

180.3 – State Law Primary

(Rev. 121, Issued: 04-22-16, Effective: 04-22-16, Implementation: 04-22-16)

The MA program's advance directive requirements are guidelines that refer to state law, whether statutory or recognized by the courts of the state. Therefore, MAOs must comply with the advance directive requirements of the states in which they provide services. CMS cannot provide detailed guidelines as to what constitutes best efforts in each state. Medicare regulations give MAOs and states a great deal of flexibility, and CMS will work with the MAO (and the state, if needed) to ensure that advance directive requirements conform to Federal law. Changes in state law must be reflected in the information MAOs provide their enrollees as soon as possible, but no later than 90 days after the effective date of the state law or the date of the court order.