

ISSUE

Did Respondent properly terminate Petitioner's PACE services due to financial ineligibility for the program?

FINDINGS OF FACT

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

1. Respondent is an organization that contracts with the Michigan Department of Health and Human Services ("MDHHS" or "Department") and oversees PACE in Petitioner's geographical area.
2. Petitioner has been receiving services through PACE for approximately one year. (Exhibit A, p 3; Testimony.)
3. On August 2, 2023, PACE was informed by MDHHS that Petitioner no longer met the financial eligibility requirements of the program because he now exceeded the income threshold. (Exhibit A, pp 1-3, 7; Testimony.) The income threshold for the program is REDACTED per month and Petitioner's monthly income is REDACTED. (Exhibit A, p 3; Testimony.)

4. On August 2, 2023, PACE sent Petitioner written notice that they would be terminating all PACE services effective September 1, 2023 because Petitioner's Medicaid was inactive due to being over the income threshold. (Exhibit A, pp 4-6; Testimony.)
5. On August 15, 2023, the Michigan Office Administrative Hearings and Rules (MOAHR) received Petitioner's Request for Hearing. (Exhibit 1.)

CONCLUSIONS OF LAW

The Medical Assistance Program (MA) 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.

PACE services are available as part of the Medicaid program and, with respect to the program and its services, the Medicaid Provider Manual (MPM) provides:

The Program of All-Inclusive Care for the Elderly (PACE) is an innovative model of community-based care that enables elderly individuals, who are certified by their state as needing nursing facility care, to live as independently as possible.

PACE provides an alternative to traditional nursing facility care by offering pre-paid, capitated, comprehensive health care services designed to meet the following objectives:

- Enhance the quality of life and autonomy for frail, older adults;
- Maximize the dignity of, and respect for, older adults;
- Enable frail, older adults to live in the community as long as medically and socially feasible; and
- Preserve and support the older adult's family unit.

The PACE capitated benefit was authorized by the federal Balanced Budget Act of 1997 and features a comprehensive service delivery system with integrated Medicare and Medicaid financing.

An interdisciplinary team, consisting of professional and paraprofessional staff, assesses beneficiary needs, develops

a plan of care, and monitors delivery of all services (including acute care services as well as nursing facility services, when necessary) within an integrated system for a seamless provision of total care. Typically, PACE organizations provide social and medical services in an adult day health center supplemented by in-home and other services as needed.

The financing model combines payments from Medicare and Medicaid, allowing PACE organizations to provide all needed services rather than be limited to those reimbursable under the Medicare and Medicaid fee-for-service systems. PACE organizations assume full financial risk for beneficiary care without limits on amount, duration, or scope of services.

Physicians currently treating Medicaid patients who are in need of nursing facility care may consider PACE as an option. Hospital discharge planners may also identify suitable candidates for referral to PACE as an alternative to a nursing facility. (Refer to the Directory Appendix for PACE contact information.)

SECTION 2 - SERVICES

The PACE organization becomes the sole source of services for Medicare and Medicaid beneficiaries who choose to enroll in a PACE organization.

The PACE organization is able to coordinate the entire array of services to older adults with chronic care needs while allowing elders to maintain independence in the community for as long as possible. The PACE service package must include all Medicare and Medicaid covered services, in addition to other services determined necessary by the interdisciplinary team for the individual beneficiary. Services must include, but are not limited to:

- Adult day care that offers nursing, physical, occupational and recreational therapies, meals, nutritional counseling, social work and personal care
- All primary medical care provided by a PACE physician familiar with the history, needs and preferences of each beneficiary, all specialty medical care, and all mental health care
- Interdisciplinary assessment and treatment planning

- Home health care, personal care, homemaker and chore services
- Restorative therapies
- Diagnostic services, including laboratory, x-rays, and other necessary tests and procedures
- Transportation for medical needs
- All necessary prescription drugs and any authorized over-the-counter medications included in the plan of care
- Social services
- All ancillary health services, such as audiology, dentistry, optometry, podiatry, speech therapy, prosthetics, durable medical equipment, and medical supplies
- Respite care
- Emergency room services, acute inpatient hospital and nursing facility care when necessary
- End-of-Life care

SECTION 3 - ELIGIBILITY AND ENROLLMENT

3.1 ELIGIBILITY REQUIREMENTS

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

- Be age 55 years or older.
- Meet applicable Medicaid financial eligibility requirements. (Eligibility determinations will be made by the Michigan Department of Health and Human Services (MDHHS).)
- 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.
- A determination of functional/medical eligibility based upon the online version of the Michigan Medicaid Nursing Facility Level of Care Determination (LOCD) that was conducted online within fourteen (14) calendar days from the date of enrollment into the PACE organization.
- 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.

*Medicaid Provider
Manual PACE Chapter
July 1 1, 2023, pp 1-3
Emphasis added*

Respondent's witness testified that they had to terminate Petitioner's PACE services once they were informed by MDHHS that Petitioner was over the income threshold for the program.

Petitioner's spouse testified that Petitioner's social security increased by REDACTED per month, so that is why he went over the income threshold. Petitioner's spouse indicated that Petitioner began with PACE after undergoing a lot of medical treatment and, while he had a long way to go, he was beginning to get a sense of purpose again. Petitioner's spouse testified that she is concerned for Petitioner's safety now because he is left home alone all day because she works two jobs. Petitioner's spouse noted that Petitioner's concentration is erratic, he gets confused, and is difficult for others to understand when he speaks. Petitioner's spouse indicated that Petitioner has fallen three times in the last year and has difficulty breathing. Petitioner's spouse testified that they have no family to assist them, and she has not been able to find any other program they can afford that is comparable to PACE.

Petitioner testified that his net social security payment is only REDACTED per month, which is below the income threshold. Petitioner indicated that it has only been two weeks since he has been away from PACE, but his condition has worsened significantly during that time. Petitioner testified that it is difficult for him to be home alone with his health conditions.

Given the above findings of fact and applicable policies, the undersigned Administrative Law Judge finds that Respondent PACE properly terminated Petitioner's PACE services.

As indicated above, one of the requirements to participate in the PACE program is that the individual must meet the applicable Medicaid financial eligibility requirements, as determined by MDHHS. Here, MDHHS has determined that Petitioner's income now exceeds the monthly threshold, so he no longer meets Medicaid's financial eligibility requirements. Also, given that a person's net pay may fluctuate based on various deductions, the Department uses gross pay when determining income. While sympathetic to Petitioner's situation, the undersigned has no equitable authority to grant Petitioner the relief he seeks and no ability to ignore clear policy. Petitioner should check with his local MDHHS office to see if there is anything that can be done regarding his Medicaid eligibility or any other programs that might be able to assist him.

However, based on the evidence presented, PACE's decision should be upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that Respondent properly terminated Petitioner's PACE services.

IT IS, THEREFORE, ORDERED that:

Respondent's decision is **AFFIRMED**.