



## Death with Dignity Act

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<b>State(s):</b> <input type="checkbox"/> Idaho <input checked="" type="checkbox"/> Montana <input checked="" type="checkbox"/> Oregon <input checked="" type="checkbox"/> Washington <input type="checkbox"/> Other:	<b>LOB(s):</b> <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Medicare <input checked="" type="checkbox"/> Medicaid
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### Enterprise Policy

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*Clinical Guidelines are written when necessary to provide guidance to providers and members in order to outline and clarify coverage criteria in accordance with the terms of the Member's policy. This Clinical Guideline only applies to PacificSource Health Plans, PacificSource Community Health Plans, and PacificSource Community Solutions in Idaho, Montana, Oregon, and Washington. Because of the changing nature of medicine, this list is subject to revision and update without notice. This document is designed for informational purposes only and is not an authorization or contract. Coverage determination are made on a case-by-case basis and subject to the terms, conditions, limitations, and exclusions of the Member's policy. Member policies differ in benefits and to the extent a conflict exists between the Clinical Guideline and the Member's policy, the Member's policy language shall control. Clinical Guidelines do not constitute medical advice nor guarantee coverage.*

### Background

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Death with Dignity is a policy currently adopted by eight states (California, Colorado, Hawaii, Maine, New Jersey, Oregon, Vermont and Washington) and Washington D.C.

On October 27, 1997 Oregon enacted the Death with Dignity Act which allows terminally- ill Oregonians to end their lives through the voluntary self-administration of lethal medications, expressly prescribed by a physician for that purpose. Members may refer to this as "assisted suicide."

The Washington Death with Dignity Act, Initiative 1000 passed on November 4, 2008 and went into effect on March 5, 2009. This act allows terminally ill adults seeking to end their life to request lethal doses of medication from medical and osteopathic physicians. These terminally ill patients must be Washington residents who have less than six months to live.

Montana does not currently have a statute safeguarding physician-assisted death. In 2009, Montana's Supreme Court decision ruled nothing in the state law prohibited a physician from honoring a terminally ill, mentally competent patient's request by prescribing medication to hasten the patient's death.

PacificSource administers Commercial and Medicare plans in multiple states; PacificSource Community Solutions Medicaid is exclusively administered in the State of Oregon. Each of these programs maintain different rules related to the payment for services which allows terminally-ill members to end their lives through the voluntary self-administration of lethal medications prescribed by a physician.

### Criteria

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#### Commercial & Exchange products

PacificSource follows 42 USC 14402 which states federal funding cannot be used for services or medications received under these laws. This may pertain to some PS exchange products being excluded from coverage.

For members who meet the criteria outlined in MCA 50-9-101-111, PacificSource will reimburse professional fees consistent with plan benefits, provider contracts, and applicable law.

For members who meet the criteria outlined in ORS 127.800-897, PacificSource will reimburse professional fees consistent with plan benefits, provider contracts, and applicable law.

For members who meet the criteria outlined in WAC 246-978, PacificSource will reimburse professional fees consistent with plan benefits, provider contracts, and applicable law.

## **Commercial Products**

Members or providers who are requesting coverage of professional services or prescription medications related to the voluntary self-administration of lethal medications, must provide documentation to the Health Services and Pharmacy Services staff to support their request in accordant to specific state policies.

- Documentation shall include:
  - Certification of the Attending Physicians Compliance Form.
  - The Members Request for Medication – To End Life in a Humane and Dignified Manner.
  - The specific services being requested, including number of professional visits and the requested medications, including the strength and dose.

Due to cost and limited availability of oral barbiturates, their use has been replaced by drug mixtures. DDMP (diazepam 0.5 g, digoxin 25 mg, morphine 10 g, and propranolol 2 g), DDMA (diazepam 1 g, morphine 15 g, amitriptyline 8), and DDMA-Ph (diazepam 1 g, morphine 15 g, amitriptyline 8 g, phenobarbital 5 g) must be compounded into a powder mixture by a pharmacist prior to dispensing.

- These requests will be reviewed by a PacificSource pharmacist with support from PacificSource Medical Directors.
- If all documentation is provided and the above policy requirements are met, the request for payment of voluntary self-administration of lethal medications and the associated professional services will be authorized.

## **Oregon members as of Jan 1, 2020**

The attending physician must file a medically confirmed certification of the imminence of the member's death with the member's medical record if any of the statutory waiting periods listed below are not completed. A copy of Attending Physician's Compliance Form ORS 127.800 - ORS 127.897 must be mailed to the following address:

Oregon State Public Health Division, Center for Health Statistics  
P.O. Box 14050, Portland, OR 97293-0050

- Members with fewer than 15 days to live are exempt from the 15-day waiting period between the first and second oral requests for medication.
- Members with fewer than 48 hours to live are exempt from the 48 hour waiting period between the patient's written request and the writing of the DWDA prescription.

## Medicaid

PacificSource Community Solution (PCS) follows Statement of Intent 2 of the OHP Prioritized List of Health Services for coverage of death with dignity.

## Medicare

PacificSource Medicare follows 42 USC 14402 which states federal funding cannot be used for services or medications received under these laws and are excluded from coverage.

## Related Policies

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Compound Medication

## References

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Death with dignity act. Accessed 3/22/2019, 2/27/2020, 01/11/2021.

<https://www.deathwithdignity.org/faqs/>

Death with dignity act. Accessed 3/22/2019, 2/27/2020, 01/11/2021.

<https://www.deathwithdignity.org/learn/death-with-dignity-acts/>

Death with dignity act. Accessed 3/10/2021. <https://www.deathwithdignity.org/states/montana/>

Oregon Health Authority. Oregon Revised Statute. ORS Chapter 127: Death with Dignity Act. Accessed 8/18/2017, 4/3/2018, 3/22/2019, 2/27/2020, January 11, 2021.

<http://public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Pages/ors.aspx>

Oregon Health Authority. Public Health. Death with Dignity Act. Accessed August 18, 2017, April 3, 2018, March 22, 2019, February 2, 2020, January 11, 2021.

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Oregon Health Authority. Public Health. Frequently Asked Questions. Accessed February 17, 2020, January 11, 2021.

<https://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/EVALUATIONRESEARCH/DEATHWITHDIGNITYACT/Documents/faqs.pdf>

Washington Department of health. Death with Dignity Act. Accessed March 10, 2021.

<https://www.doh.wa.gov/YouandYourFamily/IllnessandDisease/DeathwithDignityAct>

Oregon Death with Dignity Act 2020 Data Summary. Accessed June 9, 2021

<https://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/EVALUATIONRESEARCH/DEATHWITHDIGNITYACT/Documents/year23.pdf>

## Appendix

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**Policy Number:**

**Effective:** 2/1/2021

**Next review:** 2/1/2022

**Policy type:** Enterprise

**Author(s):**

**Depts:** Health Services, Pharmacy

**Applicable regulation(s):** ORS 127.800-897, 42 USC 14402, WAC 246-978, Statement of Intent 2 of the OHP Prioritized List of Health Services.

**Commercial Ops:** 7/2021

**Government Ops:** 7/2021