

## ISSUE

Did Respondent properly deny Petitioner's request for long-term placement in assisted living?

## 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. Petitioner is an REDACTED year-old Medicaid beneficiary who is enrolled as a PACE participant with Respondent. (Exhibit #2, page 1; Testimony of Respondent's representative).

I Respondent also submitted 24 proposed exhibits, but Petitioner's guardian had not received them and they were not admitted into the record.

25-016381  
2

---

- 
- 
3. Her approved services have included medication management, a home health aide, home care nursing, incontinence supplies, psychiatric services, transportation, and attendance at Respondent's day center one day a week. (Testimony of Respondent's representative).
  4. Petitioner did not always utilize all of her approved services. (Testimony of Petitioner's representative)
  5. Petitioner lived alone prior to falling and injuring herself. (Testimony of Petitioner's representative).
  6. She was then hospitalized for 5 days. (Testimony of Petitioner's representative).
  7. Following her hospitalization, she has been placed at a respite stay. (Testimony of Petitioner's representative).
  8. Respondent has assessed and provided services to Petitioner at the respite stay location. (Testimony of PT Sweeney; Testimony of PT Kelly).
  9. On April 1, 2025, Petitioner's guardian requested long-term placement in assisted living for Petitioner. (Exhibit A, page 5; Testimony of Petitioner's representative).
  10. On April 3, 2025, Respondent sent written notice that Petitioner's guardian's request had been denied. (Exhibit #1, page 4).
  11. In part, that notice stated:

This request was denied because there were no safety concerns identified when the Physical therapist, homecare RN, along with social worker completed their assessments. Also it was made know that [Petitioner] does not wish to move out of her apartment at this time. The team recommends evaluating her services and increasing homecare/respite/day center services if you are agreeable.

*Exhibit A, page 4*

12. Petitioner's guardian then filed an appeal with Respondent with respect to that denial. (Exhibit #1, page 7).
13. Respondent subsequently denied Petitioner's appeal. (Exhibit #1, pages 3, 5).

25-016381

14. With respect to the reason for the appeal decision, Respondent stated:

This decision was based on the following factors:

1. [Petitioner] has a healthy functional status, she has 1 reported fall in the last 6 months and is able to ambulate independently with no concerns.
2. There are additional PACE services that are not being currently utilized. It is recommended to the family by the appeals committee that the family and participant utilize additional homecare services along with day center services to provided increased safety measures and oversight [sic].

*Exhibit #1, pages 3, 5*

15. On April 30, 2025, MOAHR received the request for hearing filed by Petitioner's guardian in this matter. (Exhibit #1, pages 1-11).

### **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:*

25-016381

- 
- 
- 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, April 1, 2025, version  
PACE Chapter, pages 1-2  
(Italics added for emphasis)*

Here, as discussed above, Respondent denied Petitioner's request for long-term placement in assisted living pursuant to the above policies.

In appealing that decision, Petitioner bears the burden of proving by a preponderance of the evidence that Respondent 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 not met that burden of proof and Respondent's decision must therefore be affirmed.

It is undisputed in this case that Petitioner has significant health issues, but Respondent's witnesses, including a Nurse Practitioner and Physical Therapist who have treated and assessed Petitioner, credibly testified that Petitioner can return to her home and live capably with services. Respondent's representative also credibly and persuasively noted that Petitioner's services, which have been underutilized in the past, can be increased to account for any additional or unaddressed needs.

Moreover, while Petitioner's guardian disputes those findings and believes that Respondent has not documented all of Petitioner's falls or injuries, her testimony is unsupported and unpersuasive. In particular, Petitioner's guardian's reliance on the Assessment Plan she submitted as Exhibit #2 is misplaced as it is unclear who completed that assessment and when it was completed, with the report unsigned by anyone but Petitioner's guardian and undated.

The purpose of PACE is to enable people to live in the community as long as medically and socially feasible; and Petitioner's guardian cannot demonstrate that placement in long-term assisted living is medically necessary at this time given the credible findings of Respondent's witnesses and the additional services that can be authorized by Respondent.

To the extent Petitioner's circumstances change or any additional services authorized by Respondent prove to be insufficient, Petitioner and her representative can always request a placement again in the future. With respect to the decision at issue in this case however, Respondent's decision must be affirmed given the available information and applicable policies.

25-016381

---

## 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 long-term placement in assisted living.

**IT IS THEREFORE ORDERED** that:

- Respondent's decision is **AFFIRMED**.