Title 13 --- DEPARTMENT OF SOCIAL SERVICES
Division 70 – MO HealthNet Division
Chapter 8 --- Program of All-Inclusive Care for the Elderly

PROPOSED AMENDMENT

13 CSR 70-8.010 Program of All-Inclusive Care for the Elderly. The division is amending sections (2)-(3), adding a new section (4), amending sections (8)-(9), and renumbering accordingly.

PURPOSE: This proposed amendment adds additional requirements for completing the Level of Care Assessment, requires Program of All-Inclusive Care for the Elderly organizations to maintain access to certain systems to complete eligibility reviews, and provides additional information for enrolling participants in PACE.

(2) Definitions. For purposes of this regulation, the following words and phrases are defined as follows:
(A) "Interdisciplinary team" shall refer to the interdisciplinary team defined in 42 CFR 460.102 *[and in the program agreement]*. **This rule hereby incorporates by reference and makes a part of this rule 42 CFR 460.102 as published by the Office of the Federal Register, 800 North Capitol St. NW, Suite 700, Washington, DC 20408, and which is located on the website of the U.S. Government Publishing Office at https://www.govinfo.gov/app/collection/CFR, October 1, 2023. This rule does not incorporate any subsequent amendments or additions.**

(3) Eligibility Criteria.
(B) The PACE program is available to eligible Medicaid participants receiving MO HealthNet under a federally funded MO HealthNet eligibility category. The eligible MO HealthNet Medicaid Eligibility (ME) codes can be found in the MO HealthNet Provider Manual and include:
1. E2, 01, 03, 04, 11, 12, 13, 14, 15, 16, 85, and 86.
2. A participant may also have ME 55 or ME 82, but these codes shall be in conjunction with one of the ME codes listed above.
3. This rule hereby incorporates by reference and makes a part of this rule the PACE Provider Manual as published by the MO HealthNet Division, 615 Howerton Ct., Jefferson City, MO 65109, and which is located on the website of the Missouri Department of Social Services at https://mydss.mo.gov/mhd/provider-manuals, September 1, 2023. This rule does not incorporate any subsequent amendments or additions.

(4) Eligibility Review
(A) The PO shall complete a full eligibility review of all potential enrollees. A full eligibility review includes the following steps:
1. Verification of ME code using the eMOMED system;
2. Verification of spenddown eligibility and spenddown amount via eMOMED; and

3. Review of the Department of Health and Senior Services' (DHSS) Cyber Access system for the presence of a Healthcare Home enrollment or an HCBS care plan. If either is present, the enrollment(s) must end if the participant enrolls in PACE.
(B) The PO shall ensure all eligibility criteria are met at time of enrollment. This shall include:
1. Requesting the termination of Healthcare Home enrollment; and
2. Verifying HCBS care plan is closed.

(*[4]***5**) Enrollment Process
(A) The PO shall develop and adhere to an enrollment process to be approved by the *[division]***SAA**.
(B) Completion of enrollment documentation and notifications is the responsibility of the PO in accordance with the *[division]***SAA**-approved enrollment process.

(*[5]***6**) Disenrollment Process
(A) The PO shall develop and adhere to a disenrollment process to be approved by the *[division]***SAA**.
(B) For each participant who is voluntarily or involuntarily disenrolled, the PO shall-
1. Continue to provide for the necessary services to the participant through the last day of enrollment;
2. Create a discharge plan to help the participant obtain necessary transitional care through appropriate referrals to other Medicaid or Medicare service providers; and
3. Provide the medical records of the participant within five (5) business days after receipt of a legally-compliant release of information.

(*[6]***7**) Provider Qualifications
(A) In order to qualify as a PO, a prospective PO shall-
1. Meet all CMS requirements outlined in the application process through CMS;
2. Enroll as a MO HealthNet provider with the Missouri Medicaid Audit and Compliance Unit (MMAC).
A. Any providers with which the PO contracts for the provision of MO HealthNet-covered services shall also enroll with MMAC; and
3. Shall complete and submit a feasibility study to be approved by the *[division]***SAA**.

(*[7]***8**) Provider Responsibilities.
(A) The PO shall be responsible for completing the SAA LOC assessment tool with the participant and/or authorized representative, and submitting the determination to the *[division]***SAA**. **The SAA LOC Primary and Secondary Assessment tools are incorporated by reference and made part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at https://mydss.mo.gov/mhd/forms, April 30, 2022.**
1. The PO shall complete the LOC assessment accurately based on the resources provided by the SAA. If the PO does not complete the assessment accurately, the SAA may deny the LOC assessment.

