

CENTERS FOR MEDICARE & MEDICAID SERVICES

Programs of All-Inclusive Care for the Elderly Loretto Rest Realty Corporation

Contract: H3321

Final Report Issued: August 28, 2018



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1. BACKGROUND

Section 4801 of the Balanced Budget Act (BBA) authorized coverage of the Programs of All-Inclusive Care For the Elderly (PACE) under the Medicare program by amending Title XVIII of the Social Security Act ("the Act") and adding section 1894, which addresses Medicare payments and coverage of benefits under PACE. Section 4802 of the BBA authorized the establishment of PACE as a state option under Medicaid by amending Title XIX of the Act and adding Section 1934, which directly parallels the provisions of section 1894. Section 1894(e)(4) and Section 1934(e)(4) of the Social Security Act, and implementing regulations at 42 CFR 460.190 and 460.192 mandate that CMS, in conjunction with the State Administering Agency (SAA), audit PACE Organizations annually for the first 3 years (during the trial period), and then at least every 2 years following the trial period. In furtherance of that objective, Independent Living Srvcs Of Central Ny, with 558 enrolled participants, was selected for a PACE audit in 2018.

2. OBJECTIVE, SCOPE, AND METHODOLOGY

2.1 Objective

This audit focused on evaluating compliance with the following core elements:

- Service Delivery Requests, Appeals and Grievances (SDAG)
- Clinical Appropriateness and Care Planning (CACP)
- Personnel Records
- Onsite Review
- Quality Assessment

2.2 Scope

CMS requested that the PACE Organization provide universes of data for one year prior to the engagement letter, with the exception of the call log universe which required only three months.

Audit fieldwork began on May 29, 2018, and concluded with an exit conference on June 08, 2018.

2.3 Methodology

To conduct our assessment, CMS developed audit procedures to test the PACE Organization's compliance with PACE requirements for each element. Our procedures were designed to test specific audit objectives, to identify non-compliance and to evaluate outcomes achieved by the PACE Organization. Our approach to conducting these procedures included:

- Reviewing documentation submitted by the PACE Organization prior to the review,
- Analyzing and selecting samples from data universes submitted by the PACE Organization prior to the review to probe for and to evaluate areas of potential non-compliance,
- Reviewing PACE Organization systems, operations, and documentation by conducting reviews of the samples, and
- Interviewing PACE Organization personnel.

3. EXECUTIVE SUMMARY OF FINDINGS

This chart summarizes the results of our review of the PACE Organization's compliance with CMS PACE requirements.

Program Area	# of Observations	# of Corrective Action Required (CAR)	# of Immediate Corrective Action Required (ICAR)	Points (CARs) + (2 x ICARs)	# of Audit Elements Tested	Score¹ (Points / Elements Tested)
Total - Programs of All-Inclusive Care for the Elderly (PACE)	2	9	0	9	5	1.80
Overall Audit Score	2	9	0	9	5	1.80

¹Note that a lower audit score denotes a better performing PACE Organization.

4. FINDINGS

This report summarizes the results of our evaluation of the PACE Organization's compliance with PACE requirements. Audit findings can result in an "Immediate Corrective Action Required (ICAR)," "Corrective Action Required (CAR)," or "Observation". A description of each is found below:

Immediate Corrective Action Required (ICAR) – An ICAR is a systemic deficiency that is so severe that it requires immediate correction. These types of issues would be limited to situations where the identified deficiency resulted in a lack of access to care and/or services or posed an immediate threat to participant health and safety.

Corrective Action Required (CAR) – A CAR is a systemic deficiency that must be corrected, but the correction can wait until the audit report is issued. These issues may affect participants, but are not of a nature that immediately affects their health and safety. Generally, they involve deficiencies with respect to non-existent or inadequate policies and procedures, systems, internal controls, training, operations or staffing.

Observations – Observations are conditions of non-compliance that are not systemic, or represent a "one-off issue." A "one-off issue" may be an issue dealing with one employee or a singular case that was lost or misidentified.

Please note, the "Condition" statements listed below are general descriptions of non-compliance and are not written specifically for the condition being cited. Similarly, the "Criteria" section provides a list of all criteria that may apply to the cited condition statement. All criteria listed may not apply in every condition. The "Cause" and "Effect" sections provide customized descriptions of the non-compliance based on the audit team's evaluation of all audit documentation.

