

ISSUE

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

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. (Testimony of Respondent's representative).

¹ Respondent submitted an evidence packet as a proposed exhibit, but it was not admitted because Petitioner had not yet received it. The parties and undersigned Administrative Law Judge also discussed continuing the hearing so that the proposed exhibit could be considered, but the Administrative Law Judge subsequently found that the exhibit was not necessary.

3. For mobility, he uses and operates a manual wheelchair. (Testimony of Petitioner).
4. He is able to do so independently and without difficulty. (Testimony of Petitioner).
5. However, Petitioner has also asked Respondent to provide him with a power wheelchair as a matter of preference. (Testimony of Petitioner).
6. Respondent assessed Petitioner, and then denied his request on the basis that a power wheelchair is not medically necessary. (Testimony of Respondent's representative).
7. Petitioner subsequently filed an Internal Appeal with Respondent regarding that denial. (Exhibit #1, page 2).
8. On May 21, 2024, Respondent sent Petitioner written notice that his Internal Appeal had been denied and the decision to deny his request for a power mobility device upheld. (Exhibit #1, pages 2-4).
9. With respect to the reason for the decision, the notice stated:

The denial of your request for a power mobility device was upheld because the committee agreed that a power mobility device is not medically necessary due to your current functional status and ability to use your manual wheelchair independently.

Exhibit #1, page 2

10. On May 24, 2024, the Michigan Office of Administrative Hearings and Rules (MOAHR) received the request for hearing filed by Petitioner in this matter regarding Respondent's decision to deny his request for a power mobility device. (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, April 1, 2024, 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 his request for a power mobility device that is in dispute.

In appealing that decision, 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 his burden of proof and Respondent's decision must therefore be affirmed.

It is undisputed in this case that Petitioner currently uses a manual wheelchair and that he is able to do so independently and without difficulty, with Petitioner himself also expressly testifying that he wants a power wheelchair "just because he can" and as a matter of preference.

However, while Petitioner may prefer a power wheelchair, it is clear that one is not medically necessary given his current level of functioning and medical necessity is the standard that Respondent reviews requests under. Respondent cannot approve, and Medicaid does not cover, power mobility devices simply as a matter of preference.

Accordingly, given Petitioner's current functioning and the lack of medical necessity for a power mobility device, Respondent properly denied Petitioner's request for a power wheelchair.

To the extent Petitioner's circumstances change or he has additional information to provide, then he can always request a power mobility device again in the future. With respect to the issue in this case however, Respondent's decision is affirmed.

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 mobility device.

IT IS, THEREFORE, ORDERED that:

Respondent's decision is **AFFIRMED**.