

STATE OF RHODE ISLAND
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES APPEALS OFFICE

[REDACTED]

v.

DOCKET No. 25-1662

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

DECISION

I. INTRODUCTION

A telephonic hearing on the above-entitled matter came before an Appeals Officer on May 15, 2025, with the Executive Office of Health and Human Services (EOHHS), the Program of All Inclusive Care of the Elderly for Rhode Island (PACE-RI), and [REDACTED] (Appellant) present. The Appellant requested a motorized scooter on December 31, 2024, but was denied by the Interdisciplinary Team at PACE-RI on January 7, 2025. The Appellant was provided an automatic appeal to PACE-RI's Third-Party Reviewer, who upheld the original decision on February 5, 2025. The Appellant disagreed with both decisions and filed a State Fair Hearing with the EOHHS Appeals Office on April 10, 2025. Although the appeal was untimely, PACE-RI and EOHHS waived the timeliness issue, and the hearing went forward. For the reasons discussed in more detail below, the decision has been decided against the Appellant.

II. JURISDICTION

The Executive Office of Health and Human Services ("EOHHS") is authorized and designated by R.I.G.L. §42-7.2-6.1 and EOHHS regulation 210-RICR-10-05-2 to

be the entity responsible for appeals and hearings related to Medicaid-PACE. The administrative hearing was held in accordance with the Administrative Procedures Act, R.I.G.L. §42-35-1 et. seq., and EOHHS regulation 210-RICR-10-05-2.

III. ISSUE

The issue is whether PACE-RI properly denied the Appellant's Service Determination Request for a motorized scooter in accordance with applicable Federal and State regulations.

IV. PARTIES AND EXHIBITS

EOHHS Administrator for Medical Services John Neubauer attended the telephonic hearing on behalf of EOHHS and provided testimony relevant to PACE-RI's denial of a motorized scooter.

PACE-RI representatives Senior Director of Compliance Mike Walker, Physical Therapist (PT) Alicia Securo, and Nurse Practitioner Natasha Dow attended the telephonic hearing and provided testimony relevant to PACE-RI's denial of a motorized scooter. Also in attendance were Social Worker Sierra Morton, Rehabilitation Life Enrichment Manager Kelsey Akinsinde, and Vice President of Support Services Eric Franklin. PACE-RI offered the following evidence into the record:

- Exhibit #1: PACE-RI Summary of Case.
- Exhibit #2: Appellant's Medical Record Summary Report from June 2023 through January 2025.
- Exhibit #3: Appellant's PACE-RI Care Plan dated December 24, 2024.
- Exhibit #4: Appellant's Durable Medical Equipment List.
- Exhibit #5: Rhode Island Hospital Emergency Department Summary dated July 7, 2024, and two Emergency Department Notes.

- Exhibit #6: Quick Note dated January 3, 2025, for the Appellant's Service Determination Request, PT Assessment dated January 6, 2025, Primary Care Provider (PCP) Assessment dated January 6, 2025, Service Determination Request Denial Letter dated January 7, 2025, and the Service Determination Request notification in person on January 8, 2025.
- Exhibit #7: Automatic Appeal Letter dated January 7, 2025, Third-Party Reviewer Appeal Decision Letter with Appeal Rights dated February 5, 2025, Third-Party Reviewer notification by phone on February 7, 2025, and the Social Worker Progress Note dated February 13, 2025, regarding appeal assistance.
- Exhibit #8: State Fair Hearing Appeal dated April 10, 2025.
- Exhibit #9: PCP Assessments dated December 13, 2024, and April 29, 2025, Registered Nurse Assessment dated December 13, 2024, and Social Worker Assessment dated December 13, 2024.

The Appellant attended the telephonic hearing and testified on his own behalf. The Appellant did not offer any evidence into the record.

V. RELEVANT LAW

The Rhode Island Code of Regulations (RICR) for EOHHS in effect at the time of the action, 210-RICR-40-10-1 §1.13 "Program of All-inclusive Care for the Elderly (PACE)", states in part that PACE is a voluntary managed care plan for Medicare and/or Medicaid beneficiaries 55 years and older, who meets the financial, non-financial and clinical criteria for long-term services and supports. CMS and EOHHS approve the PACE providers that are responsible to provide a full scope of services including but not limited to "Specialized Medical Equipment and Supplies".

Code of Federal Regulations for Medicaid, 42 C.F.R. Part 460, Subparts E-PACE and F-PACE Services, specifically §460.92 “Required services” states in part, all Medicare/Medicaid covered services and other services determined necessary by the interdisciplinary team through an evaluation of the participants medical, physical, emotional and social needs to improve and maintain the participant’s overall health are covered. 42 C.F.R. §460.121 “Service determination process” provides established guidance in determining whether a participant’s service determination request is approved or denied. The interdisciplinary team may conduct an in-person reassessment to evaluate whether the requested service is necessary and if denied provide both written and oral notice. Furthermore, 42 C.F.R. §460.122 “PACE organization’s appeals process” provides established guidance for a participant to appeal an action taken by PACE which includes but is not limited to a denial of a service requested.