During the CMS PACE Audit, the State Administering Agency of New York joined CMS onsite and conducted a review of additional elements and/or State specific requirements. Any findings noted by the SAA are separate and distinct from the CMS findings noted below.

4.1 Programs of All-Inclusive Care for the Elderly (PACE)

Table 1: Results of the sample reviews for Programs of All-Inclusive Care for the Elderly (PACE)

Audit Elements	# of Observations	# of Corrective Action Required (CAR)	# of Immediate Corrective Action Required (ICAR)
Service Delivery Requests, Appeals and Grievances (SDAG)	1	6	0
Clinical Appropriateness and Care Planning (CACP)	0	3	0
Personnel Records	1	0	0
Onsite Review	0	0	0
Quality Assessment	0	0	0

4.1.1 Service Delivery Requests, Appeals and Grievances (SDAG)

The following condition(s) represent the PACE Organization's non-compliance in this audit element:

CONDITION #1P.62:

The PO did not automatically process an appeal following an untimely decision for a service.

CRITERIA:

42 CFR § 460.104(d)(2)(v)

CAUSE:

The PO misinterpreted the regulatory requirement and did not automatically process appeals following the untimely processing of service delivery requests.

EFFECT:

Of the 48 service delivery requests processed untimely during the audit review period, none of the affected requests were automatically processed as appeals. Failure to automatically process an appeal following an untimely service delivery request decision limits participants' ability to advocate in a timely manner for necessary care and services.

SUPPORTING DOCUMENTATION:

SD-11.pdf, SD-12.pdf, SD-15.pdf, SD-7.pdf, SDR_Impact Analysis 1P.62 v2.xlsx, SDR_Impact Analysis 1P.62.xlsx, SDR_RCA_1P.62.A.xlsx, SDR_RCA_1P.62.xlsx

CORRECTIVE ACTION REQUIRED:

The PO must appropriately process appeals following an untimely decision for a service.

CONDITION #1P.61:

The PO's denial notifications did not include the participant's right to appeal the denial and/or information about how to appeal the denial.

CRITERIA:

42 CFR § 460.104(d)(2)(iv)

CAUSE:

The PO misinterpreted the regulatory requirement and did not provide oral notification of appeal rights for denied service delivery requests.

EFFECT:

Of the 10 denied service delivery requests reviewed, five denials did not demonstrate that appeal rights were provided orally. Based on the PO's Impact Analysis, 61 denials did not include oral appeal rights. Failure to provide appeal rights, both orally and in writing, limits or delays participants' ability to appeal denials.

SUPPORTING DOCUMENTATION:

SD-1.pdf, SD-10.pdf, SD-2.pdf, SD-4.pdf, SD-8.pdf, SDR_Impact Analysis 1P.61.xlsx, SDR_RCA_1P.61.A.xlsx, SDR_RCA_1P.61.xlsx, Service Delivery Request_Impact Analysis 1P.61.xlsx

CORRECTIVE ACTION REQUIRED:

The PO's denial notifications must include the participant's right to appeal the denial and/or information about how to appeal the denial.

CONDITION #1P.60:

The PO's denial notifications failed to include the specific reason(s) for the denial in a clear and understandable manner.

CRITERIA:

42 CFR § 460.104(d)(2)(iv)

CAUSE:

The PO did not have an effective process to consistently document that the specific reason for the denied service delivery request was provided orally and in writing.

EFFECT:

Of the 10 denied service delivery requests reviewed, four denials did not demonstrate that the specific reason for the decision was provided both orally and in writing. Of those four denials, three were missing the specific reason orally and one was missing the specific reason in writing. Based on the PO's Impact Analysis, 30 denials did not provide the specific reason orally, five denials did not provide the specific reason in writing, and three denials did not provide the specific reason at all (either orally or in writing). Failure to provide the specific reason for the denial, both orally and in writing, limits the participants' ability to understand and appeal denials.

