



RHODE ISLAND EXECUTIVE OFFICE OF HEALTH & HUMAN SERVICES

Notice of Public Review of Rules

The Secretary of the Executive Office of Health & Human Services (EOHHS) has under consideration three (3) selected sections of the Medicaid Code of Administrative Rules ("MCAR") **to be repealed** as follows:

MCAR #	TITLE OF REGULATION TO BE REPEALED	LAST AMENDED
0310	Retroactive Coverage	July 21, 2014
0318	Medicaid Redetermination	December 11, 2013
N/A	Program of All-Inclusive Care for the Elderly (PACE) State Plan Amendment	March 19, 2006

The EOHHS plans to repeal the three (3) documents in the second column (noted above) in their entirety. All of these regulations are promulgated pursuant to the authority contained in Rhode Island General Laws Chapters 40-8 (Medical Assistance); 42-7.2 (Executive Office of Health & Human Services) and 40-6 (Public Assistance Act); Title XIX of the Social Security Act; and the Medicaid Section 1115 Demonstration Waiver.

In the development of these proposed Regulations, consideration was given to the following: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small businesses in Rhode Island. No alternative approach, duplication or overlap, or impact upon small businesses was identified based upon available information.

In accordance with RIGL §42-35-2.3, an oral hearing will be granted if requested by twenty-five (25) persons or by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty days of this notice. Interested persons should submit data, views, or written comments **by Monday, November 28, 2016** to: Elizabeth Shelov, Office of Policy and Innovation, Rhode Island Executive Office of Health & Human Services, Hazard Building, 74 West Road, Cranston, RI 02920 or Elizabeth.Shelov@ohhs.ri.gov.

These proposed documents to be repealed are accessible on the Rhode Island Secretary of State's website: <http://www.sos.ri.gov/ProposedRules/> or are available in hard copy upon request (401-462-1575 or RI Relay, dial 711).

The Executive Office of Health and Human Services does not discriminate against individuals based on race, color, national origin, sex, gender identity or expression, sexual orientation, religious belief, political belief or handicap in acceptance for or provision of services or employment in its programs or activities.

The Executive Office of Health & Human Services in the Louis Pasteur Building is accessible to persons with disabilities. If communication assistance (readers /interpreters /captioners) is needed, or any other accommodation to ensure equal participation, please notify the Executive Office at (401) 462-6266 (hearing/speech impaired, dial 711) at least three (3) business days prior to the Public Hearing so arrangements can be made to provide such assistance at no cost to the person requesting.

Original signed by:

Elizabeth H. Roberts, Secretary
Signed this 31st day of October 2016

THE FOLLOWING RULE WILL BE REPEALED IN ITS ENTIRETY

November 2016

19b Revision: HCFA-PM-91-4 (BPD) QMB No: 0938 August 1991

State/Territory: RHODE ISLAND _____

Citation 3.1(a) (1) Amount, Duration, and Scope of Services: Categorically Needy (Continued) (vi)

