

## ISSUE

Did Department properly deny Petitioner's request for Day center attendance?

## FINDINGS OF FACT

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

1. Department is an organization that contracts with the Michigan Department of Health and Human Services (MDHHS).

2. Petitioner is a Medicaid beneficiary who is enrolled as a participant with Department. (Testimony; Exhibit A.)
3. On June 16, 2023, Petitioner was placed at Linden Square Assisted Living. Linden Square Assisted Living provides social activities both within the home and outside of the home. Petitioner participates in both sets of activities. (Testimony; Exhibit A.)
4. On or around July 7, 2023, Petitioner requested to attend the Day Center. (Exhibit A.)
5. On July 7, 2023, the Department sent Petitioner an Adequate Action Notice. The notice indicated Petitioner's request for Day Center attendance was denied due to services (activities and socialization) already being provided at Petitioner's Assisted Living Facility. (Testimony; Exhibit A.)
6. At all times relevant to this proceeding, Petitioner received from the Department, weekly therapy at Linden Square Assisted Living. (Testimony.)
7. On September 28, 2023, the Michigan Office of Administrative Hearings and Rules received from Petitioner, a request for hearing. (Exhibit A.)

### **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, 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'

Here, the issue on appeal is the Department's denial of Petitioner's Day Center request. In support of the termination, Department witnesses testified Petitioner had alternative living settings that provided socialization and support services. The witnesses also indicated that Petitioner participates in her homes offerings and has remained healthy while experiencing no mental health needs since moving into the assisted living facility. The Department witnesses also indicated Petitioner continues to receive therapy services from the Department at least weekly within the Petitioner's residence.

In response, Petitioner's representative indicated Petitioner would benefit from Day Center attendance and that she has issues with one of the other residents that at times prevents Petitioner from some activities. Petitioner's Representative also indicated Petitioner has a very close relationship with Department staff and thoroughly enjoys her time visiting with them.

In appealing the decision in dispute, Petitioner bears the burden of proving by a preponderance of the evidence that Department erred. Moreover, the undersigned Administrative Law Judge is limited to reviewing the decision in light of the information that was available at the time the decision was made. In this case, while Petitioner has provided some arguments, they were subjective conclusions that lacked evidentiary support.

Given the available information and applicable policies in this case, Petitioner has failed to meet that burden of proof; and Department's decision must therefore be affirmed.

### **DECISION AND ORDER**

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that Department properly denied Petitioner's request for day center attendance.

**IT IS THEREFORE ORDERED** that:

Department's decision is **AFFIRMED**.

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