

Date Mailed: February 24, 2026

Docket No.: 25-047446

Case No.: [REDACTED]

Petitioner: [REDACTED]

DECISION AND ORDER

This matter is before the Michigan Office of Administrative Hearings and Rules (MOAHR) and the undersigned Administrative Law Judge (ALJ) pursuant to MCL 400.9 and upon a request for hearing filed by Petitioner [REDACTED] (Petitioner).

After due notice, a telephone hearing was held on January 29, 2026.¹ [REDACTED], Petitioner's daughter, appeared and testified on Petitioner's behalf. [REDACTED], Petitioner's stepson, also testified as a witness for Petitioner. Calley Green, Associate Director of Quality, appeared and testified on behalf of Respondent Senior Care Partners PACE (Respondent), a Program of All-Inclusive Care for the Elderly (PACE) organization. Kristen Waber, Center Manager, and Katherine Hardigan, Occupational Therapist, also testified as witnesses for Respondent.

During the hearing, Petitioner's request for hearing was admitted into the record without objection as Exhibit #1, pages 1-40. Respondent also submitted an evidence packet that was admitted into the record without objection as Exhibit A, pages 1-53. No other proposed exhibits were submitted by either party.

ISSUE

Did Respondent properly deny Petitioner's request for a permanent placement?

FINDINGS OF FACT

The ALJ, 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 June 1, 2019, Petitioner has been enrolled in PACE and receiving services through Respondent. (Exhibit A, page 5).

¹ For purposes of hearing, Petitioner's case was consolidated with a similar case involving his spouse in Docket No. 25-047444.

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3. Petitioner is [REDACTED] who has been diagnosed with, among other conditions, allergic rhinitis; anemia; chronic kidney disease; chronic obstructive pulmonary disease; chronic respiratory failure with hypoxia; depression; hypertension; history of falling; insomnia; mild cognitive impairment; and an old myocardial infarction. (Exhibit A, pages 5, 10-12, 14-15).
 4. He lives in a private home with his spouse, who is also enrolled with Respondent. (Exhibit A, page 7).
 5. Petitioner is also dependent on oxygen; utilizes a hospital bed; and receives Meals on Wheels. (Exhibit A, pages 10, 27; Testimony of Petitioner's representative).
 6. On December 1, 2025, Petitioner's representative requested a permanent placement for Petitioner in an Adult Foster Care (AFC) home. (Exhibit A, pages 125).
 7. At that time, Petitioner was essentially bedbound; his spouse's ability to manage his food and medications had lessened due to her vision loss and decline in cognition; and he did not have a telephone or the ability to call anyone for help if necessary. (Exhibit A, pages 36, 47; Testimony of Petitioner's representative; Testimony of Petitioner's stepson).
 8. He also had a history of severe safety incidents related to smoking in the home while using oxygen, and he has suffered serious burns. (Exhibit A, pages 36, 47; Testimony of Petitioner's representative; Testimony of Petitioner's stepson).
 9. Cigarettes have been removed from the home multiple times, but Petitioner reportedly still gains access to them through family and friends. (Exhibit A, page 36).
 10. In the past, Respondent has also identified a bedside heater as a fire risk. (Exhibit A, page 39).
 11. Respondent's interdisciplinary team (IDT) then assessed Petitioner in his home; reviewed Petitioner's request for permanent placement; and determined that it should be denied. (Exhibit A, pages 35-37; Testimony of Center Manager; Testimony of Occupational Therapist).
 12. On December 5, 2025, Respondent sent Petitioner a written Adequate Action Notice stating that his request for a permanent placement had been denied. (Exhibit #1, pages 6-7).

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

Full IDT reviewed OT's assessment conducted in response to request and considered implications to the participant's medical, physical, emotional, and social needs. Based on Full IDT discussion along with Complex Case Review Members; IDT denies request for permanent placement due to not being medically necessary and with additional SPPP support in home and allowing our services such as home care, attending the day center and adjusting how to take medications would keep the participant living in the community safely and in a less restrictive environment.

Exhibit #1, page 6

14. On December 26, 2025, MOAHR received the request for hearing filed in this matter with respect to the decision to deny Petitioner's request for permanent placement. (Exhibit #1, pages 1-40).
15. Following the denial, Petitioner agreed to additional home care services for both Petitioner and his spouse, including increased assistance with medication management and meal preparation. (Testimony of Petitioner's representative; Testimony of Center Manager).
16. Petitioner's children have noticed some improvement with the increase in services, but the family's concerns have not been alleviated, and they continue to seek permanent placement for Petitioner. (Testimony of Petitioner's representative; Testimony of Petitioner's stepson).

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:

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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

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- 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, 2025, 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 permanent placement that is at issue.

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.

It is undisputed in this case that Petitioner has significant physical conditions, with Petitioner essentially bedbound and dependent on others for assistance with his activities and instrumental activities of daily living. Moreover, it is also undisputed that the ability of Petitioner's primary informal support, *i.e.*, his spouse, to provide assistance with those activities has significantly decreased due to her loss of vision and declining cognition. Additionally, it is further undisputed that Petitioner has suffered burns by continuing to smoke cigarettes while being dependent on oxygen.

Nevertheless, even with those undisputed facts, Respondent still properly found that the requested permanent placement was not necessary at the time of the decision in this case.

Respondent has identified, and Petitioner has recently accepted, increased services in the home, including more services specifically authorized to address concerns raised by Petitioner's family with issues medication management, meal preparation, and home care.

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Services for Petitioner's spouse have also been increased, which lessens his dependence on that informal support given her decline. Moreover, it is too soon to find that the increased services are insufficient to meet Petitioner's needs in the home.

Petitioner's witnesses agreed that the increase in services will and have helped, but they also argue that Petitioner still needs around-the-clock supervision. In particular, they note the safety issue with Petitioner smoking in bed while using oxygen. However, the fact that Petitioner, who does not have a guardian, and some friends or family, who are supplying cigarettes to the bedbound Petitioner that are making poor choices, does not alone demonstrate necessity for a permanent placement outside of the home.

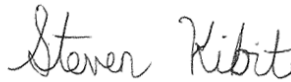
To the extent Petitioner's circumstances change or he has additional information to provide, he can always request permanent placement again in the future along with that information. With respect to the issue in this case however, Respondent's decision is affirmed.

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 permanent placement.

IT IS, THEREFORE, ORDERED that:

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



STEVEN KIBIT
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://rs.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 Mail:

Authorized Hearing Representative

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Petitioner

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