

REQUEST FOR CLARIFICATION/INTERPRETATION

TO:	Name and Title: Jannis Conselyea	FROM:	Name and Title: Karla Gilles, Case Manager
	Organizational Unit: DDP Program Support Bureau Chief		Organizational Unit: Helena Industries
	Address: 111 Sanders, Helena, MT		Address: 1601 2nd Ave N. #430 Great Falls, MT 59401

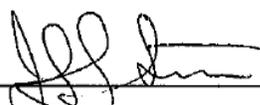
1. TYPE OF REQUEST: Follow-up to Verbal Request - Date of Verbal Request: _____ **X** Written Request

2. STATEMENT OF QUESTION OR ISSUE:

I have two clients whose Parent is the legal guardian. The Parent/Guardian is now in a nursing home and/or long term care facility and can no longer act as guardian. In both cases a sibling now has Power of Attorney over the guardian. Can this sibling now sign the HIPAA, Release and Waiver 5, as POA of the guardian?
 If the sibling has POA over both the guardian and the client, can the sibling sign?
 If the sibling/POA can not sign for the guardian, do we then have the client sign the legal forms?

References:

3. ANSWER: The HIPAA, Release and Waiver 5 Form can only be signed by the sibling if the Power of Attorney is a "properly executed" document. The Case Manager must obtain a legal review of the guardianship papers and the Power of Attorney papers to determine whether they are properly executed for this purpose. MCA 72-5-103 2(a) authorizes a 6 month delegation of powers by a guardian to another person "by a properly executed power of attorney."

Approved and Issued by:

 _____ (Program Director)
 Date 8-24-11

References:

STATE USE ONLY	4: DISTRIBUTION:	5: FOLLOW-UP:
	One Copy: _____ One Copy: _____ One Copy: _____ Additional Copies: _____ 9 _____	Requestor Manual Coordinator Division Files
		9 To be issued as Bulletin to: _____ (Division Administrator) Manual. Expected Date of Issuance: _____ 9 A.R.M. Change 9 State Plan Change