

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services**

**Program of All Inclusive Care for the Elderly
Personal Care Attendant Services
(LAC 50:XXIII.Chapters 1-11)**

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XXIII.Chapters 1-11 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend the provisions governing the Program of All Inclusive Care for the Elderly (PACE) in order to require that a PACE organization/provider have a personal care attendant (PCA) home and community-based services license in addition to the required adult day health care license if the organization/provider does not contract with a PCA agency. In addition, this proposed Rule updates language in order to reflect current practices and terminology.

**Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE**

Part XXIII. Program of All Inclusive Care for the Elderly

Chapter 1. General Provisions

§101. Purpose and Scope

A. The Department of Health ~~and Hospitals, Office of the Secretary~~, Bureau of Health Services Financing ~~implements~~implemented the Program of All Inclusive Care for the Elderly (PACE) in accordance with federal regulations at 42 CFR 460 et seq., ~~as published in the Federal Register on November 24, 1999 and amended on October 2, 2002, and as may be amended in the future.~~ These regulations set forth:

1. - 5. ...

B. The purpose of the Program of All Inclusive Care for the Elderly is to provide prepaid, capitated, comprehensive health care services designed to meet the following objectives:

1. enhance the quality of life and autonomy for ~~frail, older adults~~enrolled participants;
2. maximize the dignity of, and respect for, ~~older adults~~enrolled participants;
3. enable ~~frail, older adults~~enrolled participants to live in the community as long as medically and socially feasible; and
4. preserve and support the ~~older adult's~~enrolled participant's family unit.

C. ~~This Part XXIII sets forth the election of state options under the federal regulations and additional requirements established by the state for the efficient operation of the program.~~Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:244 (February 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§103. Organization Application and Evaluation

A. A PACE organization shall be licensed as an adult day health care (ADHC) ~~facility~~provider.~~The Department of Health and Hospitals (DHH) shall grant appropriate waivers of ADHC licensing requirements in instances where ADHC licensing regulations conflict with PACE requirements when such waivers are determined to have no adverse effect on participant health and safety and quality of life.~~

B. ~~A~~If a PACE organization ~~shall not be required~~uses their own staff to ~~be licensed as a health maintenance organization under~~provide personal care attendant (PCA) services to PACE participants, ~~the Louisiana regulations for risk based~~

~~entities~~ PACE organization shall acquire a home and community-based services (HCBS) license under the PCA module.

C. ~~A~~ The Department of Health (LDH) shall grant appropriate waivers of ADHC and HCBS PCA licensing requirements in instances where licensing regulations conflict with federal PACE ~~organization must be a non-profit entity~~ requirements and when such waivers are determined to have no adverse effect on participants' health, safety, and quality of life.

D. A PACE organization shall not be required to be licensed as a health maintenance organization under the Louisiana regulations for risk-based entities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:245 (February 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§105. Administrative Requirements

A. A PACE organization must have a fiscally sound operation, as demonstrated by:

1. total assets greater ~~then~~ than total unsubordinated liabilities;

2. sufficient cash flow and adequate liquidity to meet obligations as they become due; and

3. a net operating surplus or a financial plan for solvency that is satisfactory to the ~~Center~~Centers for Medicaid and Medicare Services (CMS) and the Department of Health~~and Hospitals~~.

B. A PACE organization shall operate under the control of an identifiable governing body such as a board of directors, which must include at least one community representative. The following advisory committees shall also be established to advise the board of directors:

1. - 2. ...

3. Restraint Committee; and

4. any other committees as required by CMS and/or ~~DHHL~~LDH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:245 (February 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

Chapter 3. Services

§301. Medicare and Medicaid Coordination

A. If a Medicare beneficiary or Medicaid ~~recipient~~ participant chooses to enroll in a PACE program:

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:245 (February 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§303. Services Provided

A. The PACE benefit package for all participants, regardless of the source of payment, must include:

1 - 3. ...

4. social ~~work~~ services;

5. ~~restorative therapies, including:~~ behavioral health services;

~~a. physical therapy;~~

~~b. occupational therapy; and~~

~~c. speech language pathology services; a. - c.~~

Repealed.

