

ISSUE

Did Respondent properly deny Petitioner's request for a power wheelchair?

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 enrolled in PACE and receiving services through Respondent. (Exhibit A. pages 17-23).

3. She also lives alone in an apartment and, inside her home, uses a manual wheelchair for her mobility needs. (Testimony of Petitioner).
4. On August 22, 2023, Petitioner requested that Respondent provide Petitioner with a power wheelchair. (Exhibit A, page 5).
5. That same day, a physical therapist assessed Petitioner. (Exhibit A, pages 8-9).
6. During that assessment, the physical therapist noted in part:

[Petitioner] is independent propelling the wheelchair using bilateral arms and left leg. [Petitioner] limits using her right leg due to pain. [Petitioner] was able to navigate in her manual wheelchair throughout her small apartment, on or off the elevator [sic] and in the hallway approximately 300 ft. [Petitioner] was independent transferring on and off her bed and toilet from the wheelchair. [Petitioner] chooses not to use her wheelchair brakes when transferring to bed and states that she has showered without assistance at times despite the recommendation to have assistance from her homecare aide.

* * *

Pain: back legs and shoulders — pain 3-4/10 manages pain with medications; pain can go up to 7/10 after "helping aide clean her apartment". Educated [Petitioner] to pace herself with home activities and to take a break when pain gets above a 4/10.

Strength: bilateral lower extremities - grossly 4/5 on the right and 4+/5 on left; upper extremities 5/5 [Petitioner] states that she does exercises with her legs and demonstrated to this therapist the variety of exercises she does.

Active range of motion: bilateral upper extremities within functional limits; sufficient knee and ankle active range of motion to assist in propelling wheelchair.

Exhibit A, page 8

7. Following the assessment, the physical therapist concluded:

Recommend [Petitioner] continue to use a manual wheelchair to maintain her strength and endurance that she would not get using a power wheelchair. The power wheelchair would also be challenging to maneuver in her small apartment. [Petitioner] presents with decreased safety awareness as noted by not using wheelchair brakes, showering without assistance and not understanding the safety concerns with using the power wheelchair in the snow.

Exhibit A, page 9

8. On August 23, 2023, Respondent's interdisciplinary team (IDT), including the physical therapist who assessed Petitioner, met and discussed Petitioner's request. (Exhibit A, pages 10-12).
9. That same day, Respondent sent Petitioner written notice that her request for a power wheelchair had been denied. (Exhibit A, pages 2-4).
10. With respect to the reason for the denial, the notice stated:

The reason for this action is that you have said you want the power wheelchair to go to the Dollar Store which is eight blocks away from your apartment and that you hoped it would have good traction for the ice and snow. You have been assessed by a Care Resources Physical Therapist, who doesn't feel that you need a power wheelchair and that it would be unsafe to use any wheelchair to travel eight blocks in the ice and snow. It would also be difficult for you to use a power wheelchair in your apartment. Your brother is able to grocery shop for you, so you don't need to go to the Dollar Store for snacks and household items. You are also able to use your manual wheelchair around your apartment complex. The Team has reviewed this assessment and has agreed to deny this Service Request. The legal basis for this decision is 42 CFR Part 460.

Exhibit A, pages 2-3

11. On September 12, 2023, the Michigan Office of Administrative Hearings and Rules (MOAHR) received the request for hearing filed by Petitioner in this matter regarding Respondent's decision. (Exhibit #1, pages 1-5).

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 eligibility for it, the Medicaid Provider Manual (MPM) provides:

SECTION 1 - GENERAL INFORMATION

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
- 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

*MPM, July 1, 2023, version
PACE Chapter, pages 1-2
(Italics added for emphasis)*

Here, Petitioner has been approved for PACE services at all times relevant to this matter and it is only the denial of her request for a power wheelchair that is in dispute.

In support of the decision to deny Petitioner's request, Respondent's representative testified regarding the history of Petitioner's case with Respondent; the request made for a power wheelchair; the assessments completed; and the reason for the denial.

Petitioner's primary care physician with Respondent testified that Petitioner has not had any significant changes in the past two years, and that Petitioner is safe and doing well.

Respondent's physical therapist testified that Petitioner is independent with the manual wheelchair and that Petitioner would lose strength if she switched to a power wheelchair. She also noted safety concerns she had about Petitioner attempting to use a wheelchair to get to a store on her own. She further testified that, while she understands that Petitioner can get tired using a manual wheelchair, Petitioner's apartment is small and Petitioner has other services available to her.

Petitioner's case manager with Respondent testified that one of Petitioner's goals is to walk again eventually, and that using a power wheelchair would not help with that goal.

Respondent's Manager of Home Care testified regarding services Petitioner has in the home.

In response, Petitioner testified that a power wheelchair will be a big help as using her manual wheelchair is so draining. She also testified that using the wheelchair in her home, in addition to other activities she must complete, such as bathing and transferring, is so exhausting that she must take naps and use medication for her pain. She further testified that she believes a power wheelchair would fit in her home and be faster to use, like when she needs to get to the bathroom; and that she could safely use it out of the home. Petitioner also testified that her brother has an upcoming surgery, and he will no longer be able to help her shop.

Petitioner bears the burden of proving by a preponderance of the evidence that Respondent erred. Moreover, the undersigned Administrative Law Judge is limited to reviewing Respondent's decision in light of the information available at the time the decision was made.

Given the record and available information in this case, Petitioner has failed to meet her burden of proof and Respondent's decision must therefore be affirmed.

As found by Respondent and confirmed by Petitioner's testimony, Petitioner is currently able to independently use a manual wheelchair and meet her own mobility needs both inside the home and, with assistance, outside of her home. Moreover, while Petitioner testified that it is exhausting to do so and negatively affecting her life, Respondent's witnesses, credibly testified regarding why it is beneficial for Petitioner's overall health and functioning to continue to use the manual wheelchair and not become reliant on a power wheelchair. Accordingly, the requested power wheelchair was not needed or appropriate.

To the extent Petitioner's circumstances change, such as her brother being unable to assist her with shopping, then she can always request additional services or a power wheelchair again in the future. With respect to the issue in this case however, Respondent's decision is affirmed given the information available at the time.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that Respondent's properly denied Petitioner's request for a power wheelchair.

IT IS, THEREFORE, ORDERED that:

Respondent's decision is **AFFIRMED**.