

ISSUE

Did Respondent properly deny Petitioner's request for a long-term placement?

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 a REDACTED year-old Medicaid beneficiary who lives with her legal guardian, with the legal guardian providing any necessary natural support for Petitioner. (Exhibit #1, pages 2, 6; Testimony of Petitioner's representative).
3. Petitioner is also enrolled as a PACE participant with Respondent. (Exhibit #1, page 2; Testimony of Respondent's representative).

25-024008

2

-
-
4. Her approved services through Respondent include seven days per week of personal care with two caregivers, both in the a.m. and p.m.; five days per week of attendance at Respondent's day center; and respite care services out of Petitioner's home. (Testimony of Petitioner's representative; Testimony of Home Care Coordinator).
 5. Petitioner and her guardian have not utilized the respite care services. (Testimony of Petitioner's representative; Testimony of Social Worker).
 6. At times, Petitioner's representative has had to provide personal care during Petitioner's approved a.m. and p.m. personal care because one of the paid caregivers was late or failed to appear and Petitioner requires two people to assist her with some specific tasks. (Testimony of Petitioner's representative).
 7. In May of 2025, Petitioner's guardian requested long-term placement in a skilled nursing facility for Petitioner. (Testimony of Petitioner's representative).
 8. The request was reviewed by Respondent's interdisciplinary team (IDT). (Exhibit #1, page 2; Testimony of Home Coordinator; Testimony of Social Worker).
 9. On June 2, 2025, Respondent sent written notice that the request for a long-term placement had been denied. (Exhibit #1, pages 2-4).
 10. In part, that notice stated:

Full IDT reviewed MSW, RT, and PCA coordinator assessments conducted in response to request and considered implications to the participant's medical, physical, emotional, and social needs. IDT denies request due with recommendation to trial respite and accept home care supports that are in place to help with caregiver burden.

Exhibit #1, page 2

11. On June 26, 2025, MOAHR received the request for hearing filed by Petitioner's guardian in this matter with respect to that denial. (Exhibit #1, pages 1-6).a

25-024008

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.

25-024008

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 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 ALJ 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 care needs, with Petitioner being a two-person assist for some specific tasks, and that Petitioner's representative provides significant natural supports. However, Respondent's witnesses, including a Home Care and Social Worker who have assessed Petitioner, credibly testified that Petitioner should be able to remain in her home with her current approved services so long as those approved services are utilized.

In particular, the Home Care Coordinator testified that Petitioner's representative will intervene during approved personal care hours while the Social Worker testified that Petitioner's representative has declined the approved out of home respite care services, which would provide Petitioner's representative with relief.

Petitioner's representative/legal guardian testified in response that the approved services are insufficient and that Petitioner instead needs long-term care placement, but her testimony is unpersuasive given the remainder of the record.

For example, Petitioner's representative confirmed that the approved respite care services have not been utilized. Moreover, she initially indicated during the hearing that she did not want to even talk about respite care at all, despite the fact that its availability was a factor in Respondent's decision. Additionally, while Petitioner's representative eventually testified that respite care services would not work because the Adult Foster Care (AFC) home identified by Respondent would not be able to meet Petitioner's needs that testimony lacked credibility given the lack of any support for it, the lack of specific details as to why the AFC home was insufficient, and Petitioner's representative's clear unwillingness to discuss or consider respite care services as an option.

Similarly, while Petitioner's representative also testified that the daily a.m. and p.m. personal care services approved by Respondent are insufficient, with Petitioner's representative often having to step in due to caregivers being late, that testimony is likewise unpersuasive. Petitioner's representative asserted that she had evidence of frequent issues, but none was provided beyond her broad testimony. Moreover, issues with care providers can be addressed through Respondent's grievance process and there is nothing in the record demonstrating a long-standing failure with the services.

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 long-term placement is necessary at this time given the credible findings of Respondent's witnesses and the underutilized services that have been authorized by Respondent.

To the extent Petitioner's circumstances change or the services authorized by Respondent prove to be insufficient after actually being attempted, 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.

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.

IT IS THEREFORE ORDERED that:

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