

ISSUE

Did Respondent properly suspend Petitioner's day center attendance?

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 the PACE program in Petitioner's geographical area. (Exhibit A; Testimony.)
2. Petitioner is a Medicaid beneficiary who is enrolled in and receives services through PACE. (Exhibit A; Testimony.)
3. In the fall of 2023, when Petitioner first joined PACE, he made some abusive and threatening comments to Respondent's Behavioral Health Specialist (BHS) during a meeting in Petitioner's home. (Exhibit A; Testimony.)
4. Since Petitioner had not yet begun day center visits, PACE informed him that a psychological evaluation was needed before he could begin coming into the day center. (Exhibit A; Testimony.)
5. On REDACTED 2023, a psychological evaluation was conducted and Petitioner was eventually allowed to begin coming into the day center, although a new BHS was assigned to Petitioner. (Exhibit A; Testimony.)
6. Even though PACE worked with Petitioner on his anger issues, Petitioner continued his abusive and threatening behaviors after he began coming to the day center. (Exhibit A, pp 11-43; Testimony.)
7. On November 18, 2024, PACE informed Petitioner via Advance Action Notice Denial of Service that it was suspending his day center privileges. (Exhibit A, pp 8-9; Testimony.)
8. On January 13, 2025, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's Request for Hearing. (Exhibit A, p 3.)

CONCLUSIONS OF LAW

The Medical Assistance Program 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

3.13 APPLICANT APPEALS

3.13.C. PACE SERVICES

Noncoverage or nonpayment of services by the PACE organization for a beneficiary enrolled in PACE is an adverse action. If the beneficiary and/or representative disagrees with the noncoverage or nonpayment of services by the PACE organization, they have the right to request an administrative hearing before an administrative law judge. Information regarding the appeal process may be found on the MOAHR website. (Refer to the Directory Appendix for website information.)

The beneficiary may request continuation of the disputed service with the understanding that he may be liable for the cost of the disputed service if the determination is not made in his favor.

*Medicaid Provider Manual
Program of All-Inclusive Care for the Elderly Chapter
October 1, 2024, pp 1-2, 7*

Petitioner testified that he admits he has anger problems. Petitioner indicated that the therapists at PACE helped him get his anger under control but he knows he still has a few things he needs to work on. Petitioner testified that he would never follow through on any of the threats he made. Petitioner indicated that he knows he gets mad and says things he shouldn't. Petitioner noted that his anger problem is a lot better than it was when he began at PACE. Petitioner testified that he does own three guns but they have not been in his possession in many years. Petitioner testified that he misses going to the day center, misses the activities, and the people. Petitioner noted that he has been home alone since November.

Given the overwhelming evidence of Petitioner's abusive and threatening behavior presented by Respondent, and the fact that Petitioner admits to his behavior, Petitioner has failed to prove by a preponderance of the evidence that PACE erred in suspending his day center privileges. PACE must ensure a safe environment for its participants and its employees and suspending Petitioner from day center privileges was proper to achieve that goal.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that Respondent's properly suspended Petitioner's day center attendance.

IT IS, THEREFORE, ORDERED that:

Respondent's decision is **AFFIRMED**.