

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**
P. O. Box 30763, Lansing, MI 48909
(517) 335-2484; Fax (517) 373-4147

IN THE MATTER OF:

Docket No. 15-013249 PCE

██████████

██████████ ██████████

Appellant

_____ /

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 upon the Appellant's request for a hearing.

After due notice, a telephone hearing was held ██████████. Appellant appeared and testified on her own behalf. ██████████, Appellant's friend/neighbor also testified on the Appellant's behalf.

██████████ Executive Director, appeared and testified on behalf of ██████████ PACE (Respondent). ██████████ and ██████████, Medical Director appeared as witnesses for Respondent.

ISSUE

Did Respondent properly deny Appellant's request for services through the Program of All-Inclusive Care for the Elderly (PACE)?

FINDINGS OF FACT

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

1. ██████████ PACE is an organization that contracts with the Michigan Department of Community Health ("MDCH" or "Department") and oversees the PACE program in Appellant's geographical area. (Testimony).
2. Appellant is a █ year-old female born ██████████ who has been diagnosed with diabetes; morbid obesity; hypothyroidism; hyperlipidemia; bipolar disorder; tremors; obstructive sleep apnea; hypertension; osteoarthritis; a chronic right leg wound; insomnia and has a history of suicide attempts. (Exhibit A; Testimony).

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3. Prior to [REDACTED], the Appellant applied for PACE services through Respondent. (Testimony).
4. On [REDACTED] an initial intake was performed. The intake process encompassed several interview sessions and a review of Appellant's medical records. (Exhibit A; Exhibit B; Testimony).
5. At the time of the intake process, the Appellant was being treated at [REDACTED]). (Exhibit B; Testimony).
6. At the time of the intake process, the Respondent's mental health patients received treatment at the [REDACTED]. At the time of the intake process there was a [REDACTED] month wait list at the [REDACTED]. (Testimony).
7. On [REDACTED] the Respondent sent the Appellant a notice indicating the [REDACTED] PACE Interdisciplinary Team had determined the Respondent could not safely care for the Appellant in the community. (Exhibit E; Testimony).
8. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received a request for hearing in this matter. (Exhibit F).

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 the Program of All-Inclusive Care for the Elderly (PACE) program. Federal regulations require that Medicaid pay for services only for those beneficiaries who meet specified level of care criteria.

The *Medicaid Provider Manual, Program of All-Inclusive Care for the Elderly* chapter provides in part:

3.1 Eligibility Requirements

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

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- 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. [p. 3].

* * *

The Respondent's witnesses presented evidence showing the Appellant was not capable of safely residing in the community without jeopardizing the health and safety of herself and others while receiving services offered by the PACE organization.

The evidence indicates the Appellant has a history of mental health issues and multiple suicide attempts and subsequent hospitalizations and that she continues to struggle with her mental illness as exhibited by her answers to questions asked of her at the time of the initial intake (Exhibit B). The Appellant requires close psychiatric care and there is a question as to whether or not the Respondent would be able to provide the needed care given the wait list at the ██████████.

The Appellant argued that she is not suicidal and has not been for several years. Yet the medical records reviewed by the Respondent indicate the Appellant was hospitalized for suicidal ideation as recently as ██████████. And during the ██████████ intake, the Petitioner indicated to ██████████ that she currently had suicidal thoughts.

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The preponderance of the evidence submitted in this case demonstrates that the Appellant was not capable of safely residing in the community without jeopardizing her own health or safety while receiving services offered by the PACE organization.

I find, based on the information available at the time of the review, that the Respondent correctly determined the Appellant was not eligible for PACE services.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Respondent properly determined that the Appellant was not eligible for PACE services.

IT IS THEREFORE ORDERED that:

The Department's decision is **AFFIRMED**.



Corey Arendt
Administrative Law Judge
for Director, Nick Lyon
Michigan Department of Health and Human Services

Date Mailed: [REDACTED]

Date Mailed: [REDACTED]

CAA/db

cc: [REDACTED]

***** NOTICE *****

The Michigan Administrative Hearing System 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 Michigan Administrative Hearing System 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 mailing date of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.