

Patients' Rights in the Health Care System

Managed Care Bill of Rights

New York State has a fairly progressive managed care bill of rights which is found in both the Public Health and Insurance laws.

1. **Disclosure.** Managed care plans must tell their patients about the coverage offered, benefit packages, prior authorization rules, how to file grievances and utilization review appeals, reimbursement policies, how to change providers, get referrals, specialty care, any use of formularies and so forth. See N.Y. Pub. Health L. Â§4408.
2. **Grievance Procedures.** All managed care plans must let enrollees file grievances when they have a problem with their plan or the care they are receiving. N.Y. Pub. Health L. Â§4408-a. These procedures follow strict time lines. N.Y. Pub. Health L. Â§4408-a(4). The procedures also provide for appeals. N.Y. Pub. Health L. Â§4408-a(8)-(1). A plan cannot retaliate against someone if they file a grievance. N.Y. Pub. Health L. Â§4408-a(13).
3. **Utilization Review Appeals.** Whenever a managed care plan denies medical care because it is not "medically necessary" the enrollee has the right to seek an appeal of that utilization review decision. N.Y. Pub. Health L. Â§4900(8). This is an internal process. The enrollee has the right to have clinical peer reviewers on contract with the plan review medical denials that they disagree with. N.Y. Pub. Health L. Â§ 4903(1)(a)-(c)). There are strict time frames for these appeals. N.Y. Pub. Health L. Â§Â§ 4903-4904.
4. **Right to go to the Emergency Room.** Managed care plans must pay for visits to the emergency room if the enrollee felt that they urgently needed the medical care. This is known as the "prudent layperson standard." N.Y. Ins. L. Â§3216(9).
5. **Right to Specialty Care.** Enrollees have the right to go to a non-participating doctor if their managed care plan does not have a specialist in its network that can meet their medical needs. N.Y. Pub. Health L. Â§ 4403(6)(a). Enrollees have the right to get a standing referral to see their specialist. N.Y. Pub. Health L. Â§ 4403(6)(b). They have the right to have their specialist serve as their PCP. N.Y. Pub. Health L. Â§4403(6) (c)). If their doctor leaves the plan's network while they are undergoing a course of treatment, the plan must pay for the enrollee to keep seeing the doctor for up to 90 days (or through delivery if pregnant). N.Y. Pub. Health L. Â§4403(6)(e)(1).
6. **Right to External Review.** Enrollees have the right to get an External review -- or independent review - of their Plan's decision to deny a health care service because it was not medically necessary (i.e. if they lose a utilization review appeal). They can also get an external review when a Plan denies an experimental or investigational

treatment. An external review appeal is filed with the State Insurance Department. The State will ask independent health care professionals, who are not related to the Plan, to review the enrollees case. The Plan must comply with the external review decision. N.Y. Pub. Health L. Â§4910.

Hospital Patients' Bill of Rights

Patients in hospitals, nursing homes and other residential facilities have a bill of rights which govern the way they are to be treated. See N.Y. Pub. Health L. Â§2903-c. These rights must be posted in the hospital and provided to patients upon admission. 10 N.Y.C.R.R. Â§405.7(a). These rights include:

1. **Confidentiality.** For example, patients have the right to have confidential conversations with their doctors and privacy in the treatment of their medical records. N.Y. Pub. Health L. Â§2803(3)(b), (f).
2. **Respect.** Patients have the right to receive courteous, fair and respectful care and treatment. N.Y. Pub. Health L. Â§2803(3)(g).
3. **Freedom from arbitrary restraint.** Patients have the right not to be restrained either physically or chemically unless a physician orders such restraint for a specific period of time (nurses in some circumstances). N.Y. Pub. Health L. Â§2803(3)(h).
4. **Interpreters.** Patients have the right to have skilled interpreters and persons skilled in communicating with people who have visual and/or hearing impairments assist them in the hospital. 10 N.Y.C.R.R. Â§405.7(a)(7).
5. **Appropriate Discharge Plan.** Patients have the right to receive an appropriate discharge plan and information about how to appeal said discharge. 10 N.Y.C.R.R. Â§405.7(c)(14).
6. **Medical Records.** Patients have the right to get copies of their medical records, although the hospital can charge up to 75 cents per page. N.Y. Pub. Health L. Â§2803-c(3)(l). Click [here](#) for a full article on amending medical records.

