



TO: SDMC Panel Members

FROM: Greg Jones, Sr. Attorney  
Counsel's Office

DATE:

SUBJECT: Conference Call

Each year the Commission receives an ever increasing number of requests to conduct conference calls in regard to any number of issues in the processing of cases by an SDMC panel.

Although there are a number of occasions when a panel conference call might be desired or necessary, there are other instances where the use of conference calls may be counterproductive to the needs of the patient. Each SDMC panel must determine when a conference call is appropriate. While it may appear to be counter intuitive, conference calls can be difficult to arrange, costly, and may in fact cause delays or otherwise negatively impact the patient named in the case.

When contemplating the use of a conference call, panels should consider a number of factors.

### **Authority for Conference Call Proceedings**

Article 80 of the New York Mental Hygiene Law authorizes the Commission on Quality of Care and Advocacy for Persons with Disabilities to establish and administer the Surrogate Decision-making Committees. This authority includes the promulgation of regulations to carry out the purposes of the Surrogate Decision-making for Medical Care and Treatment program.

The SDMC regulations promulgated by the Commission authorize the SDMC panels to conduct their proceedings via telephone conference calls in appropriate cases (14 NYCRR 710.04 (c)(3)). Pursuant to the regulations, a conference call proceeding is appropriate where:

- It will enable the receipt and consideration, on a timely basis, additional information concerning an application for additional surrogate decision-

making related to the major medical treatment decision which was the subject of an initial hearing and surrogate decision-making determination. However, a conference call or additional hearing shall not be required for procedures which are related diagnostic, medical or dental procedures that are normal and customary in accordance with sound medical practice and thereby included within an original determination that has not expired;

- The panel determination made, following a hearing, that a patient is in need of surrogate decision-making for the proposed major medical treatment decision has expired, and a request is made to renew and extend the effective date of the determination;
- The conference call proceeding may afford the opportunity to consult with a person who may assist in the panel's determinations;
- The conference call proceeding will provide information concerning any changed circumstances, new conditions or information; or
- The conference call proceeding appears to be more appropriate to meet the needs of the patient for timely decision-making as determined by the circumstances.

The regulations specifically provide that the foregoing is not all-inclusive, and there may be other circumstances where a conference call may be "appropriate."

A conference call may be a means by which the panel may obtain updated information to assure the patient's well-being as conditions or the need for medical care change. Conference call proceedings may allow the panel members who gave consent for an initial procedure to review related information and procedures, thereby providing consistent care with the possible added benefit of having more intimate knowledge of the patient's treatment history. Such a call may allow the panel, when appropriate, to timely evaluate each procedure in sequence with all necessary information and background required to make a reasoned decision.

Although conference call proceedings may play an important role within the SDMC process, it is the goal of SDMC program staff to provide panel members with adequate information in every case, to afford panel members the opportunity to reach a timely, well-informed, person-centered decision on the date of the hearing.

In the vast majority of cases, panels reach their decision on the date of the hearing.

Despite the possible benefits afforded through conference calls, as previously stated they are also difficult to arrange, costly, and may delay or otherwise impede timely appropriate care and treatment of the individual. In addition, conference calls do not afford the same opportunity for panels to evaluate testimony and/or the demeanor of witnesses that in-person panel proceedings provide.

In an effort to minimize the use of conference call proceedings, it is recommended that panel members:

- Review paperwork in advance and request additional information from program staff prior to the date of the hearing.
- If upon review of the paperwork, you decide you need more information or clarification of information contained in the case packet, contact the nurse who prepared the case or SDMC staff at 518-388-2820 and we will attempt to provide this information to you, as well as other panel members, prior to the hearing.

Panel members are also advised that:

- Requests for additional information at the hearing should represent **NEW INFORMATION NOT OTHERWISE AVAILABLE IN THE CASE PAPERWORK OR PROVIDED IN THE TESTIMONY;**
- Information presented to the panel by the declarant and other staff should be considered credible. There is no requirement to obtain the same information from the physician;
- Panel members should consider both the documentary evidence and testimony of providers in reaching a decision. Many times the documents in the case packet support the proposed care and/or treatment.

Panel members with questions are invited to contact SDMC staff at 518-549-0328.