2. The PO shall include with the determination that it submits to the *[division]***SAA** any supplemental documentation that the PO used to support its assessment.
3. For purposes of determining eligibility, the LOC determination is only valid for ninety (90) days from the date of assessment.
(B) The PO shall be responsible for enrollment of the participant into PACE services, pursuant to federal and state law.
(C) The PO shall meet all applicable requirements under federal, state, and local law that are relevant to the PACE program and to MO HealthNet providers.
(D) The PO shall adhere to all terms outlined in the PACE program agreement between CMS, the *[division]***SAA**, and the PO.
(E) The PO shall obtain and maintain access to the following systems to be used for eligibility reviews, secure file transmission, enrollments, and disenrollments:

1. eMOMED;
2. CyberAccess (HCBS tab);
3. A File Transfer Protocol (FTP) site as determined by the SAA; and
4. Additional systems as determined by the SAA.

(*[*8*]***9***)* Capitation Payment.
(A) The *[division]***SAA** shall issue to the PO a monthly prospective capitation payment for each PACE-enrolled MO HealthNet participant, and the PO shall assume full financial risk for that participant's care.
(B) The PO shall deliver a comprehensive service package, including all Medicare and Medicaid-covered services, as well as those additional services specified in the PACE program agreement.
(C) The PO shall consolidate the delivery of care by linking Medicaid and Medicare funding through the pooling of all capitation payments.
(D) In the event that a PACE participant is placed in a skilled nursing facility indefinitely, the Family Support Division (FSD) shall determine if the participant will have a surplus pursuant to 13 CSR 40-2.200. If the participant has a surplus, the PO shall recoup that amount from the participant, and the SAA shall recoup that amount from the capitation payment each month. The steps for Medicaid eligibility recalculation and recoupment are as follows:
1. The PO shall notify the SAA via FTP that a participant is being placed in a skilled nursing facility for a timeframe to exceed thirty (30) consecutive days;
(a) The PO shall include the participant's name, Departmental Client Number (DCN), date of birth, the name of the skilled nursing facility, and date the participant was or is being placed in the skilled nursing facility;
(b) Should the participant be discharged from the skilled nursing facility, the PO shall notify the SAA of the discharge date; and
2. The PO shall contact the FSD to initiate a determination of the participant's surplus liability.

(*[9]***10**) Termination of the PACE Program Agreement.

(A) The *[division]***SAA** may**, in addition to any actions taken by MMAC pursuant to state law,** terminate a PACE program agreement at any time for cause as outlined the PACE program agreement.
1. Termination for cause include**s**, but is not limited to uncorrected deficiencies in the quality of care furnished to participants, the PACE organization's failure to comply substantially with conditions for a PACE program, or non-compliance with the terms of the program agreement.
(B) In the event of termination of the PACE program agreement, the PO may seek review of the department's action pursuant to section 208.156, RSMo.

(*[10]***11**) Annual Behavioral Health Screenings
(A) The PO shall conduct annual behavioral health screenings. The PO shall conduct the Short Michigan Alcoholism Screening Test – Geriatric Version (SMAST-G) for every participant.
(B) In addition to the screening test identified in subsection (A) of this section, the PO shall determine which additional annual screening is appropriate for the participant in collaboration with the interdisciplinary team. The PO shall choose one (1) of the following assessments:
1. Rating Anxiety in Dementia (RAID) for participants with dementia; or
2. Geriatric Anxiety Scale – 10 Item Version (GAS-10) for cognitively normal participants.

(*[11]***12**) Provider Reporting
(A) The PO shall provide to the*[division]* **SAA** a list of all *[contracted and employed]*providers*[,]* **with whom the PO has a contractual agreement to provide services to the PO's participants**, in an easily readable and accessible format, by close of business on the last business day of each quarter (last business day of March, June, September, and December).
(B) The list of providers shall include the following details:
1. Provider/Organization legal name;
2. National Provider Identifier (NPI) number; and
3. The effective date on which the provider enrolled with the PO.

(13**)** Provider Service Areas
(A) The PO shall designate its service area in the application process through CMS.
1. A service area is made up of the county, zip code(s), street boundaries, census tract, block, or tribal jurisdictional area, as applicable, in which a participant must live in in order to receive services from any given PO. The *[division]***SAA** may require that the service area be made up of one of these types of geographic areas.
2. A PO shall have the exclusive use of its designated service area.
3. The service area shall be established in the program agreement.

AUTHORITY: sections 208.153, 208.201, and 660.017, RSMo 2016, and section 208.152, RSMo Supp. 2022. Original rule filed Aug. 1, 2022, effective March 30, 2023. Amended: Filed August 2, 2024.*

**Original authority: 208.152, RSMo 1967, amended 1969, 1971, 1972, 1973, 1975, 1977, 1978, 1981, 1986, 1988, 1990, 1992, 1993, 2004, 2005, 2007, 2011, 2013, 2014, 2015, 2016, 2018,*

2021; 208.153, RSMo 1967, amended 1967, 1973, 1989, 1990, 1991, 2007, 2012; 208.201, RSMo 1987, amended 2007; and 660.017, RSMo 1993, amended 1995.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*