6. ~~personal care and supportive services;~~ restorative therapies, including:

- a. physical therapy;
- b. occupational therapy; and
- c. speech-language pathology services;

7. ~~nutrition counseling~~ personal care and supportive services;

8. ~~recreational therapy~~ nutrition counseling;

9. ~~transportation~~ recreational therapy;

10. ~~meal~~ transportation;

11. ~~medical specialty services including, but not limited to:~~ meals;

- ~~a. anesthesiology;~~
- ~~b. audiology;~~
- ~~c. cardiology;~~
- ~~d. dentistry;~~
- ~~e. dermatology;~~
- ~~f. gastroenterology;~~
- ~~g. gynecology;~~
- ~~h. internal medicine;~~
- ~~i. nephrology;~~
- ~~j. neurosurgery;~~
- ~~k. oncology;~~
- ~~l. ophthalmology;~~

- ~~m. oral surgery;~~
- ~~n. orthopedic surgery;~~
- ~~o. otorhinolaryngology;~~
- ~~p. plastic surgery;~~
- ~~q. pharmacy consulting services;~~
- ~~r. podiatry;~~
- ~~s. psychiatry;~~
- ~~t. pulmonary disease;~~
- ~~u. radiology;~~
- ~~v. rheumatology;~~
- ~~w. general surgery;~~
- ~~x. thoracic and vascular surgery; and~~
- ~~y. urology;~~a. - y. Repealed.

12. ~~laboratory tests, x-rays and other diagnostic procedures;~~medical specialty services including, but not limited to:

- a. anesthesiology;
- b. audiology;
- c. cardiology;
- d. dentistry;
- e. dermatology;
- f. gastroenterology;
- g. gynecology;
- h. internal medicine;

i. nephrology;

j. neurosurgery;

k. oncology;

l. ophthalmology;

m. oral surgery;

n. orthopedic surgery;

o. otorhinolaryngology;

p. plastic surgery;

q. pharmacy consulting services;

r. podiatry;

s. psychiatry;

t. pulmonary disease;

u. radiology;

v. rheumatology;

w. general surgery;

x. thoracic and vascular surgery; and

y. urology;

13. ~~drugs~~ laboratory tests, x-rays, and
~~biologicals~~ other diagnostic procedures;

14. ~~prosthetics, orthotics, durable medical~~
~~equipment, corrective vision devices, such as:~~ drugs and
biologicals;

~~a. eyeglasses and lenses;~~

~~b. hearing aids;~~

~~c. dentures; and~~

~~d. repair and maintenance of these items; a. -~~

d. Repealed.

15. ~~acute inpatient care, including~~prosthetics,
orthotics, durable medical equipment, corrective vision devices,
such as:

a. ~~ambulance~~eyeglasses and lenses;

b. ~~emergency room care and treatment room~~
~~services~~hearing aids;

c. ~~semi-private room and board~~dentures;

d. ~~general medical and nursing services~~repair
and maintenance of these items; and

e. ~~medical surgical/intensive care/coronary care~~
~~unit~~wheelchairs, including custom wheelchairs that are medically
necessary;

~~f. laboratory tests, x-rays and other~~
~~diagnostic procedures;~~

~~g. drugs and biological;~~

~~h. blood and blood derivatives;~~

~~i. surgical care, including the use of~~
~~anesthesia;~~

~~j. use of oxygen;~~

~~k. physical, occupational, respiratory~~
~~therapies, and speech-language pathology services; and~~

~~1. social services~~ f. - 1. Repealed.