SUPPORTING DOCUMENTATION:

SD-1.pdf, SD-10.pdf, SD-2.pdf, SD-4.pdf, SDR_Impact Analysis 1P.61.xlsx, SDR_RCA_1P.60.A.xlsx, SDR_RCA_1P.60.xlsx, Service Delivery Request_Impact Analysis 1P.61.xlsx

CORRECTIVE ACTION REQUIRED:

The PO's denial notifications must include the specific reason(s) for the denial in a clear and understandable manner.

CONDITION #1P.58:

The PO inappropriately extended the timeframe for a service delivery requests.

CRITERIA:

42 CFR § 460.104(d)(2)(iii)

CAUSE:

The PO did not have an effective process to document the rationale for taking extensions for service delivery requests including how the extension was in the best interest of the participant.

EFFECT:

Of the 15 service delivery requests reviewed, two requests did not have documentation of the reason the extension was taken. Based on the PO's Impact Analysis, five requests did not include the appropriate documentation regarding the rationale for the extension. Failure to ensure service delivery requests are processed timely, by inappropriately extending requests, limits participants' ability to receive services and/or pursue appeals in a timely manner.

SUPPORTING DOCUMENTATION:

SD-2.pdf, SD-7.pdf, SDR_Impact Analysis 1P.58 v2.xlsx, SDR_RCA_1P.58.A.xlsx, SDR_RCA_1P.58.xlsx

CORRECTIVE ACTION REQUIRED:

The PO must not inappropriately extend the timeframe for service delivery requests.

CONDITION #1P.57:

The PO failed to conduct in-person reassessments in response to each service delivery request.

CRITERIA:

42 CFR § 460.104(d)(2)

CAUSE:

The PO did not have an effective system in place to ensure in-person assessments were conducted following the receipt of a service delivery request.

EFFECT:

Of the 389 service delivery requests received during the audit period, 230 requests were missing in-person assessments. Of the 230 requests missing in-person assessments, 196 were approved and 34 were denied. Failure to conduct in-person assessments as required limits the PO's ability to fully assess participant needs and ensure participants receive necessary care and services.

SUPPORTING DOCUMENTATION:

2100_Sub_4.xlsm, SD-4.pdf, SD-6.pdf, SD-7.pdf, SDR_Impact Analysis 1P.57.xlsx, SDR_RCA_1P.57.A.xlsx, SDR_RCA_1P.57.xlsx

CORRECTIVE ACTION REQUIRED:

The PO must conduct in-person reassessments in response to each service delivery request.

CONDITION #1P.56:

The PO failed to notify participants or their representatives of its decision to approve or deny a request for reassessment within 72 hours from the date of receipt of a request by the IDT, or within 8 days if an extension was taken.

CRITERIA:

42 CFR § 460.104(d)(2)(i) - (iii)

CAUSE:

The PO did not have an effective process in place to ensure that participants and/or their designated representatives were notified of service delivery request decisions within the required timeframe.

EFFECT:

Of the 389 service delivery requests received during the audit review period, 48 requests were processed untimely. Failure to provide timely notification of service delivery request decisions limits a participant's ability to appeal a denial and/or causes a delay in receiving approved services.

SUPPORTING DOCUMENTATION:

SD-11.pdf, SD-12.pdf, SD-15.pdf, SD-7.pdf, SDR_Impact Analysis 1P.56.xlsx, SDR_RCA_1P.56.A.xlsx, SDR_RCA_1P.56.xlsx, Service Delivery Request_Impact Analysis 1P.56.xlsx

CORRECTIVE ACTION REQUIRED:

The PO must notify participants or their representatives of its decision to approve or deny a request for reassessment within 72 hours from the date of receipt of a request by the IDT, or within 8 days if an extension was taken.

OBSERVATION[S]:

1. For one participant the PO failed to recognize and process a complaint received after hours from a participant's designated representative as a grievance. (Finding ID: 31200)

4.1.2 Clinical Appropriateness and Care Planning (CACP)

The following condition(s) represent the PACE Organization's non-compliance in this audit element:

CONDITION #1P.50:

The PO failed to conduct annual and/or semi-annual in-person reassessments as often as required.

CRITERIA:

42 CFR § 460.104(c)
PACE Manual Chapter 8, Section 20.8
PACE Manual Chapter 8, Section 20.9

CAUSE:

The PO did not have an effective process to ensure that the home care coordinator performed required annual assessments for all participants.

