

## **ISSUE**

Did Respondent properly deny Petitioner's request for a lift chair?

### **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" or "Department") and oversees PACE in Petitioner's geographical area.
2. Petitioner is a Medicaid beneficiary who has been enrolled in PACE and receiving services through Department. (Exhibit A.)

3. Petitioner uses a power wheelchair for mobility and transfers in and out of bed and wheelchair independently. Petitioner does have AFC staff available as needed, however, Petitioner prefers to complete tasks independently. (Exhibit A.)
4. On or around April 5, 2024, Petitioner requested a lift chair. Petitioner indicated the chair in her room is very low to the ground, and she does not use it because she is unable to get out of it independently. Petitioner also was of the belief her edema in her legs would improve if she could sit in a chair and not just in her powerchair or bed. (Exhibit A; Testimony.)
5. Following Petitioner's request, an assessment was completed by Occupational Therapy. During the assessment, Petitioner's chair was observed up against a wall, limiting its ability to recline. After moving the chair away from the wall, the chair was observed to recline back 45 degrees, an optimal position for managing Petitioner's lower extremity edema. It was noted that the chair did not tilt forward which made it a struggle for Petitioner performing unassisted transfers. Occupational Therapy did recommend the approval of a lift chair for Petitioner. (Exhibit A; Testimony.)
6. Petitioner's residence has lift chairs in the common area of the AFC home she can use. (Exhibit A.)
7. On April 8, 2024, the Department sent Petitioner an Advance Action Notice. The notice indicated Petitioner's request for a lift chair was denied. Reasons for the denial included other lift chairs in the AFC home Petitioner could use; Petitioner could place her current chair on a platform; Petitioner can use her hospital bed to lift her head and legs. The noticed stated specifically:

[t]eam in agreement to deny due to there are other options to try that she has asses [sic] to that can assist with concerns, hospital bed to left [sic] head and legs, lift chair will not take feet above heart, place current chair on a platform.'
8. On or around April 30, 2024, Petitioner appealed the local level decision. (Exhibit A.)
9. On May 2, 2024, the Department upheld the local level decision finding the Department could assist Petitioner to raise her current chair and adjust the height to best meet Petitioner's needs. It was additionally concluded, Petitioner had use of other lift chairs in the AFC home where she resides. (Exhibit A.)

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<sup>1</sup> Exhibit A, p 2.

10. On July 24, 2024, the Michigan Office of Administrative Hearings and Rules received from Petitioner, a request for hearing. (Hearing File.)

### **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 ...<sup>2</sup>

Here, Department denied Petitioner's request for a lift chair pursuant to the above policies and on the basis that the requested chair is not medically necessary as Petitioner's current chair height can be modified to meet Petitioner's needs; and there are other lift chairs in the AFC home Petitioner resides in that Petitioner can use. The Department also indicated Petitioner's hospital bed can be used to raise and lower Petitioner's head and legs.

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 failed to meet that burden of proof; and Department's decision must, therefore, be affirmed.

Even though lift chairs are not covered items under Medicaid<sup>3</sup>, the above policy still provides that Department would be required to cover the chair if it is determined necessary by the interdisciplinary team. However, there has been no demonstration of such medical necessity in this case.

### **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 a lift chair.

**IT IS THEREFORE ORDERED** that:

Department's decision is **AFFIRMED**.