16. ~~nursing facility care including~~ acute inpatient care, including:
- a. ~~semi-private room and board~~ ambulance;
 - b. ~~physician and skilled nursing~~ emergency room care and treatment room services;
 - c. ~~custodial care~~ semi-private room and board;
 - d. ~~personal care and assistance~~ general medical and nursing services;
 - e. ~~drugs and biologicals~~ medical surgical/intensive care/coronary care unit;
 - f. ~~physical~~ laboratory tests, occupational x-rays, recreational therapies, and speech language pathology, if necessary other diagnostic procedures;
 - g. ~~social services~~ drugs and biological; ~~and~~
 - h. ~~medical supplies and appliances~~ blood and blood derivatives;
 - i. surgical care, including the use of anesthesia;
 - j. use of oxygen;
 - k. physical, occupational, recreational therapies, and speech-language pathology services;
 - l. social services; and
 - m. psychiatric treatment;

17. ~~other services determined necessary by the interdisciplinary team to improve and maintain the participant's overall health status.~~ nursing facility care, including:

- a. semi-private room and board;
- b. physician and skilled nursing services;
- c. custodial care;
- d. personal care and assistance;
- e. drugs and biologicals;
- f. physical, occupational, recreational therapies, and speech-language pathology, if necessary;
- g. social services; and
- h. medical supplies and appliances;

18. other services determined necessary by the interdisciplinary team to improve and maintain the participant's overall health status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:245 (February 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§305. Excluded Services

A. Services excluded from coverage are:

1. ...

2. private room and private duty nursing services in an inpatient facility⁷ (unless medically necessary), and nonmedical items for personal convenience such as telephone charges and radio or television rental (unless specifically authorized by the interdisciplinary team as part of the participant's plan of care);

3. - 5.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:246 (February 2004) amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§307. Conditions of Service

A. - B. ...

C. These services must be furnished in, at least, the PACE center, the home, and inpatient facilities.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:246 (February 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

Chapter 5. ~~Recipient~~Participant Enrollment

§501. Eligibility

A. In order to be eligible for services from a PACE site an applicant must:

1. ...

2. be determined by the state administering agency

to ~~need the level of care required under the state Medicaid plan for coverage of~~meet nursing facility ~~services~~level of care, as established by the Department of Health;

3. - 4. ...

B. Eligibility to enroll in a PACE program is not restricted to an individual who is either a Medicare beneficiary or Medicaid ~~recipient~~participant. A potential ~~PACE enrollee~~participant may be, but is not required to be, any or all of the following:

1. - 3. ...

C. ~~Persons shall~~The determination whether a potential participant can be considered to have met the criteria~~care~~ed for ~~determining that an individual is able to live in a~~the community ~~setting at the time of enrollment~~without jeopardizing his or her health or safety when the answer to all of the following questions is determined to be in the affirmative based on the PACE organization's evaluation of the potential participant. The following are issues to consider when making this determination.

1. ~~Does the individual~~The potential participant does not have the capability to call for emergency assistance or caregiver~~does not~~have a desirethe capability to remain in the community?determine when emergency assistance is needed.

2. ~~If~~A physician, familiar with the individual is not able to live safely alone, is therepotential participant's health and social history, has documented a primary caregiver at home, or a willingness to use another caregiver or provider to meetcondition for the individual's needs?potential participant that requires 24-hour/7-days per week of skilled care.

3. ~~Can the caregiver maintain a safe physical environment in the home?~~The potential participant's residence:
a. has been condemned; or
b. has been determined unsafe by habitation by PACE provider (detailed documentation of specifics required); or

c. poses a threat to PACE program staff due to:

i. physical condition and integrity of dwelling; or

ii. evidence of abuse and/or neglect from other household members; or

iii. criminal activities or behavior; or

iv. illegal drug use; or

v. brandishing of weapons; or

vi. dangerous pets/animals.

4. ~~Are hygiene, nutrition, medical care, and support systems adequate?~~The potential participant exhibits health concerns that involve dangerous behavior(s) which would pose a threat to him/her, other PACE participants, or PACE program staff.

5. ~~If behavioral problems exist, can they be managed to prevent risk to self or others?~~The potential participant whose current medical treatment or regimen requires 24-hour supervision and whose care is more appropriately provided in an institutional setting (hospital or skilled nursing facility).

6. ~~Can a plan of care be developed to meet the individual's needs?~~Repealed.