VI. FINDINGS OF FACT

1. The Appellant is a Medicare and Medicaid dual beneficiary who enrolled with PACE-RI on June 1, 2023.
2. The Appellant uses a walker and a standard wheelchair for ambulation which were issued to him by PACE-RI.
3. The Appellant submitted a Service Determination Request to PACE-RI on December 31, 2024, for a motorized scooter because he stated he is unable to walk. The Interdisciplinary Team processed his request per 42 C.F.R. §460.121.
4. A PACE-RI Quick Note dated January 3, 2025, states that the Appellant needs a PT assessment for the service determination request. Alicia Securo, PT and the Appellant completed a face-to-face assessment on January 6, 2025. The assessment notes show the Appellant self-propels in his standard wheelchair inside and outside, is independent locking and

unlocking brakes and can stand and ambulate with walker independently. A motorized scooter was not recommended.

5. A PACE-RI Progress Note dated January 6, 2025, states a PCP Medical Assessment was completed by Natasha Dow, APN and the Appellant on January 6, 2025. The Appellant explained he needed the motorized scooter for mobility in the community and at home with his activities of daily living (ADLs). The assessment notes show he was unable to ambulate in his room but could transfer and pivot using the furniture and bars, he had mild difficulty using his standard wheelchair and could use the bathroom on his own. A motorized scooter was not recommended as it is not needed for home use, only to use in the community.

6. On January 7, 2025, PACE-RI Interdisciplinary Team reviewed the Appellants medical records and assessments provided and denied his request for a motorized scooter because “it is not necessary to improve or maintain overall health and well-being, including your medical, physical, emotional and social needs”. The assessments show the Appellant can walk short distances with his walker in the home and use a standard wheelchair in the community.

7. An automatic appeal was filed by PACE-RI on January 7, 2025, as the Interdisciplinary Team failed to resolve the Appellant’s request for a motorized scooter timely per 42 C.F.R. §460.121 and 42 C.F.R. §460.122. The Appellant was notified in person of the denial January 8, 2025. An impartial third-party reviewer then reviewed the Appellant’s request along with his medical records and assessments.

8. On February 5, 2025, the Third-Party Reviewer upheld the original decision by PACE-RI Interdisciplinary Team because he can walk short distances with a walker in the home and self-propel using a standard wheelchair. The Appellant was notified by phone and by mail of the denial and his additional appeal rights on February 7, 2025.

9. On February 13, 2025, a PACE-RI note shows the Social Workers attempted to assist the Appellant in the Appeals process, but he refused.

10. On April 10, 2025, the Appellant filed a telephone appeal with EOHHS Appeals Office with the assistance of PACE-RI. The Appellant explained he is appealing the denial of a motorized scooter because he is unable to walk on his own since his car accident. Although the appeal was not filed timely, this issue was waived by PACE-RI and EOHHS.

11. A Hearing Appointment Notice was mailed to the Appellant on April 11, 2025, for a scheduled telephonic hearing on Thursday, May 15, 2025, at 2:00PM. The hearing was held accordingly.

VII. DISCUSSION

PACE-RI Representative Mike Walker summarized the evidence presented at the hearing pertaining to the denial of the Appellant's service determination request for a motorized scooter. He deferred to the PACE-RI PT and Nurse Practitioner to review their individual assessments of the Appellant.

Alisha Securo, PT from PACE-RI testified she completed a face-to-face assessment with the Appellant on January 6, 2025. She stated the Appellant explained to her that he wanted a power chair to go out and play his saxophone. During her assessment the Appellant reported pain in his bilateral lower extremities which is usually relieved with medication, but he had not taken it yet. The Appellant's strength was assessed at a five out of five which is considered good strength and his range of motion in his knees were limited but within functional limits for standing and transfers. The Appellant demonstrated he was able to self-propel in his standard wheelchair for at least 100 feet and short distances outdoors on an uneven surface, lock and unlock wheelchair breaks, stand, and ambulate with walker 10 feet. The Appellant further

reported he used the walker and the standard wheelchair inside his apartment as well as out in the community. Since the Appellant is independent with his standard wheelchair mobility and management and can ambulate with his walker in short distances, a motorized scooter is not recommended at this time.

A PCP Assessment was conducted by Nurse Practitioner Natasha Dow. She testified she conducted a face-to-face medical assessment with the Appellant on January 6, 2025. She stated the Appellant wants a motorized scooter for the community. The Appellant's assessment shows he can use his standard wheelchair for mobility, and it functions appropriately for his needs. Her assessment is his standard wheelchair is appropriate for both the home and community, therefore a motorized scooter is not recommended.

