

## **ISSUE**

**Did Department properly deny Petitioner's request for nephrology appointments?**

### **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 and oversees PACE in Petitioner's geographical area.**
- 2. On or around August 26, 2024, the Department's Interdisciplinary Team recommended a discontinuation of Petitioner's nephrology appointments given Petitioner's stability of chronic kidney disease and no recent changes in management. The team further determined Petitioner's labs**

could be monitored through their clinic on a regular basis as necessary. (Exhibit A.)

3. On August 30, 2024, the Department sent Petitioner an Adequate Action Notice. The notice indicated Petitioner's Nephrology Consultation was being denied due to Petitioner's current diagnosis being stable and the fact Petitioner could be monitored through a PACE provider. The notice went on to indicate that in the future if there was a change in Petitioner's condition, a referral could be made. (Exhibit A; Testimony.)
4. On October 11, 2024, 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. . .<sup>1</sup>

Here, Department denied Petitioner's request for nephrology consultations in accordance with the above policies and on the basis that Petitioner's current diagnosis was stable and could be further monitored by PACE.

In response Petitioner reported a medical need for the visits and the fact he only has one kidney and suffered from bladder kidney cancer. Petitioner also reported he had issues providing blood samples at the PACE clinic. Petitioner, however, failed to provide evidence to contradict the Department's arguments. Petitioner also did not identify how providing lab samples during a nephrology visit was any different than providing samples at the PACE clinic.

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.

### 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 nephrology consultations.

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<sup>1</sup> MPM, Program of All-Inclusive Care for the Elderly July 1, 2024, pp 1-2.

**IT IS THEREFORE ORDERED** that:

Department's decision is **AFFIRMED**.