



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR



Date Mailed: May 26, 2020  
MOAHR Docket No.: 19-012458  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Corey Arendt**

**DECISION AND ORDER**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 *et seq*; 42 CFR 438.400 *et seq*; and Mich Admin Code, R 792.11002.

After due notice, a hearing was held on May 20, 2020. Petitioner appeared on her own behalf. Sandi Lewis, Quality Manager, appeared on behalf of PACE of Southwest Michigan (Department), the Respondent. Melissa Powell, Registered Dietician, appeared as a witness for the Department.

**Exhibits:**

Petitioner	None
Department	A – Hearing Summary

**ISSUE**

Did the Program of All-Inclusive Care for the Elderly (PACE) organization properly deny Petitioner's request for lower and partial dentures?

**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 the PACE program in Petitioner's geographical area.
2. In early September of 2019, Petitioner requested lower and upper partial dentures. (Exhibit A; Testimony.)

3. On September 18, 2019, Department assessed Petitioner. The assessment consisted of a discussion with Petitioner about dentures, prior dental history and observations of Petitioner eating a meal. During the observation phase, Petitioner was observed eating a Philly steak sandwich. (Exhibit A; Testimony.)
4. On September 20, 2019, the assessment was discussed amongst Department staff and it was determined Petitioner was able to compensate for the loss of her back teeth and was keeping a stable weight and thus not eligible for partial dentures. (Exhibit A; Testimony.)
5. On September 20, 2019, Department sent Petitioner a negative action notice. The notice indicated Petitioner's request for denture was being denied. (Exhibit A; Testimony.)

### **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:

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 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
- 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<sup>1</sup>

Petitioner requested dentures and was examined by Department staff. It was determined Petitioner was able to compensate for the loss of some back teeth with the use of her front teeth and that her weight had remained stable overall.

Petitioner indicated she was unable to eat solid food and that although her weight had remained stable, it was the result of dialysis.

In this case, Petitioner has the burden of proof and in light of the evidence presented, Petitioner has not met her burden. Although Petitioner claims she cannot eat solid food, she has maintained her weight and she was observed consuming a Philly steak sandwich during her assessment. Consequently, I find sufficient evidence to affirm the Department's determination to deny Petitioner's request for partial upper and lower dentures.

### **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 dentures based on the available information.

**IT IS THEREFORE ORDERED** that

The Department's decision is **AFFIRMED**.

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<sup>1</sup> Medicaid Provider Manual (MPM), Program of All-Inclusive Care for the Elderly, October 1, 2019, pp 1, 2.

CA/sb

  
**Corey Arendt**

Administrative Law Judge  
for Robert Gordon, Director  
Department of Health and Human Services

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules  
Reconsideration/Rehearing Request  
P.O. Box 30763  
Lansing, Michigan 48909-8139

**DHHS -Dept Contact**

Roxanne Perry  
400 S PINE ST  
CAPITAL COMMONS  
LANSING, MI  
48909

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]

**Community Health Rep**

PACE of Southwest Michigan  
Attn: Rhonda Gibson, Center Manager  
2900 Lakeview Avenue  
St. Joseph, MI  
49085