D. ~~A-If the PACE organization shall assess the potential participant to ensure~~determines that ~~he or she can be cared for appropriately in a community setting~~an applicant's health and

safety cannot be ensured with the services that PACE eligibility can provide, the PACE organization shall submit the following within five working days to the Office of Aging and Adult Services (OAAS):

1. justification for the determination that health and safety cannot be ensured; and

2. any and all assessments and medical records use to make the determination;

E. ~~Reevaluation of Eligibility~~ If OAAS agrees with the PACE organization, OAAS will provide documentation to the PACE organization in writing acknowledging the health and safety concern.

~~1. DHH shall annually reevaluate whether the participant continues to meet level of care for nursing facility services. DHH may permanently waive the annual recertification of level of care requirements for a participant if it determines that there is no reasonable expectation of improvement or significant change in the participant's condition because of the severity of a chronic condition or the degree of impairment of functional capacity.~~

~~2. DHH may determine that a PACE participant who no longer meets the state Medicaid nursing facility level of care requirements may be deemed to continue to be eligible for the PACE program until the next annual reevaluation, if, in the~~

~~absence of continued coverage under this program, the participant reasonably would be expected to meet the nursing facility level of care requirement within the next six months.~~1.

- 2. Repealed.

F. If the potential participant is denied enrollment because the potential participant's health or safety would be jeopardized by living in a community setting, the PACE organization must meet the following requirements:

1. notify the potential participant in writing of the reason for denial with notification of appeal rights through the state fair hearing process;

2. refer the potential participant to alternative services, as appropriate;

3. maintain supporting documentation of the reason for denial; and

4. notify CMS and OAAS in the form and manner specified by CMS and make the documentation available for review.

G. If OAAS disagrees with the PACE organization, OAAS will provide the PACE organization with specific information as to why OAAS believes that with PACE services in place, a plan of care can be developed that is adequate to ensure the participant's health, social, and welfare needs. In addition,

OAAS will provide suggestions for services that would be beneficial to the participant.

H. A PACE organization shall assess the potential participant to ensure that he or she can be cared for appropriately in a community setting and that he or she meets all requirements for PACE eligibility.

I. Reevaluation of Eligibility

1. LDH shall annually reevaluate whether the participant continues to meet level of care for nursing facility services. LDH may permanently waive the annual recertification of level of care requirements for a participant if it determines that there is no reasonable expectation of improvement or significant change in the participant's condition because of the severity of a chronic condition or the degree of impairment of functional capacity.

2. LDH may determine that a PACE participant who no longer meets the state Medicaid nursing facility level of care requirements be deemed to continue to be eligible for the PACE program until the next annual reevaluation, if, in the absence of continued coverage under this program, the participant reasonably would be expected to meet the nursing facility level of care requirement within the next six months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:247 (February 2004), LR 33:850 (May 2007), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§503. Enrollment

A. Enrollment Period

1. ...

2. Enrollment continues until the

~~participant's~~participants' death, regardless of changes in health status, unless either of the following actions

~~occur~~occurs:

a. - b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:247 (February 2004), amended by the

Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§505. Disenrollment

A. A PACE organization shall submit proposed denial of enrollment determinations of applicants for health and safety reasons and all involuntary disenrollments of participants to ~~DHH~~-LDH for review prior to notifying applicants/participants of such adverse decisions. The Department shall review denials of PACE enrollment eligibility and disenrollments in a timely manner.

B. Involuntary Disenrollment

1. A participant may be involuntarily disenrolled for any of the following reasons:

a. a participant fails to pay, or to make satisfactory arrangements to pay, any premium due to the PACE organization after a 30- calendar day grace period;

b. ...

c. the participant moves out of the PACE program service area or is out of the service area for more than 30 consecutive days, unless the PACE organization and/or LDH agrees to a longer absence due to extenuating circumstances;

d. ...

e. the PACE program agreement with CMS and ~~DHH~~LDH is not renewed or is terminated;

f. - g. ...

