
SENATE COMMITTEE ON HEALTH

Senator Dr. Richard Pan, Chair

BILL NO: AB 540
AUTHOR: Petrie-Norris
VERSION: April 27, 2021
HEARING DATE: June 30, 2021
CONSULTANT: Kimberly Chen

SUBJECT: Program of All-Inclusive Care for the Elderly (PACE)

SUMMARY: Requires PACE, in areas where PACE is available, to be presented as a Medi-Cal managed care (MCMC) enrollment option in the same manner as other MCMC enrollment options, as specified. Requires DHCS to establish a system to identify Medi-Cal beneficiaries who may be PACE eligible, conduct outreach to those identified beneficiaries, and provide a referral to PACE if the beneficiary indicates interest in being assessed for PACE eligibility. Requires MCMC risk stratification and health risk assessment processes to include criteria to identify Medi-Cal beneficiaries who appear to meet PACE eligibility.

Existing federal law:

- 1) Establishes the PACE program, the requirements for PACE providers, and eligibility requirements for PACE program participants. Authorizes PACE services to be provided under Medicare and as an optional benefit under a state's Medicaid state plan. [42 USC §1395eee]

Existing state law:

- 1) Establishes the Medi-Cal program, administered by Department of Health Care Services (DHCS), under which low-income individuals are eligible for medical coverage. [WIC §14000, et seq.]
- 2) Requires DHCS to establish the California PACE program to provide community-based, risk-based, and capitated long-term care services as optional services under the state's Medi-Cal State Plan and under contracts entered into between the federal Centers for Medicare and Medicaid Services (CMS), DHCS, and PACE organizations. [WIC §14592]
- 3) Authorizes DHCS to contract with public or private organizations for the implementation of the PACE program. Establishes requirements of the PACE program model. [WIC §14593]
- 4) Requires, in the seven counties where the CalMediConnect (CMC) option is available (a CMC plan that integrates Medicare and Medi-Cal benefits) for individuals dually eligible for Medicare and Medi-Cal, the PACE plan to be presented as an enrollment option, included in all enrollment materials, enrollment assistance programs, and outreach programs related to the demonstration project, and made available to beneficiaries whenever enrollment choices and options are presented, in areas where a PACE plan is available. [WIC §14132.275]
- 5) Requires, in CMC counties, person meeting the age qualifications for PACE and who choose PACE to remain in the fee-for-service (FFS) Medi-Cal and Medicare programs, and not be assigned to a managed care health plan for the lesser of 60 days or until they are assessed for eligibility for PACE and determined not to be eligible for a PACE plan. [WIC §14132.275]

- 6) Requires, in CMC counties, persons enrolled in a PACE plan to receive all Medicare and Medi-Cal services from the PACE program pursuant to the three-way agreement between the PACE program, DHCS, and CMS. [WIC §14132.275]
- 7) Requires DHCS or its enrollment contractors, except in counties with county organized health systems (COHS), to notify a beneficiary who is required to receive Medi-Cal long-term care services and supports through a MCMC plan and who is potentially eligible for PACE that they may alternatively request to be assessed for eligibility for PACE, and, if eligible, may enroll in PACE. [WIC §14182.16]
- 8) Prohibits DHCS or its enrollment contractor from enrolling enroll a beneficiary who requests to be assessed for PACE in a MCMC plan until the earlier of 60 days or the time that they are assessed and determined to be ineligible for a PACE plan, unless the beneficiary subsequently chooses to enroll in a MCMC plan. Requires, during the time that the beneficiary is being assessed, they are to remain in FFS Medi-Cal, or, if applicable, the MCMC plan in which they are enrolled. [WIC §14182.16]

This bill:

- 1) Requires PACE, in areas where PACE is available, to be presented as a MCMC enrollment option in the same manner as other MCMC enrollment options, included in all enrollment materials, enrollment assistance programs, and outreach programs, and made available to Medi-Cal beneficiaries whenever MCMC enrollment choices and options are presented. Specifies the information that should be included in the outreach and enrollment materials.
- 2) Prohibits a beneficiary, who meets the age qualifications for PACE and chooses PACE, from being assigned into a MCMC for at least 60 days or until they are assessed for PACE and determination of eligibility has been made.
- 3) Requires DHCS or its contracted vendor to provide outreach and enrollment materials on PACE in areas of state where presentation of MCMC options is unavailable.
- 4) Requires DHCS, as part of the MCMC enrollment process for dual eligible beneficiaries, seniors, and persons with disabilities and in areas of the state where there is not an MCMC enrollment process, to establish a system to identify Medi-Cal beneficiaries who may be PACE eligible based on age, residence, and prior use of services Requires DHCS, or the state's enrollment broker, to conduct outreach to those identified beneficiaries, and provide a referral to PACE if the beneficiary indicates interest in being assessed for PACE eligibility. Prohibits beneficiaries identified by the requirements of this bill, who express interest in being assessed for PACE, from being assigned into a MCMC for at least 60 days or until they are assessed for PACE and a determination of eligibility has been made.
- 5) Requires MCMC risk stratification and health risk assessment processes to include criteria to identify Medi-Cal beneficiaries who appear to meet PACE eligibility, as specified. Requires identified beneficiaries be provided with the option to be assessed for enrollment in PACE.
- 6) Requires PACE to be identified and presented as a Medicare plan option in any mailings or notices to dual eligible beneficiaries regarding their options to enroll in a Medicare plan, as specified.

