deceased applicant or member.

*e.* The department may require verification of the applicant's or member's incompetence or death and of the responsible person's relationship to the applicant or member.

*f.* Copies of all correspondence the department would otherwise provide to the applicant or member will be provided to the recognized responsible person.

**76.9(2)** *Authorized representative.*

*a.* An individual or organization designated by a competent applicant or member, or by a responsible person recognized pursuant to subrule 76.9(1), or with other legal authority to do so may act on behalf of the applicant or member in the application process, in the review process, or for ongoing eligibility.

*b.* The designation of an authorized representative by an applicant, member, or responsible person must be in writing and must be signed and dated by the applicant, member, or responsible person. The applicant, member, or responsible person may authorize the representative to complete and sign an application on the applicant's or member's behalf, complete and submit a review form, receive copies of the applicant's or member's notices and other communications from the department, and act on behalf of the applicant or member in all other matters with the department.

*c.* Legal documentation of authority to act on behalf of the applicant or member under state law, such as a court order establishing legal guardianship or a power of attorney, shall serve in place of a written authorization by the applicant or member.

*d.* Designations of authorized representatives, legal documentation of authority to act on behalf of the applicant or member, and modifications or terminations of designations or legal authority may be submitted via the department's website, mail, email, or fax or in person.

*e.* For purposes of this rule, the department will accept electronic, including telephonically recorded, signatures and handwritten signatures (including when transmitted by fax or other electronic means).

*f.* If the authorization:

(1) Indicates the time period or dates the authorization is to cover, the stated period or dates will be honored until or unless a rescission is submitted to the department as described in subparagraph 76.9(2)“*f*”(2) and may include subsequent applications, if necessary, that relate to the time period or dates indicated on the authorization.

(2) Does not indicate the time period or dates it is to cover, the authorization will be valid until the applicant, member, or responsible person modifies the authorization and notifies the department that the representative is no longer authorized to act on behalf of the applicant or member or until the authorized

representative informs the department that the representative no longer is acting in such capacity. Such notice must be in writing and should include the signature of the applicant, member, responsible person, or authorized representative, as appropriate.

g. Copies of all correspondence will be provided to the applicant or member and the authorized representative.

**76.9(3)** *Additional requirements applicable to all authorized representatives and responsible persons.*

a. An authorized representative or responsible person must agree to maintain, or be legally bound to maintain, the confidentiality of any information regarding an applicant or member provided by the department.

b. A provider or staff member or volunteer of an organization serving as an authorized representative or responsible person must sign an agreement that the provider, staff member, or volunteer will adhere to the regulations in 42 CFR Part 431, Subpart F; 45 CFR §155.260(f) (relating to confidentiality of information); and 42 CFR §447.10 (relating to the prohibition against reassignment of provider claims as appropriate for a health facility or an organization acting on the facility's behalf), as well as other relevant state and federal laws concerning conflicts of interest and confidentiality of information.

c. The authorized representative or responsible person is responsible for fulfilling all responsibilities encompassed within the scope of the authorized representation to the same extent as the individual the authorized representative or responsible person represents.

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