2. The following are ~~behaviors~~ considered disruptive or threatening behavior for purposes of involuntary disenrollment:

a. behavior that jeopardizes his or her health or safety, or the health or safety of others; ~~or~~

b. consistent refusal to comply with his or her individual plan of care or the terms of the PACE enrollment agreement by a ~~participants~~ participant with decision-making capacity, but not if the behavior is related to a mental or physical condition of the participant. Noncompliant behavior includes repeated noncompliance with medical advice ~~and~~ and/or repeated failure to keep appointments ~~;~~ or

3. if a PACE organization proposes to disenroll a participant based on the disruptive or threatening behavior of the participant or the participant's caregiver, the organization shall document the following information in the participant's medical record:

a. the reasons for the proposal to disenroll the participant; and

b. all efforts made to remedy the situation and the outcome of the use of those efforts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:247 (February 2004), LR 33:850 (May 2007), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

Chapter 7. Quality Assessment and Performance Improvement

§701. Organization Responsibilities

A. - B. ...

C. A PACE organization must take actions that result in improvements ~~in~~to its performance in all types of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:248 (February 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§703. Quality Assessment and Performance Improvement Plan

A. - B. ...

C. At a minimum, the plan must specify how the PACE organization proposes to meet the following requirements:

1. identify areas to improve or maintain the delivery of services and ~~patient-care~~ of the participants;
2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:248 (February 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§705. Minimum Requirements

A. A PACE organization's quality assessment and performance improvement program ~~must~~ shall include, but is not limited to, the use of objective measures to demonstrate improved performance with regard to:

1. - 2. ...
3. outcome measures that are derived from data collected during assessments, including data on the following:
 - a. physiological-~~well-being~~ wellbeing;
 - b. - c. ...
 - d. social/behavioral functioning; and

e. quality of life of participants;

4. effectiveness and safety of staff-provided and contracted services, including:

a. ...

b. promptness of service delivery; and

A.4.c. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:248 (February 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§707. Internal Activities

A. A PACE organization must do the following:

1. - 3. ...

4. set priorities for performance improvement, considering prevalence and severity of identified problems, and give priority to improvement activities that affect clinical outcomes; and

A.5. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:248 (February 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§711. Committees with Community Input

A. A PACE organization must establish one or more committees with community input to:

1. ...

2. address the implementation of, and results from, the quality assessment and performance improvement plan; and

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:249 (February 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

Chapter 9. Sanctions

§901. Violations

A. Sanctions may be imposed against a PACE organization if it commits one or more of the following violations:

1. fails ~~substantially~~ to provide medically necessary items and services to a participant that are covered PACE services, and that failure has adversely affected (or has substantial likelihood of adversely affecting) the participant;

2. involuntarily disenrolls a participant in violation of ~~Section 42~~ CFR 460.164;

3. discriminates in the enrollment or disenrollment of Medicare beneficiaries or Medicaid ~~recipients~~ participants, or both, who are eligible to enroll in a PACE program on the basis of ~~an individual's~~ a participant's health status or need for health care services;

4. engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment, except as permitted by Section 460.150, by Medicare beneficiaries or Medicaid ~~recipients~~ participants whose medical condition or history indicates a need for substantial future medical services;

5. ...

6. misrepresents ~~or~~, falsifies, or fails to disclose information that is furnished to:

6.a. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:249 (February 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§903. Imposition of Sanctions by CMS

A. ~~The~~ CMS may impose the following sanctions for violations specified in §901:

1. - 4. ...

B. ~~The~~ CMS or the state may determine that the PACE organization is not in substantial compliance with PACE requirements, and may take one or more of the following actions:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:249 (February 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

Chapter 11. Appeals

§1101. Participant Rights, Grievances, and Appeals

A. - B. ...

C. Medicaid-eligible participants who appeal through Medicaid shall be heard by the ~~DHH Bureau of Appeals~~[Division of Administrative Law \(DAL\)](#) within the timeframes applicable to processing Medicaid appeals except in cases where federal PACE requirements require a more expeditious decision. The PACE organization shall prepare the Summary of Evidence in preparation for the appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and 42 CFR 460 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:249 (February 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to

the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 29, 2024.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on January 9, 2024. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on January 25, 2024 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after January 9, 2024. If a public hearing is to be held, all interested persons are invited to

attend and present data, views, comments, or arguments, orally or in writing.

Stephen R. Russo, JD

Secretary