

## ISSUE

Did Respondent properly deny Petitioner's request for a new power wheelchair?

## 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 PACE in Petitioner's geographical area.
2. Since September 1, 2023, Petitioner has been enrolled in PACE and receiving services through Respondent. (Exhibit C, page 4).
3. At the time of his enrollment, Petitioner had a power wheelchair. (Exhibit C, page 4).
4. Through his services with Respondent, including physical therapy, Petitioner's mobility and transferring has improved. (Testimony of PT).
5. In September of 2024, Petitioner was assessed and fitted for a new power wheelchair. (Testimony of OT).
6. In October of 2024, Petitioner received a power wheelchair through Respondent. (Exhibit B, page 1).
7. However, after receiving the new power wheelchair, Petitioner reported that it was too small; its arms are not long enough; it does not elevate his feet; and it gets stuck in the snow and ice when he attempts to use it in the community. (Exhibit B, page 1).
8. On December 20, 2024, Petitioner and his new power wheelchair were evaluated by an OT at Respondent's day center. (Exhibit B, pages 1-2; Testimony of OT).
9. In her subsequent report, the OT noted in part:

Writer observed ppt in power chair and notes his w/c seat to be appropriately fitted. Ppt educated on safety while managing snow/ice in the community and encouraged to wait for the sidewalks to be cleared to be out to avoid getting stuck. Ppt is not appropriate for tilt-in-space feature at this time as he is able to weight shift and transfer independently in/out of his w/c. Ppt is

also independent with managing joy stick of his w/c when sitting securely against the back of his chair.

*Exhibit B, page 1*

10. Respondent's interdisciplinary team (IDT) then reviewed Petitioner's request, and determined that it should be denied. (Exhibit B, pages 1-2).
11. On December 23, 2024, Respondent sent Petitioner notice that his request for a new power wheelchair had been denied. (Exhibit B, pages 4-5).

12. With respect to the reason for the denial, the notice stated in part:

**IDT denies this request for a new power wheelchair as per the Occupational Therapist assessment, participant's current wheelchair is in good working condition. His current wheelchair is fitted to him and appropriate for participant's mobility needs.**

*Exhibit B, page 4*

13. On January 27, 2025, MOAHR received the request for hearing filed in this matter with respect to that denial. (Exhibit A, page 1).

### **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
- 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

*MPM, October 1, 2024, version  
PACE Chapter, pages 1-2  
(Italics added for emphasis)*

Here, Petitioner has been approved for PACE services at all times relevant to this matter and it is only the denial of his request for a new power wheelchair that is in dispute.

In appealing that decision, Petitioner bears the burden of proving by a preponderance of the evidence that Respondent erred. Moreover, the undersigned ALJ is limited to reviewing Respondent's decision in light of the information available at the time the decision was made.

Given the record and available information in this case, Petitioner has failed to meet his burden of proof, and Respondent's decision must therefore be affirmed.

Petitioner has recently received a new power wheelchair through Respondent and, while he now has complaints about it, he was assessed and fitted for that wheelchair prior to receiving it. Moreover, as credibly and fully explained by Respondent's witnesses, Petitioner has no medical need for any changes, with Petitioner's wheelchair reassessed by an OT and observed to be appropriately fitted; Petitioner not requiring a tilt-in-space feature given his abilities; and Petitioner doing better with his mobility and transferring, which could be threatened by some of features Petitioner's wants to depend on.

In response, Petitioner testified that he has fallen out of his new wheelchair three times since receiving it and he has now been getting blood clots. However, that testimony is unsupported; contradicted by the PT's testimony regarding a lack of blood clots; and the undersigned ALJ does not find Petitioner to be credible or persuasive given the remainder of the record.

To the extent Petitioner's circumstances have changed or he has additional information to provide, he can always request a new power wheelchair again in the future. With respect to the issue in this case however, Respondent's decision is affirmed.

### **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 a lift chair.

**IT IS, THEREFORE, ORDERED** that:

Respondent's decision is **AFFIRMED**.

