

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**
P. O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax (517) 334-9505

IN THE MATTER OF:

██████████,
Appellant

Docket No. 2012-21516 PCE
Case No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. The Appellant appeared without representation. She had no witnesses. ██████████ PACE Manager represented the Department. Her witness was ██████████, Intake Coordinator.

ISSUE

Did the Department properly determine that the Appellant is not eligible for PACE services at CentraCare?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Appellant is a ██████-year-old spend down Medicaid beneficiary. Appellant's Exhibit #1.
2. ██████████ (the Department) is the Program of All-Inclusive Care for the Elderly (PACE) which is geared to the provision of socially and clinically supervised services for an elderly population afflicted with chronic medical conditions. It is located in ██████████ and is authorized for operation by the Michigan Department of Community Health.
3. The Appellant was afflicted with the sequela of open heart surgery and leg infection. There is no mental health diagnosis. See Testimony.
4. The Appellant was assessed by ██████████ homecare Intake Coordinator ██████████ on ██████████. Department's Exhibit A, p. 2.

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5. The Appellant failed to qualify for eligibility under any domain of the Michigan Medicaid Provider Level of Care Determination tool. Department's Exhibit A, p. 2.
6. The Appellant was being seen by a mental health clinician on or about the time of LOCD assessment. See Testimony and Department's Exhibit A, pp. 2 and 3.
7. The Appellant disputed the accuracy of the assessment relative to her state of recovery. Appellant's Exhibit #1.
8. On [REDACTED], the Appellant was advised of PACE ineligibility and her further appeal rights were explained in written notice dated [REDACTED]. Department's Exhibit A, pp. 2 and 4.
8. The instant request for hearing was received by the Michigan Administrative Hearing System for the Department of Community Health on [REDACTED]. Appellant's Exhibit #1.

CONCLUSIONS OF LAW

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

The Michigan Department of Community Health (MDCH) implemented functional/medical eligibility criteria for Medicaid nursing facilities, MI Choice, and PACE services. Federal regulations require that Medicaid pay for services only for those beneficiaries who meet specified level of care criteria.

The Medicaid Provider Manual (MPM) references the use of the online Michigan Medicaid Nursing Facility Level of Care Determination (LOCD) tool. The LOCD must be completed for all Medicaid-reimbursed admissions to nursing facilities or enrollments in MI Choice or PACE, where available. MPM, §5.1.D through 5.1.E, NF Coverages, April 1, 2012, pp. 9-13.

The LOCD tool consists of seven-service entry Doors. The doors are: Activities of Daily Living, Cognition, Physician Involvement, Treatments and Conditions, Skilled Rehabilitative Therapies, Behavior, or Service Dependency. In order to be found eligible for services, the Appellant must meet the requirements of at least one Door.

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The Department presented testimony and documentary evidence that the Appellant did not meet criteria at any Door. Further assessment by CentraCare intake determined that the Appellant was ineligible for PACE services by failure to meet Frailty Criteria under guidelines established for the exception review.

A determination of medical/functional ineligibility is an adverse action appealable through the Michigan Department of Community Health. MPM, *Supra* at pages 9-13.

To be eligible for PACE enrollment or continued enrollment, applicants or participants must meet the following requirements:¹

- Be age 55 years or older.
- Meet applicable Medicaid financial eligibility requirements. (Eligibility determinations will be made by the Michigan Department of Human Services)
- Reside in the PACE organization's service area.
- Be capable of safely residing in the community without jeopardizing health or safety while receiving services offered by the PACE organization.
- Receive a comprehensive assessment of participant needs by an interdisciplinary team.
- Be appropriate for placement in PACE based on completion of the Michigan Medicaid Nursing Facility Level of Care Determination.
- Be provided timely and accurate information to support Informed Choice for all appropriate Medicaid options for Long Term Care.
- Not concurrently enrolled in the MI Choice program.
- Not concurrently enrolled in an HMO.

MPM, PACE, §3.1 Eligibility Requirements, April 1, 2012, at page 3.

In this case, the Intake Coordinator completed a service assessment and review. During this process, she considered the Appellant's eligibility for the PACE program.

The Intake Coordinator first applied the Nursing Facility Level of Care Determination (LOCD) assessment and determined that the Appellant did not qualify for the program and then later determined that the Appellant was also ineligible under the LOCD Exception Process. [See MPM §5.1.D.2] The Appellant was reported to be independent with bed transfer, transfers, toilet use and eating.

¹ The PACE organization will be held responsible for enrolling only those participants who meet the criteria outlined in this section. MPM, §3.2 *Supra*.

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The reviewer determined that owing to the Appellant's breadth of recovery and the fact that she was performing her own personal care that she was ineligible for enrollment as she did not meet any domain under LOCD.

The Appellant disputed the etiology of her wound – which she admitted had healed. She said that the wound had nothing to do with the condition of her skin, but rather was the consequence of a lingering surgical infection.

The Department witness said that the Appellant's few remaining personal care needs could be met in the community.

On review, this Administrative Law Judge must uphold the Department's determination of program ineligibility for failure to meet the NF LOCD eligibility standard. The Appellant failed to preponderate her burden of proof that the Department's decision was in error or that she was otherwise eligible for PACE enrollment.

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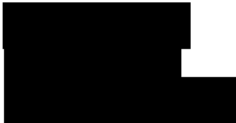
The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department correctly denied PACE enrollment to the Appellant.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Dale Malewska
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc:



Date Mailed: 4/12/2012

***** NOTICE *****

The State Office of Administrative Hearings and Rules may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The State Office of Administrative Hearings and Rules will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.