- 7) Exempts a Medi-Cal beneficiary enrolled in PACE from mandatory or passive enrollment in a MCMC.
- 8) Requires a beneficiary who is enrolled in PACE to receive all Medicare and Medi-Cal services from the PACE program pursuant to a three-way agreement between the PACE program, DHCS, and CMS.

FISCAL EFFECT: According to the Assembly Appropriations Committee:

- 1) Administrative staff costs to DHCS in the low hundreds of thousands of dollars annually to review and track beneficiary data, conduct outreach and ensure coordination to determine potential eligibility for PACE (General Fund [GF] and federal funds). A portion of the work of identifying potentially eligible beneficiaries could likely be automated if it is cost-effective to do so.
- 2) The overall effect on enrollment and reimbursement is unknown. Total spending on PACE organization services is \$803.3 million total funds in 2020-21 (\$401.6 million GF and \$401.6 million federal), increasing to \$948.4 million total funds (\$474.2 million General Fund and \$474.2 million federal) in 2020-21 as a result of greater enrollment and higher rates. Per-member per-month costs for PACE services are high—around \$6,000—as the program is limited to individuals who qualify for a skilled nursing facility level of care.

To the extent this bill encourages greater enrollment in PACE organizations without corresponding decreases in skilled nursing facility placements, it could significantly increase cost pressure for PACE organization services in Medi-Cal.

PRIOR VOTES:

Assembly Floor:	78 - 0
Assembly Appropriations Committee:	16 - 0
Assembly Aging and Long Term Care Committee:	7 - 0

COMMENTS:

- 1) *Author's statement.* According to the author, PACE allows older adults to remain in their home and near their loved ones, while still guaranteeing their wellbeing and safety as they age. This bill will help more seniors remain in their homes and communities by improving beneficiary awareness of and access to PACE. This bill is a commonsense measure that ensures seniors have access to all their options, including PACE, when choosing a plan that is best for them.
- 2) *PACE.* PACE provides care to frail seniors as an alternative to institutionalization by coordinating and integrating medical, dental, mental health, substance use treatment services, and long-term care services. These services are provided to beneficiaries while still residing in a home- or community-based setting, rather than a skilled nursing facility or other institutional setting. In addition to clinical services, PACE also includes home health care, attendance at a day health center, provision of special diet or medication, and transportation, as necessary. PACE participants must be at least 55 years old, live in the PACE organization's designated service area, be certified as eligible for nursing home level of care by DHCS, and be able to live safely in their home or community at the time of enrollment. The PACE program is a capitated benefit and PACE providers assume full financial risk for participants care without limits on amount, duration, or scope of services.

For dually eligible enrolled beneficiaries who select PACE, PACE programs are the sole provider of Medicare and Medi-Cal services for participants. Currently, there are over 65 PACE sites across California, serving over 13,000 frail seniors.

- 3) *PACE and MCMC enrollment.* In counties with a choice of MCMC plans, beneficiaries must choose a MCMC plan within 30 days. The choice process involves a Health Care Options process through Maximus, DHCS' contracted enrollment vendor. If a beneficiary does not choose a plan within 30 days, they are defaulted into a MCMC plan.

In COHS counties, there is not a choice process as beneficiaries are automatically assigned to the COHS plan effective the following month, with a cut-off date at the end of the month that varies from month-to-month that would result in the person being enrolled the following month. Maximus only provides services in non-COHS counties. In Coordinated Care Initiative (CCI) counties only, DHCS includes PACE on the choice form for ZIP codes where PACE operates, as well as includes PACE information in the Enrollment Packet, the CCI Resource Guide, and Maximus links to PACE from the Health Care Options website. If a beneficiary chooses PACE on the choice form in CCI counties, Maximus sends that choice information to PACE. PACE reviews for eligibility and then processes the enrollment through a direct enrollment file submitted to DHCS. If PACE finds the beneficiary meets PACE eligibility criteria, Maximus then receives that enrollment information on a normal daily file that they receive from Medi-Cal Eligibility Data System for all beneficiaries in all plans including PACE. Maximus then updates their enrollment system to record that the beneficiary is enrolled in PACE.

