

ISSUE

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

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).

3. On or about May 31, 2024, Petitioner requested via telephone that Respondent provide her with a power platform wheelchair lift. (Exhibit A, pages 8-10).
4. Respondent assessed Petitioner, and then denied her request on the basis that the power platform wheelchair lift was not appropriate or necessary. (Exhibit A, pages 10-20).
5. On June 5, 2024, Respondent sent Petitioner an Adequate Action Notice stating that Petitioner's request for a power platform wheelchair lift was denied. (Exhibit A, pages 5-7).
6. As part of that notice, Respondent advised Petitioner that she had a right to request a hearing with the Michigan Office of Administrative Hearings and Rules (MOAHR) if she disagreed with the decision. (Exhibit A, page 6).
7. Petitioner did not request a hearing with respect to that denial. (Testimony of Petitioner).
8. Petitioner did pursue privately paying for a wheelchair lift, and she subsequently found one that she wanted. (Testimony of Petitioner).
9. The platform provider told Petitioner that she would get a discount if she submitted a prescription for it. (Testimony of Petitioner).
10. Petitioner then requested that her doctor through Respondent sign a prescription for the wheelchair lift. (Testimony of Petitioner; Testimony of Dr. Wolfe).
11. The prescription submitted to the doctor stated that the power platform wheelchair lift was medically necessary. (Testimony of Dr. Wolfe).
12. While the doctor was willing to complete a prescription for the wheelchair lift, she did not believe the lift is medically necessary and Respondent therefore denied the request for a prescription stating so. (Testimony of Dr. Wolfe).
13. On June 26, 2024, MOAHR received the request for hearing filed by Petitioner in this matter. (Exhibit #1, pages 1-14).
14. In that request for hearing, Petitioner stated that she was not appealing the denial of a power platform wheelchair lift and, instead, only wanted to appeal the denial of her request for a prescription for a power platform wheelchair lift. (Exhibit #1, pages 1-14).

15. On June 27, 2024, Respondent sent Petitioner an Adequate Action Notice stating that Petitioner's request for a prescription for a power platform wheelchair lift was denied. (Exhibit A, pages 21-23).
16. With respect to the reason for the denial, the notice stated:

The reason for this action is that a prescription from your Primary Care Provider is not necessary for you to purchase a vertical platform lift. The legal basis for this decision is 42 CFR Part 460.

Exhibit A, page 21

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 her request for a prescription for a power platform wheelchair lift 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 her burden of proof and Respondent's decision must therefore be affirmed.

It is undisputed in this case that, while Petitioner previously requested and was denied a power platform wheelchair lift through Respondent, Petitioner is not appealing that denial and now only wants a prescription for a power platform wheelchair lift in order to get a discount on one she plans to privately purchase.

Moreover, Petitioner's doctor with Respondent credibly testified that she would sign a prescription for a lift, but just not the prescription submitted to her as it stated that a lift was medically necessary, which she does not believe to be the case.

Petitioner was not sure of the exact language in the prescription she forwarded to Respondent and, while she testified at times that the lift was needed, she also testified that she just wanted to get the prescription in order to get a discount. Petitioner also testified that she did not request a hearing with respect to the earlier denial of a request for a power platform wheelchair lift.

Accordingly, given the doctor's credible and uncontradicted testimony, the undersigned Administrative Law Judge finds that the specific request at issue in this case was for a prescription stating that a power platform wheelchair lift for Petitioner was medically necessary.

Moreover, given the doctor's credible testimony as to why the lift was not medically necessary in her view, in addition to Petitioner's testimony that she just wanted a prescription in order to receive a discount and that she was not challenging Respondent's earlier denial of her request for a lift, the undersigned Administrative Law Judge also finds that Petitioner has not met her burden of proving that Respondent erred in denying her request for a prescription, stating that a power platform wheelchair lift for Petitioner was medically necessary.

To the extent Petitioner would be satisfied with a different prescription or she has additional information to provide, then she can always request a prescription 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 prescription for a power platform wheelchair lift.

IT IS, THEREFORE, ORDERED that:

Respondent's decision is **AFFIRMED**.