



Date Mailed: December 2, 2025

Docket No.: 25-029979

Case No.: [REDACTED]

Petitioner: [REDACTED]

[REDACTED]
[REDACTED]
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someone translate the document.**

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এটি একটি গুরুত্বপূর্ণ আইনি ডকুমেন্ট। দয়া করে কেউ দস্তাবেজ অনুবাদ করুন।

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Docket No.: 25-029979
Case No.: [REDACTED]
Petitioner: [REDACTED]

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 November 25, 2025. Attorney Daniel Wojciak appeared on behalf of Petitioner, [REDACTED]. [REDACTED], Petitioner's daughter, and Mara Asher, Adult Protective Services worker, appeared as witnesses for Petitioner.

Alyssa Brandt, Quality Improvement Specialist, represented Respondent, Senior Care Partners, a Program of All-Inclusive Care for the Elderly (PACE) organization. Allison Kapcia, Social Worker; Julie Clark, Center Manager; and Kelsee Younglove, Assistant Home Care Manager, appeared as witnesses for Respondent.

ISSUE

Did Respondent properly deny Petitioner's request for permanent housing 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 Medicaid beneficiary who has been receiving services through PACE and has been diagnosed with numerous health conditions, including dementia. (Exhibit A, pp 27-28; Testimony.)
3. In May 2025, Petitioner's daughter and durable power of attorney (DPOA) requested permanent placement in an assisted living facility for Petitioner due to cognitive decline over the past two years, including memory impairment, disorientation, and diminished executive functioning. (Exhibit A, pp 75-93; Testimony.)
4. Specifically, Petitioner's daughter reported increasing safety concerns including:
 - Petitioner forgetting to eat

- Forgetting to insert dentures
- “Blanking out” or spacing out
- Inability to locate her own apartment
- Flooding her kitchen on multiple occasions
- Episodes of incontinence in both her home and common spaces
- Frequent confused calls at all hours

(*Id.*; Testimony.)

5. On June 17-18, 2025, Respondent’s Occupational Therapist (OT) and Social Worker conducted assessments with Petitioner and her daughter. (Exhibit A, pp 42-43.)
6. On June 17, 2025, Respondent’s PCA Coordinator reviewed Petitioner’s chart since PACE instituted three time daily home care. (Exhibit A, p 45; Testimony.) PACE’s PCA found that at first, staff had difficulty entering the building but a lock box had been added to the apartment complex to allow entry. (*Id.*)
7. On June 19, 2025, a full review by Respondent’s Interdisciplinary Team (IDT), Respondent sent Petitioner’s daughter an Adequate Action Notice – Denial of Service. (Exhibit A, pp 3-11; Testimony.) Specifically, the Notice indicated:

Full IDT reviewed MSW, PCA coordinator, and OT assessments conducted in response to request and considered implications to the participant’s medical, physical, emotional, and social needs. IDT denies request with recommendation to explore safety options with apartment complex and to allow time for home care to be more consistent as Carol is becoming more receptive to PCA assistance. (Exhibit A, p 3; Testimony.)

8. On or about June 26, 2025, Petitioner’s daughter requested an internal appeal. (Exhibit A, p 35; Testimony.)
9. On June 30, 2025, management of Petitioner’s senior apartment community sent a formal communication to Petitioner’s daughter, documenting:
 - Repeated incontinence incidents involving fecal droppings left in public areas

- Clothing soiled with feces
- Flooded kitchen incidents on at least two occasions
- Frequent episodes of not knowing where she lives
- Resident and staff concern about her ability to live independently
- Increasing disruption to other residents and health risks to staff

(Exhibit A, p 85; Testimony.)

10. On July 3, 2025, after review by an independent appeal committee, PACE sent Petitioner a Notice of Appeal Denial, which upheld the original decision to deny permanent placement. (Exhibit A, pp 110-111; Testimony.) Specifically, the notice indicated:

Upheled: The Internal Appeal Committee agreed to uphold IDT's decision to deny the request for permanent placement. The IAC noted there are no concerning safety issues at this time such as elopement, consistent skin breakdown, or significant weight loss. The IAC agreed there are still additional services that can be utilized such as day center attendance, respite stays, and home care services. Allowing time for these services to be implemented and trialed can help support the participant continuing to remain living in her home. (Exhibit A, p 110; Testimony.)

11. On July 22, 2025, Adult Protective Services received a referral for Petitioner regarding neglect, which was substantiated after investigation. (Testimony.) The allegations were that Petitioner lived alone with dementia, was getting lost in her apartment building, suffered severe incontinence, and had several falls. (*Id.*) APS noted that Petitioner has misused her medications as she does not remember that she has already taken them and forgets to eat because she believes she has already eaten. (*Id.*) APS also noted that while Petitioner was scheduled for 13,000 personal care hours from PACE between April and September 2025, she only received approximately 5000 hours of care. (*Id.*)
12. Petitioner's case with APS remains open and Petitioner's APS worker reported that Petitioner's condition has worsened significantly since she first met Petitioner in July 2025. (*Id.*)
13. On August 22, 2025, the Michigan Office Administrative Hearings and Rules (MOAHR) received Petitioner's Request for Hearing. (Exhibit A, p

