State of California—Health and Human Services Agency

California Department of Public Health

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OFFICE OF AIDS (OA)
AIDS DRUG ASSISTANCE PROGRAM (ADAP)

Management Memorandum
Memorandum Number: 2016-05

DATE: APRIL 1, 2016

TO: ADAP ENROLLMENT WORKERS

SUBJECT: ADAP SPECIAL POWER OF ATTORNEY

The purpose of this memorandum is to inform ADAP Enrollment Workers of the release of the ADAP Special Power of Attorney (POA) form. **The ADAP Special POA is specifically designed to allow an ADAP client to authorize a designated agent to handle his/her ADAP-related affairs.** The term "ADAP" refers to all California Department of Public Health (CDPH), OA ADAP programs including the medication program, OA's Health Insurance Premium Payment (OA-HIPP) Program, and Medicare Part D Premium Payment Program. The ADAP Special POA provides an ADAP client with several options regarding the duration of the ADAP Special POA. A client may select their ADAP Special POA to be one of the following:

1. A special durable power of attorney; to commence immediately upon signing and remain in effect for the client's lifetime or until it is specifically canceled. This grant of authority will continue to be effective even if the client becomes disabled, incapacitated, or incompetent.
2. A special limited power of attorney; to commence on a specific date and terminate on a specific date.
3. A special contingent power of attorney; to commence only upon a determination that the client is incapacitated and/or unable to handle his/her own ADAP affairs.
4. A special general power of attorney; to take effect immediately upon signing but shall terminate in its entirety if the client becomes incapacitated.

Please note that a client may designate an agent and still continue to act on his/her own behalf regarding ADAP-related matters as long as he/she is competent.

A completed ADAP Special POA may be sent via encrypted/secured email directly to your ADAP Advisor, faxed to (916) 440-5490, or mailed to Office of AIDS, MS 7700, P.O. Box 997426, Sacramento, CA 95899-7426. Upon receipt of the document, the ADAP Advisor will verify that all fields are appropriately completed and will immediately notify the submitter to 1) Confirm that the ADAP Special POA was received and will commence immediately (unless specified otherwise in the POA); or 2) Inform the submitter of any incorrect or missing fields and that the POA cannot be honored until correction(s) are made.

Please note that the ADAP Special POA document is not intended to replace or be a substitute for an Advanced Health Care Directive or a General Power of Attorney document. While we prefer that clients use the ADAP Special POA form because it contains a durability clause, ADAP will also accept other POA forms. If a client has an executed Advanced Health Care Directive and/or a General Power of Attorney document, in addition to other powers, it may already provide the requisite authority for their agent to act on their behalf on ADAP-related matters. Please note that if the POA does not contain a durability clause, ADAP legally cannot honor it in the event the client becomes incapacitated.

Any other type of POA form (excluding the ADAP Special POA) requires a review by the CDPH legal department for verification that the authority granted to the designated agent includes ADAP-related activities. The turnaround time for CDPH determination is approximately two days, depending on staff availability and the number of requests for approval. The designated agent may not act on the client's behalf for any ADAP-related activities until the POA has been approved by CDPH. The ADAP Advisor will notify the submitter of the POA when a determination has been made. Please submit the POA via encrypted/secured email, fax, or mail, as listed on page one.

Important things to note:

1. In California, a divorce automatically terminates a power of attorney if the individual's ex-spouse was the attorney-in-fact under that document. A client must notify ADAP if this becomes the case.
2. An ADAP Enrollment Worker cannot be the designated agent (attorney-in-fact) in an ADAP Special POA.
3. An ADAP Enrollment Worker cannot sign as a witness of the ADAP Special POA.

We encourage clients to consider executing a POA that designates authority that is durable and broad enough to encapsulate ADAP-related activities to ensure that if they are disabled, incapacitated, or incompetent their ADAP enrollment is not left unattended. Please speak with your client(s) during their next recertification or re-enrollment to make them aware of their options.

To cancel an ADAP Special Power of Attorney, a client must complete the ADAP Revocation of Special Power of Attorney form.

Disclaimer: ADAP clients are not obligated to execute an ADAP Special POA. Clients should always consult with an attorney before signing any legal document.

If you have any questions, please contact your ADAP Advisor.

Thank you,

Niki Dhillon, ADAP Branch Chief
California Department of Public Health
cc: ADAP Coordinators