EFFECT:

Of the 10 medical records reviewed, one record did not demonstrate that an annual assessment by the home care coordinator was performed. Based on the PO's Impact Analysis, 18 participants did not receive an annual assessment by the home care coordinator. Failure to conduct routine in-person assessments as required limits the PO's ability to appropriately assess participant needs and provide necessary care and services.

SUPPORTING DOCUMENTATION:

Assessment_Reassessment Process.pdf, CACP_Impact Analysis 1P.50.xlsx, CACP_1P.50_evidence.pdf, CACP_Impact Analysis 1P.50.xlsx, CACP_RCA_1P.50.A.xlsx, CACP_RCA_1P.50_2nd Request A.xlsx, Supportive Documentation_1P.50.pdf

Samples include: Part-1.

CORRECTIVE ACTION REQUIRED:

The PO must conduct annual and/or semi-annual in-person reassessments as often as required.

CONDITION #1P.20:

The PO failed to ensure the participant and/or caregiver was involved in the development and re-evaluation of the plan of care.

CRITERIA:

42 CFR § 460.104(e)(3)
42 CFR § 460.106(e)
PACE Manual Chapter 8, Section 20.12
PACE Manual Chapter 8, Section 30.5

CAUSE:

The PO did not have an effective process to include the participant and/or caregiver in the care planning process.

EFFECT:

Of the 10 medical records reviewed, five records did not demonstrate that the participant and/or caregiver was involved in the development and/or re-evaluation of the care plan. Based on the PO's Impact Analysis, 21 participants were not involved in the development and/or re-evaluation of their care plans. Failure to ensure participants and/or caregivers are involved in the development and re-evaluation of care plans limits the PO's ability to provide appropriate care and services to participants.

SUPPORTING DOCUMENTATION:

CACP_Impact Analysis 1P.20.xlsx, CACP_Impact Analysis 1P.20.xlsx, CACP_Part-10_CarePlanEvidence.pdf, CACP_Part-4_CarePlanEvidence.pdf, CACP_Part-7_CarePlanEvidence.pdf, CACP_Part-8_CarePlanEvidence.pdf, CACP_Part-9_CarePlanEvidence.pdf, CACP_RCA_1P.20.A.xlsx, Care Plan Policy.pdf, Supportive Documentation_1P.20.pdf

CORRECTIVE ACTION REQUIRED:

The PO must ensure the participant and/or caregiver was involved in the development and re-evaluation of the plan of care.

CONDITION #1P.13:

The PO failed to ensure required IDT members were appropriately involved in creating and re-evaluating the care plan.

CRITERIA:

- 42 CFR § 460.104(b)
- 42 CFR § 460.104(e)
- 42 CFR § 460.106(a)
- 42 CFR § 460.106(d)
- PACE Manual Chapter 8, Section 20.8
- PACE Manual Chapter 8, Section 20.9
- PACE Manual Chapter 8, Section 30.10
- PACE Manual Chapter 8, Section 30.2
- PACE Manual Chapter 8, Section 30.4
- PACE Manual Chapter 8, Section 30.8

CAUSE:

The PO did not have an effective process in place to ensure that all required IDT members participated in the development and re-evaluation of participant care plans.

EFFECT:

Of the 10 medical records reviewed, none of the records demonstrated that the full IDT was involved in the creation and/or re-evaluation of participant care plans. Based on the PO's Impact Analysis, 30 participants did not have the full IDT involved in the development or review of their care plans. Failure to have required IDT members' involvement in care plan development and re-evaluation limits the PO's ability to provide appropriate care and services to participants.

SUPPORTING DOCUMENTATION:

CACP_Impact Analysis 1P.13.xlsx, CACP_Part-10_CarePlanEvidence.pdf, CACP_Part-2_CarePlanEvidence.pdf, CACP_Part-3_CarePlanEvidence.pdf, CACP_Part-4_CarePlanEvidence.pdf, CACP_Part-5_CarePlanEvidence.pdf, CACP_Part-6_CarePlanEvidence.pdf, CACP_Part-7_CarePlanEvidence.pdf, CACP_Part-8_CarePlanEvidence.pdf, CACP_Part-9_CarePlanEvidence.pdf, CACP_RCA_1P.13.A.xlsx, Care Plan Policy.pdf, Supportive Documentation_1P.13.pdf

Additional samples include: Part-1.