~~Home health services are provided to individuals entitled to nursing facility services as indicated in item 3.1(b) of this plan. 1902 (e) (7) of the (vii) Inpatient services that are being furnished to infants and Act children described in section 1902 (1) (1) (B) through (d), or section 1905 (n) (2) or the Act on the date the infant or child attains the maximum age for coverage under the approved State plan will continue until the end of the stay for which the inpatient services are furnished. 1902 (e) (9) of the (viii) Respiratory care services are provided to ventilator dependent Act individuals as indicated in item 3.1 (h) of this plan. 1 1902 (a) (52) (ix) Services are provided to families eligible under section 1925 and 1925 of the of the Act as indicated in item 3.5 of this plan. Act 1905(a)(26) x Program of All Inclusive Care for the Elderly (PACE) services, as described and 1934 and limited in Supplement 3 to Attachment 3.1-A ATTACHMENT 3.1-A identifies the medical and remedial services provided to the categorically needy. (Note: Other programs to be offered to Categorically Needy beneficiaries would specify all limitations on the amount, duration and scope of those services. As PACE provides services to the frail elderly population without such limitation, this is not applicable for this program. In addition, other programs to be offered to Categorically Needy beneficiaries would also list the additional coverage — that is in excess of established service limits — for pregnancy-related services for conditions that may complicate the pregnancy. As PACE is for the frail elderly population, this also is not applicable for this program.) TN No. 05-006 _____ Supersedes Approval Effective Date 10/01/2005 TN No. 92-02 HCFA ID: 7982E 20b Revision: HCFA-PM-91-4 (BPD) OMB No: 0938 August 1991 State/Territory: RHODE ISLAND _____ Citation 3.1(a) (2) Amount, Duration, and Scope of Services: Medically Needy (Continued) 1902 (e) (9) of the (x) Respiratory care services are provided to ventilator dependent Act individuals as indicated in item 3.1 (h) of this plan. 2 1905(a)(26) x Program of All Inclusive Care for the Elderly (PACE) services, as and 1934 described and limited in Supplement 3 to Attachment 3.1 A. ATTACHMENT 3.1 B identifies the services provided to each covered group of the medically needy. (Note: Other programs to be offered to Medically Needy beneficiaries would specify all limitations on the amount, duration and scope of those services. As PACE provides services to the frail elderly population without such limitation, this is not applicable for this program. In addition, other programs to be offered to Medically Needy beneficiaries would also list the additional coverage — that is in excess of established service limits — for pregnancy-related services for conditions that may complicate the pregnancy. As PACE is for the frail elderly population, this also is not applicable for this program.) TN No. 05-006 _____ Supersedes Approval Date _____ Effective Date _____ 10/01/2005 TN No. 92-02 HCFA ID: 7982E Attachment 3.1 A Page 12 State of Rhode Island _____ PACE State Plan Amendment Amount, Duration and Scope of Medical and Remedial Care Services Provided To the Categorically Needy 27. Program of All Inclusive Care for the Elderly (PACE) services, as described in Supplement 3 to Attachment 3.1-A. _x_ Election of PACE: By virtue of this submittal, the State elects PACE as an optional State Plan service. _____ No election of PACE: By virtue of this submittal, the State elects _____ to _____ not _____ add _____ PACE _____ as _____ an _____ optional _____ State _____ Plan _____ service. _____~~