In COHS counties, DHCS indicates it does not commission or require a form to be presented to beneficiaries regarding PACE options. PACE plans are responsible for marketing to advertise their availability as a specialty health plan option in COHS counties

- 4) *California Accessing and Innovating Medi-Cal (CalAIM).* In October 2019, DHCS released a broad, sweeping, multi-year initiative aimed at improving the health outcomes of beneficiaries in Medi-Cal, known as CalAIM. DHCS proposes implementing CalAIM through the California's Medicaid State Plan, the 1115 waiver, and the 1915(b) waiver. Under CalAIM, DHCS is proposing to transition CCI to a statewide Managed Long-Term Services and Supports (MLTSS) and Dual Eligible Special Needs Plan (D-SNP) structure. DHCS's proposed CalAIM trailer bill language (TBL) sunsets the CCI provisions and contains language that is similar to provisions in this bill. The proposed TBL would require, in areas where a PACE plan is available, the following:
 - a) PACE to be presented as an enrollment option, included in all enrollment materials, enrollment assistance programs, and outreach programs, and made available to applicable beneficiaries whenever enrollment choices and options are presented;
 - b) Persons meeting the age qualifications for PACE and who choose PACE are required to remain in the FFS Medi-Cal and Medicare programs, and are prohibited from being assigned to a MCMC plan for the lesser of 60 days or until they are assessed for eligibility for PACE and determined not to be eligible for a PACE plan; and,
 - c) Persons enrolled in a PACE plan are required to receive all Medicare and Medi-Cal services from the PACE program pursuant to the three-way agreement between the PACE program, DHCS, and the federal CMS.

DHCS' proposed TBL does not include provisions in this bill that would require DHCS to establish a system to identify Medi-Cal beneficiaries who may be PACE eligible, conduct outreach to those identified beneficiaries, and provide a referral to PACE if the beneficiary indicates interest in being assessed for PACE eligibility. The proposed TBL also does not require MCMC risk stratification and health risk assessment processes to include criteria to identify Medi-Cal beneficiaries who appear to meet PACE eligibility.

- 5) *Related legislation.* AB 523 (Nazarian) requires the DHCS to make permanent specified changes in the PACE program that DHCS instituted, on or before January 1, 2021, in response to the COVID-19 public health emergency. *AB 523 passed the Senate Health Committee by a vote of 11-0 on June 23, 2021.*
- 6) *Prior legislation.* AB 2492 (Choi of 2020) would have required DHCS to authorize a PACE center to provide PACE services for the maximum number of individuals for which the PACE center is eligible to provide PACE services. AB 2492 would have required DHCS' authorization to be in writing and to provide detailed reasons for the specific maximum number of individuals for which the PACE center is eligible to provide PACE services. *Due to the shortened Legislative calendar brought on by the COVID-19 pandemic, AB 2492 was not set for a hearing.*
- 7) *Support.* This bill is sponsored by CalPACE, which writes that PACE is designed to provide care for California's frail population as an alternative to institutionalization. PACE programs coordinate and deliver preventive, primary, acute and long-term care services to older adults who would otherwise be in nursing homes so they can continue to live in the community. Even though PACE is a model of care for seniors, many benefactors are unaware of PACE and how it may benefit them. Many seniors with higher needs could benefit from direct state engagement and referrals for PACE services. CalPACE states that this bill would improve beneficiary awareness and access to PACE by requiring (1) PACE to be offered as a Medi-Cal plan choice, (2) PACE to be identified as a Medicare plan choice and included in all enrollment materials and information, (3) the DHCS to establish an auto referral process to referral beneficiaries to PACE, (4) assessment processes to include criteria to identify and provide for referral to PACE and (5) continuity of enrollment by exempting Medi-Cal beneficiaries who enrolled in PACE from mandatory or passive enrollment Medi-Cal managed care.

This bill is also supported by Alzheimer's Greater Los Angeles, Alzheimer's Orange County, and Alzheimer's San Diego. In a joint letter, write that PACE provides comprehensive care for California's frail population over age 55 who qualify for nursing home placement but wish to remain in the community. This is important for the 36% of the PACE enrollees who are living with Alzheimer's or dementia. Despite common misconceptions, most people living with dementia remain in their communities with the help of community-based supportive services. Because Alzheimer's is one of the most expensive diseases, due in large part to the high cost of nursing home care, remaining in one's home is an important option. They argue that this bill would help enroll more people in PACE programs, where they can benefit from the coordinated care, access supports

SUPPORT AND OPPOSITION:

Support: CalPACE (sponsor)
AARP California
Alta Med
Alzheimer's Greater Los Angeles
Alzheimer's Orange County
Alzheimer's San Diego
American Association of Retired Persons California
Association of California Caregiver Resource Centers
California Alliance for Retired Americans
California Association of Long Term Care Medicine
California Association of Public Authorities for IHSS
California Commission on Aging
California League of United Latin American Citizens
Center for Elders Independence
Contra Costa County Advisory Council on Aging
Golden Valley Health Centers
InnovAge
Innovative Integrated Health
LeadingAge California
North East Medical Services Program of All-Inclusive Care for the Elderly
On Lok Senior Health Services
San Ysidro Health
U.S. Renal Care
WelbeHealth
Western Center on Law & Poverty, Inc.

Oppose: None received

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