

ISSUE

Did Department properly deny Petitioner's request for permanent placement?

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) and oversees PACE in Petitioner's geographical area.

2. Petitioner is a Medicaid beneficiary who has, at all times relevant to this proceeding, been enrolled as a PACE participant with Department. (Exhibit A).
3. Petitioner has been diagnosed with unspecified dementia and has memory issues. (Exhibit A; Testimony).
4. Since at least 1990, Petitioner's cognitive level has been stable. (Exhibit A).
5. On or around REDACTED 2023, Petitioner's DPOA requested Petitioner be permanently placed in an assisted living facility. Petitioner's DPOA had intentions to sell Petitioner's home and did not feel comfortable if Petitioner moving to other subsidized housing was an option due to the risk of Petitioner wandering or getting lost in a new and unfamiliar area. (Exhibit A; Testimony).
6. On October 19, 2023, Petitioner participated in an assessment where in Petitioner reported she was doing well and felt safe in her current environment. Petitioner value her ability to live on her own independently and liked living in an apartment. (Exhibit A).
7. On or around October 19, 2023, the Department reviewed Petitioner's case and determined a denial of Petitioner's request was appropriate as Petitioner continues to function well independently in her current environment. (Exhibit A; Testimony).
8. On October 20, 2023, the Department sent Petitioner a Denial Notice. The notice indicated Petitioner's request for permanent placement was denied. The notice stated specifically:

IDT reviewed and team in agreement with the denial for placement. [Petitioner] continues to function well independently in her environment. MSW to f/u on further discussions regarding subsidized housing and potential interventions to assist [Petitioner] in getting acclimated to new housing and reduce chances of wandering/getting lost. MSW to notify ppt DPOA of denial and notify quality as DPOA has already voiced that she wants denial to be appealed.'

¹ Exhibit A, p 2.

9. On December 11, 2023, the Michigan Office of Administrative Hearings and Rules (MOAHR) received a Request for Hearing filed by Petitioner. (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
- 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 caret

Here, as discussed above, Department denied Petitioner's request for permanent placement in an assistive living facility pursuant to the above policies.

In appealing that decision, 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.

Given the available information and applicable policies in this case, Petitioner has not met that burden of proof; and the Department's decision must therefore be affirmed.

It is undisputed in this case that Petitioner has memory and cognitive deficits. However, while these issues are undisputed, Department and Petitioner's AHR properly point out Petitioner has been relatively stable for years with minimal interventions. Additionally, the Department witnesses indicated Petitioner can safely be cared for in

² MPM, PACE, July 1, 2023, pp 1-2.

her current environment and consequently, a permanent placement was not necessary at this time.

Petitioner can always request a placement again in the future. With respect to the decision at issue in this case, however, the Department's decision must be affirmed given the available information and applicable policies.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED that:

Department's decision is **AFFIRMED**.