The Appellant testified that he disagrees with PACE-RI's testimony as they are stating he only needs the motorized scooter for recreational purposes which includes playing his saxophone that he has played for over 50 years. The Appellant argued that he cannot walk 100 feet, and even with a walker he can barely walk 10 feet since he was hit by a car. The Appellant further argued he cannot pump the standard wheelchair while trying to carry things. The Appellant noted he was disabled from work due to a heart attack and his cardiologist told him he should not do any strenuous lifting or pumping. The Appellant also noted some of his other diagnoses include but are not limited to an aortic aneurysm, heart disease and emphysema which is on his medical records at PACE-RI, so he shouldn't be pumping and going up and down hills with a standard wheelchair. The Appellant notes he is paying \$200.00 a month to Medicare so his request should be approved. The Appellant disputes the assessments from PACE-RI because he cannot walk currently but he is working to strengthen his legs so he may be able to walk

again.

EOHHS Representative John Neubauer testified that he works for the Managed Care Oversight Team who oversees the PACE-RI contract. EOHHS Medicaid Medical Director, Dr. Fingerhut reviewed the Appellant's PACE-RI medical records and supports PACE-RI's denial of a motorized scooter.

The issue is whether PACE-RI and EOHHS properly followed the regulations to deny the Appellant's Service Determination Request for a motorized scooter. In review of 210-RICR-40-10-1 §1.13 explains the PACE Program and the benefit package that includes specialized medical equipment and supplies. In further review of 42 C.F.R. §460.92 "Required Services", indicates the PACE benefit package includes all Medicare and Medicaid covered services, but if other services are needed the interdisciplinary team would determine if the requested service was necessary to improve and maintain the participant's overall health status. Additionally, decisions by the interdisciplinary team must be based on an evaluation of the participant which considers current medical, physical, emotional and social needs.

Upon the Appellant's request for a motorized scooter, face-to-face assessments were conducted by both the PT and PCP's Nurse Practitioner. The assessments show that the Appellant's current standard wheelchair meets his needs. A review of the Appellant's PACE-RI medical records from June 2023 to current show numerous diagnoses, none of which state that a motorized scooter is necessary to improve or maintain his overall health. The Appellant's Participant Care Plan dated December 24, 2024, shows that although having two falls in the past six months, he is independent with most ADLs, but does require assistance with housework, laundry, and shopping due to pain and decreased endurance. Additionally, the Appellant's mobility shows he is independent with bed mobility, transfers, ambulating short distances, and

standard wheelchair mobility. Although the Appellant testified that he can barely walk after being hit by a car, the Rhode Island Hospital records from July 2024, shows no complications that would warrant a motorized scooter.

In review of 42 C.F.R. §460.121 “Service Determination Process”, the Interdisciplinary Team reviewed the Appellant’s medical records including the PT and PCP’s Nurse Practitioner assessments from January 6, 2025. The Appellant was denied because he can walk short distances, use a walker in the home, and a standard wheelchair in the community. The Interdisciplinary Team followed the regulations in their decision process and found that a motorized scooter is not necessary to improve or maintain the Appellant’s overall health and well-being.

In review of 42 CFR § 460.121, “PACE organization’s appeals process” states the minimum requirements for appeals that include appealing a decision to a third-party reviewer, notification requirements of an adverse decision, and appeal rights to Medicare or Medicaid. PACE-RI initiated an automatic appeal to an impartial Third-Party Reviewer on the Appellant’s behalf due to an untimely resolution of the service determination request. After review of the Appellants request for a motorized scooter, the physician upheld the original decision from the Interdisciplinary Team to deny the service request. On February 5, 2025, PACE-RI advised the Appellant of his right to file a Medicaid appeal, he originally declined but then an appeal was initiated by phone on April 10, 2025. The Appellant was provided his appeal rights as required.

VIII. CONCLUSIONS OF LAW

After careful and considerate review of the Federal and State regulations for PACE, as well as the evidence and testimony provided this Appeals Officer concludes:

1. PACE-RI stands by their decision to deny the Appellant’s Service Determination Request for a motorized scooter.

2. EOHHS supports PACE-RI's denial of a motorized scooter after review by the Medicaid Medical Director.

3. PACE-RI followed the Federal and State Regulations as required.

4. There is insufficient evidence to support the Appellant's request for a motorized scooter.

IX. DECISION

Based on the foregoing Findings of Fact, Conclusions of Law and by a preponderance of evidence it is found that a final order be entered that the Appellant's request for relief is denied.

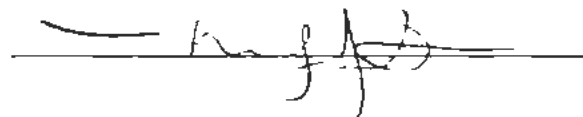
APPEAL DENIED

/s/ Louanne Marcello

Louanne Marcello
Appeals Officer

CERTIFICATION

I hereby certify that I mailed, via regular mail, postage prepaid, a true copy of the foregoing to [REDACTED], copies were sent via email to John Neubauer, Mike Walker, and Liz Boucher on this 29th day of May, 2025.



NOTICE OF APPELLATE RIGHTS

This Final Order constitutes a final order of the Executive Office of Health and Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.