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 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 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, 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

SECTION 3 – ELIGIBILITY AND ENROLLMENT

3.1 ELIGIBILITY REQUIREMENTS

To be eligible for PACE enrollment, applicants must meet the following requirements:

- Be age 55 years or older.
- Meet applicable Medicaid financial eligibility requirements. (Eligibility determinations will be made by the Michigan Department of Health and Human Services (MDHHS).)
- Reside in the PACE organization's service area.
- Be capable of safely residing in the community without jeopardizing health or safety while receiving services offered by the PACE organization.
- Receive a comprehensive assessment of participant needs by an interdisciplinary team.
- A determination of functional/medical eligibility based upon the online version of the Michigan Medicaid

Nursing Facility Level of Care Determination (LOCD) that was conducted online within fourteen (14) calendar days from the date of enrollment into the PACE organization.

- Be provided timely and accurate information to support Informed Choice for all appropriate Medicaid options for Long Term Care.
- Not concurrently enrolled in the MI Choice program.
- Not concurrently enrolled in an HMO.

*Medicaid Provider Manual
PACE Chapter
April 1, 2024, pp 1-3
Emphasis added*

Here, Petitioner has requested permanent housing placement and Respondent has determined that other interventions can meet Petitioner's needs while keeping her in the community.

Petitioner, through her daughter and DPOA, argues that Petitioner's progressive cognitive decline, incontinence, safety incidents, and repeated episodes of disorientation render her unable to safely continue living independently, even with assistance from PACE.

Respondent asserts that recently expanded homecare services are sufficient and that Petitioner's growing receptiveness to those services justifies continuing her in the community with "more time" for services to stabilize.

Given the above findings of fact and applicable policies, the undersigned Administrative Law Judge finds that, while it may have been proper for Respondent to attempt to treat Petitioner in the community when the decision was made in June 2025, Petitioner's condition has worsened to the point that she can likely no longer be safely cared for in the community.

As indicated above, PACE provides an alternative to traditional nursing facility care in order to "[e]nable frail, older adults to live in the community as long as medically and socially feasible"; and, to be eligible for PACE enrollment, applicants must be "capable of safely residing in the community without jeopardizing health or safety while receiving services offered by the PACE organization."

Here, the evidence shows that Petitioner's cognitive decline, repeated disorientation regarding her apartment, episodes of wandering, flooding of the kitchen, medication mismanagement, and recurrent fecal incontinence, present ongoing health and safety dangers that cannot be reliably controlled by intermittent PCA visits three times daily.

The nature of Petitioner's impairments, including episodic confusion, disorientation, incontinence, and wandering, requires constant, not episodic, supervision. These findings are supported by the open APS case MDHHS has for Petitioner.

Petitioner's circumstances meet the criteria for a higher level of care because she demonstrates an inability to maintain safe self-care, recurrent environmental hazards; cognitive impairment resulting in repeated confusion and unsafe behaviors; incontinence creating health risks to herself and others; and lack of insight into unsafe conditions.

Therefore, based on the evidence presented, PACE's decision should be reversed.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that Respondent improperly denied Petitioner's request for permanent housing placement.

IT IS, THEREFORE, ORDERED that:

Respondent's decision is **REVERSED**.

Within 10 days of receipt of this Order, Respondent shall certify to MOAHR that it has taken steps consistent with this decision regarding Petitioner's permanent placement in an assisted living facility.



ROBERT J. MEADE
ADMINISTRATIVE LAW JUDGE

APPEAL RIGHTS: Petitioner may appeal this Hearing Decision to the circuit court. Rules for appeals to the circuit court can be found in the Michigan Court Rules (MCR), including MCR 7.101 to MCR 7.123, available at the Michigan Courts website at courts.michigan.gov. The Michigan Office of Administrative Hearings and Rules (MOAHR) cannot provide legal advice, but assistance may be available through the State Bar of Michigan at <https://lrs.michbar.org> or Michigan Legal Help at <https://michiganlegalhelp.org>. A copy of the circuit court appeal should be sent to MOAHR. A circuit court appeal may result in a reversal of the Hearing Decision.

Either party who disagrees with this Hearing Decision may also send a written request for a rehearing and/or reconsideration to MOAHR within 30 days of the mailing date of this Hearing Decision. The request should include Petitioner's name, the docket number from page 1 of this Hearing Decision, an explanation of the specific reasons for the request, and any documents supporting the request. The request should be sent to MOAHR

- by email to LARA-MOahr-DCH@michigan.gov, **OR**
- by fax at (517) 763-0155, **OR**
- by mail addressed to
Michigan Office of Administrative Hearings and Rules
Rehearing/Reconsideration Request
P.O. Box 30639
Lansing Michigan 48909-8139

Documents sent via email are not secure and can be faxed or mailed to avoid any potential risks. Requests MOAHR receives more than 30 days from the mailing date of this Hearing Decision may be considered untimely and dismissed.

**Via First Class & Electronic
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Authorized Hearing Representative

M

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