Patient's Right to Get Health Care in a Language They Speak

Federal and State laws bar discrimination based upon race, color, national origin and disability. These laws have been interpreted to require that health care providers must provide patients with health care in the language that they speak. See 42 U.S.C. 2000d; see also 10 N.Y.C.R.R. Â§405.7(a)(7) (hospital patients' bill of rights, n.b. similar provision exist for clinics and nursing homes). Most New York State hospitals, clinics and nursing homes must provide limited English proficient patients with:

- free translation services
- written notice in the language they speak which tells them of their right to free translation services;
- qualified and trained interpreters

Health care providers should not ask patients to use family and friends to translate except as a last resort and only with their informed consent. A medical provider should not use a patient's minor child to translate. A health provider should limit the use of a phone interpreter.

The New York State Patients' Bill of Rights requires that interpreters must be available for limited English proficient patients where the language group composes more than one percent of the hospital's catchment area. 10 N.Y.C.R.R. Â§405.7(a)(7).

New regulations effective September 1, 2006: New York State Department of Health (NYSDOH) adopted regulations setting basic standards for hospitals' communications with limited-English-proficient patients, as well as hearing and vision-impaired New Yorkers. The new regulations apply to all public and private hospitals in New York State and require that all hospitals:

- Develop a Language Assistance Program which designates a language assistance coordinator responsible for maintaining hospital language assistance services, and training all staff involved in direct patient care on how to access such services on behalf of patients.
- Provide materials to patients summarizing how to access the hospitals' free language assistance services. These forms and notices must be in the languages of the community each hospital serves.
- Interpreter services must be available to patients in the inpatient and outpatient setting within 20 minutes, and to patients in the emergency service within 10 minutes of a request to the hospital administration by the patient.
- Hospitals are not permitted to use a patient's family members, or friends as "interpreters," unless free interpreter services have been explicitly offered by the hospital to the patient, and the patient does not agree to use these services. The hospital must assure the appropriateness of any interpreter used in a hospital setting. 10 NYCRR Â§ 405.7 and Â§751.9:
<http://www.health.state.ny.us/nysdoh/phforum/nycrr10.htm>

Medicaid beneficiaries cannot be required to enroll in a Medicaid Managed Care plan if the plan cannot serve them due to a language barrier. N.Y. Soc. Servs. L. Â§364-j(3).

If patients are not provided an interpreter at their hospital, medical provider or managed care plan, they can file a complaint with the federal Office of Civil Rights or the New York State Department of Health. The federal Office of Civil Rights is supposed to monitor agencies and health providers (including managed care plans) who receive federal funds. The New York State Department of Health is supposed to monitor all health providers (including managed care plans in New York State).

For more information on language access services in health care settings, [see this article](#). In addition, the Empire Justice Center has published a [Language Access Resource Center](#).

To file a complaint with the federal Office of Civil Rights, contact:

Michael Carter
Regional Director
Office of Civil Rights, HHS, Region II
26 Federal Plaza
New York, NY 10278
(212) 264-3313

To file a complaint with the State Department of Health about a hospital, contact:

New York State Department of Health
Hospital Complaint Section
Local Area Office/New York City
5 Penn Plaza
New York, NY 10001-1803
(212) 268-6477

To file a complaint with the State DOH about a managed care plan, contact:

Kathleen Shure, Director
Office of Managed Care
New York State Department of Health
Local Area Office/New York City
5 Penn Plaza
New York, NY 10001-1803
(212) 268-5977

Disability Discrimination. People with disabilities who feel that they are being discriminated against by a health care provider should file a complaint, pursuant to Title II of the Americans with Disabilities Act, with the same individuals listed above. 42 U.S.C. Â§ 12131. [See this article](#) for more information on access to health care services for people with disabilities.

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Article ID: 146

Last updated: 04 Apr, 2014

Revision: 3

Language and Disability Access -> Patients' Rights in the Health Care System

<http://health.wnylc.com/health/entry/146/>