_____ TN No. 05-006 Approval

Date _____ Effective Date: 10/01/05 Supercedes TN No. New 3 Attachment 3.1 B Page 16 State of
 Rhode Island PACE State Plan Amendment Amount, Duration and Scope of Medical and Remedial
 Care Services Provided To the Medically Needy 27. Program of All-Inclusive Care for the Elderly (PACE)
 services, as described in Supplement 3 to Attachment 3.1-A. Election of PACE: By virtue of this
 submittal, the State elects PACE as an optional State Plan service. _____ No election of PACE: By virtue of
 this submittal, the State elects to not add PACE as an optional State Plan service. TN No. 05-006 Approval
 Date _____ Effective Date 10/01/05 Supercedes TN No. New 4 Supplement 3 to Attachment
 3.1-A Page 1 State of Rhode Island PACE State Plan Amendment Eligibility The State determines
 eligibility for PACE enrollees under rules applying to community groups. A. The State determines
 eligibility for PACE enrollees under rules applying to institutional groups as provided for in section
 1902(a)(10)(A)(ii)(VI) of the Act (42 CFR 435.217 in regulations). The State has elected to cover under its
 State plan the eligibility groups specified under these provisions in the statute and regulations. The
 applicable groups are: Categorically Needy SSI-related Coverage Groups: SSI-related Recipients
 Deemed SSI Recipients Under 1619(b) of SSA Pickle Amendment Eligibles Disabled Adult Children
 SSI-eligible Non-Cash Recipients SSI-eligible but for MA Prohibited Rules State Supplement Recipients
 Based on 12/73 AABD Disabled Widowers SSI-ineligible Due to Actuarial Changes Protected Widowers
 Age 60 through 65 Disabled Widow(ers) and Surviving Divorced Spouses Who Lose SSI or SSP Refugee
 Medical Assistance Poverty Level SSI-related Coverage Group: Low-Income Aged and Disabled
 Individuals Medically Needy SSI-related Coverage Groups: Aged, Blind or Disabled Individuals 12/73
 Blind or Disabled Individuals Special Treatment Coverage Groups: Title XV Coverage Group (If this option
 is selected, please identify, by statutory and/or regulatory reference, the institutional eligibility group or
 groups under which the State determines eligibility for PACE enrollees. Please note that these groups must
 be covered under the State's Medicaid plan.) B. _____ The State determines eligibility for PACE enrollees
 under rules applying to institutional groups, but chooses not to apply post-eligibility treatment of income
 rules to those individuals. (If this option is selected, skip to II Compliance and State Monitoring of the
 PACE Program. C. The State determines eligibility for PACE enrollees under rules applying to
 institutional groups, and applies post-eligibility treatment of income rules to those individuals as specified
 below. Note that the post-eligibility treatment of income rules specified below are the same as those that
 apply to the State's approved HCBS waiver(s). Regular Post-Eligibility 1. SSI State. The State is using
 the post-eligibility rules at 42 CFR 435.726. Payment for PACE services is reduced by the amount remaining
 after deducting the following amounts from the PACE enrollee's income. TN No. 05-006 Approval
 Date _____ Effective Date 10/01/05 Supercedes 5 TN No. New Supplement 3 to Attachment
 3.1-A Page 2 (a). Sec. 435.726 States which do not use more restrictive eligibility requirements than SSI.
 1. Allowances for the needs of the: (A.) Individual (check one) 1. The following standard included
 under the State plan (check one): (a) _____ SSI (b) _____ Medically Needy (c) _____ The special income
 level for the institutionalized (d) Percent of the Federal Poverty Level: 100 % (e) _____ Other
 (specify): _____ 2. _____ The following dollar amount: \$ _____ Note: If this
 amount changes, this item will be revised. 3. _____ The following formula is used to determine the needs
 allowance: _____
 _____ Note: If the amount protected for PACE enrollees in item 1 is equal to, or
 greater than the maximum amount of income a PACE enrollee may have and be eligible under PACE, enter
 N/A in items 2 and 3. (B.) Spouse only (check one): 1. _____ SSI Standard 2. _____ Optional State Supplement
 Standard 3. Medically Needy Income Standard 4. _____ The following dollar amount: \$ _____ Note:
 If this amount changes, this item will be revised. 5. _____ The following percentage of the following

6. Other 7. Not applicable (N/A) (b) Medical and remedial care expenses specified in 42 CFR 435.735. Spousal Post Eligibility 3. State uses the post-eligibility rules of Section 1924 of the Act (spousal impoverishment protection) to determine the individual's contribution toward the cost of PACE services if it determines the individual's eligibility under section 1924 of the Act. There shall be deducted from the individual's monthly income a personal needs allowance (as specified below), and a community spouse's allowance, a family allowance, and an amount for incurred expenses for medical or remedial care, as specified in the State Medicaid plan. (a.) Allowances for the needs of the: 1. Individual (check one) (A) The following standard included under the State plan (check one): 1. SSI 2. Medically Needy 3. The special income level for the institutionalized 4. Percent of the Federal Poverty Level: % 5. Other (specify): (B) The following dollar amount: \$ Note: If this amount changes, this item will be revised. TN No. 05-006 Approval Date Effective Date 10/01/05 Supercedes TN No. New 9 Supplement 3 to Attachment 3.1A Page 6 (C) The following formula is used to determine the needs allowance:

If this amount is different than the amount used for the individual's maintenance allowance under 42 CFR 435.726 or 42 CFR 435.735, explain why you believe that this amount is reasonable to meet the individual's maintenance needs in the community:

II. Rates and Payments A. The State assures HCFA that the capitated rates will be equal to or less than the cost to the agency of providing those same fee for service State plan approved services on a fee for service basis, to an equivalent non-enrolled population group based upon the following methodology. Please attach a description of the negotiated rate setting methodology and how the State will ensure that rates are less than the cost in fee for service. 1. Rates are set at a percent of fee for service costs 2. Experience-based (contractors/State's cost experience or encounter date)(please describe) 3. Adjusted Community Rate (please describe) 4. Other (please describe) The Medicaid rate calculation prepared by the state of Rhode Island presents the blending based on the observed balance between community care and Nursing Home (NH) care in the Medicaid program in 2003 for three cohorts: Medicaid only, Duals 55-64 and Duals 65 plus. PMPM values were calculated for each of the cohorts and an inflation factor was applied to 04, 05 and 06 expenditures. The observed balance within the Duals 65 plus population is 78.2% NH and 21.8% community. The balance between these two population types is a specific artifact TN No. 05-006 Approval Date Effective Date 10/01/05 Supercedes TN No. New 10 Supplement 3 to Attachment 3.1 A Page 7 of state Medicaid eligibility criteria and the availability of HCBS services. The balance in no way represents a canonical ratio and can lead to the over-weighting of NH cost experience in the rate calculation. The actual rate assignments are based on the anticipated need for NH care as observed in a PACE-like population. The analysis was applied to Rhode Island Medicaid beneficiaries using data profiles of PACE enrollees according to the PACE national historical mix. The goal of the analysis measured the long term risk of NH entry in a PACE-like population and to apply this knowledge to profile the characteristics of a Rhode Island PACE program. The rate was calculated by defining the blend of NF and community care by utilizing the PACE national historical blend of 60/40. Rates were established for

three categories: Medicaid only; Duals 55—64; Duals 65+ These rates will be adjusted on an annual basis by either an cost of living inflator, a significant change in actual expenditures or a change in the population blend. B. The State Medicaid Agency assures that the rates were set in a reasonable and predictable manner. Please list the name, organizational affiliation of any actuary used, and attestation/description for the initial capitation rates. Using the CY2003 Medicaid claim and eligibility data potential participants of the PACE program were identified. The criteria utilized for the claim extract was the following: Individuals who were: • Residents of Nursing Facilities with episodes greater than 3 months duration • Participants in Rhode Island's HCMS Waiver programs • Excluding participants of the MR/DD waiver. • Individuals age 55 and older. TN No. 05-006 Approval Date _____ Effective Date 10/01/05 Supercedes TN No. New 11 Supplement 3 to Attachment 3.1-A Page 8 Claims were divided into the following categories: Acute Care Hospital Diagnostic Testing Mental Health Clinic Outpatient Hospital/Clinic Capitation Payment Home Care/Health Non-Physician Practitioner Pharmacy Cross-Over Hospice Nursing Home Physician Day Care/Foster Care Intermediate Care Facility Other Rehab./Psych. Hospital Skilled Nursing Facility Supplies/DME Transportation Waiver Services Each of the above categories were then divided into the following cohorts: Medicaid Only NF Medicaid Only HCBS Duals NF 55-64 Duals NF 65+ Duals HCBS 55-64 Duals HCBS 65+ These expenditures were adjusted to account for: • Increased utilization such as assisted living • Nursing home principles of reimbursement change • Drug rebates • Increased utilization of transportation services • Effective January 1, 2006 the capitation rate will be adjusted since prescriptions will be covered under Part D-C. The State will submit all capitated rates to the HCFA Regional Office for prior approval. III. Enrollment and Disenrollment The State assures that there is a process in place to provide for dissemination of enrollment and disenrollment data between the State and the State Administering Agency. The State assures that it has developed and will implement procedures for the enrollment and disenrollment of participants in the State's management information system, including procedures for any adjustment to account for the difference between the estimated number of participants on which the prospective monthly payment was based and the actual number of participants in that month. TN No. 05-006 Approval Date _____