

[REDACTED] MI [REDACTED]

Date Mailed: July 14, 2022
MOAHR Docket No.: 22-002537
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Corey Arendt

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and upon Petitioner's request for a hearing.

After due notice, a telephone hearing was held on July 12, 2022. [REDACTED], Petitioner's Daughter, appeared on behalf of Petitioner. Tracey Diroff, Director of Quality and Compliance, appeared and testified on behalf of Respondent PACE SE Michigan, a Program of All-Inclusive Care for the Elderly (PACE) organization (Department). Twana Fisher-Bean, Occupational Therapist, appeared as a witness for the Department.

Exhibits:

Petitioner	None
Department	A. Hearing Summary

ISSUE

Did Respondent properly deny Petitioner's request for an aluminum wheelchair ramp?¹

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. Petitioner has been enrolled in PACE and receiving services through Respondent. (Testimony of Respondent's representative).

¹ In this case, Petitioner was approved for a steel ramp but was denied an aluminum ramp.

3. In February of 2022, Petitioner requested a ramp be installed. (Exhibit A; Testimony).
4. During the preliminary discussions, Petitioner was shown two varieties of ramps and mock drawings. One ramp was made of aluminum while the other ramp was made of steel. (Exhibit A; Testimony.)
5. At the time of discussions, the Department had available to install a steel ramp but no aluminum ramps. (Testimony.)
6. Following the preliminary discussions, Petitioner elected to go with an aluminum ramp. (Exhibit A; Testimony.)
7. On February 11, 2022, the Department denied Petitioner's request for an aluminum ramp. (Exhibit A; Testimony.)
8. Petitioner appealed the February 11, 2022, decision. (Exhibit A; Testimony.)
9. On March 16, 2022, the Department issued a determination upholding the February 11, 2022, denial. The determination issued stated the following:

A ramp assessment was conducted by the PACE SEMI ramp vendor. Pictures, dimensions and layout provided to the participants family members. The ramp vendor did show the family a picture of an aluminum ramp for purposes of showing the layout but denied that they told the family they would have a choice. This vendor is aware that PACE SEMI uses only steel ramps.

The discussion centered on that the steel and aluminum ramps are both ADA compliant and would serve the participant well. It was decided that it would not benefit the participant to change out the ramp to an aluminum version as the ramps are the same size and the layout would not change.²

10. On June 13, 2022, the Michigan Office Administrative Hearings and Rules (MOAHR) received the request for hearing filed by Petitioner in this matter regarding Respondent's decision.

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).

² Exhibit A.

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 its services, the Medicaid Provider Manual (MPM) provides:

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 care³

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 ramp that is in dispute.

In appealing Respondent's decision, Petitioner bears the burden of proving by a preponderance of the evidence that Respondent erred.

Given the record in this case, Petitioner has failed to meet her burden of proof and Respondent's decision must therefore be affirmed. It is undisputed that a ramp is medically necessary. The only issue on appeal is the color and material. The Petitioner in this matter has not provided any evidence to show how or why an aluminum ramp is more medically necessary than a steel one. Consequently, Respondent's decision is affirmed.

³ Medicaid Provider Manual, Program of All-Inclusive Care for the Elderly, January 1, 2022, pp 1-2.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that Respondent properly denied Petitioner's request for an aluminum wheelchair ramp.

IT IS, THEREFORE, ORDERED that:

Respondent's decision is **AFFIRMED**.

CA/dh

J. Arendt
Corey Arendt
Administrative Law Judge

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.

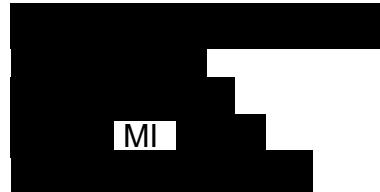
If submitted by mail, the written request must be addressed as follows:

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

Via Electronic Mail:

DHHS Department Contact

Roxanne Perry
Capitol Commons
400 S. Pine St.
Lansing, MI 48909
MDHHS-MSA-PACE@michigan.gov



Community Health Rep.

Tracey Diroff
c/o PACE Southeast Michigan
21700 Northwestern Highway
Southfield, MI 48075
Tracey.Diroff@pacesemi.org

Via First Class Mail:

Petitioner