CORRECTIVE ACTION REQUIRED:

The PO must ensure that required IDT members are appropriately involved in creating and re-evaluating the care plan.

4.1.3 Personnel Records

OBSERVATION[S]:

1. In one personnel record (PRS-2), the contracted employee did not receive a competency evaluation prior to the individual providing participant care. (Finding ID: 31693)

4.1.4 Onsite Review

There were no conditions noted during the review of this audit element.

4.1.5 Quality Assessment

There were no conditions noted during the review of this audit element.

5. CORRECTION OF AUDIT CONDITIONS

Your organization must correct and submit Corrective Action Plans (CAPs) for all conditions classified as CAR or ICAR. All CAPs must be submitted for each condition in the CAP tab of the HPMS Audit Module. A PACE Organization's CAPs must describe the corrective actions taken (or that will be taken) to cure the non-compliance and the expected date of correction. While a narrative summary of the corrective actions taken is acceptable, PACE Organizations may supplement the CAPs with additional documentation as needed. This documentation must also be uploaded to the HPMS Audit module, Data Upload tab, as a "CAP File" type under the Level Association "Programs of All-Inclusive Care for the Elderly (PACE)". In addition, CMS expects the PACE Organization to remediate all participants adversely affected by the non-compliance identified in this report.

All CAPs for CAR conditions must be submitted in HPMS within 30 calendar days from the issuance of the final report. All CAPs for ICAR conditions required submission of CAPs within 3 business days of formal notification by CMS. CMS will review all CAPs and inform your organization if additional information is required or the CAP is acceptable.

Upon CMS' acceptance, your organization should begin implementation of the CAPs. CMS will continue to monitor these CAPs to ensure correction. This audit will not be closed until your organization demonstrates sufficient correction of all audit conditions.

The following chart lists all of the conditions in the report and the type of corrective action that is required.

Program Area	Audit Element	Condition #	Corrective Action Required	Immediate Corrective Action Required	Included In Sanction
Programs of All-Inclusive Care for the Elderly (PACE)	Service Delivery Requests, Appeals and Grievances (SDAG)	#1P.62	Yes	N/A	N/A
Programs of All-Inclusive Care for the Elderly (PACE)	Service Delivery Requests, Appeals and Grievances (SDAG)	#1P.61	Yes	N/A	N/A
Programs of All-Inclusive Care for the Elderly (PACE)	Service Delivery Requests, Appeals and Grievances (SDAG)	#1P.60	Yes	N/A	N/A
Programs of All-Inclusive Care for the Elderly (PACE)	Service Delivery Requests, Appeals and Grievances (SDAG)	#1P.58	Yes	N/A	N/A
Programs of All-Inclusive Care for the Elderly (PACE)	Service Delivery Requests, Appeals and Grievances (SDAG)	#1P.57	Yes	N/A	N/A
Programs of All-Inclusive Care for the Elderly (PACE)	Service Delivery Requests, Appeals and Grievances (SDAG)	#1P.56	Yes	N/A	N/A
Programs of All-Inclusive Care for the Elderly (PACE)	Clinical Appropriateness and Care Planning (CACP)	#1P.50	Yes	N/A	N/A
	Clinical Appropriateness and Care Planning (CACP)	#1P.20	Yes	N/A	N/A

Program Area	Audit Element	Condition #	Corrective Action Required	Immediate Corrective Action Required	Included In Sanction
Programs of All-Inclusive Care for the Elderly (PACE)					
Programs of All-Inclusive Care for the Elderly (PACE)	Clinical Appropriateness and Care Planning (CACP)	#1P.13	Yes	N/A	N/A

Failure to correct these conditions or to provide sufficient documentation and evidence to CMS of their correction may result in a referral to the Division of Compliance Enforcement (DCE) within the Medicare Parts C and D Oversight and Enforcement Group (MOEG) to determine if enforcement actions are warranted, including the imposition of sanctions, civil money penalties, and/or contract termination or non-renewal as described in 42 CFR Part 460 Subpart D.