

TO BE RESCINDED

173-50-05

PACE: involuntary disenrollment.

(A) Unless restricted from doing so by CMS, the PACE organization shall involuntarily disenroll a participant from PACE for one or more of the following reasons:

(1) Failure to pay: The participant, after a thirty-day grace period, fails to pay (or satisfactorily arrange to pay) any premium due the PACE organization, any applicable medicaid patient liability, or any amount due to the PACE organization under the post-eligibility treatment of income process, if the PACE organization documented at least one attempt it made in writing to the participant containing all the following components:

(a) The PACE organization has notified the participant of the participant's outstanding financial obligations and requested payment.

(b) The PACE organization warned the participant that disenrollment may result from non-payment.

(2) Fraud: The participant commits medicaid fraud or medicaid eligibility fraud, as described in sections 2913.40 and 2913.401 of the Revised Code, if the PACE organization has a signed narrative of the events from the staff person who discovered the fraud.

(3) Disruptive or threatening behavior:

(a) Behavior is disruptive or threatening when either of the following occur:

(i) A participant with decision-making capacity and consistently refuses to comply with his or her plan of care or the terms of the enrollment agreement (e.g., repeated non-compliance with medical advice or repeated failure to keep appointments).

(ii) A participant's caregiver engages in disruptive or threatening behavior when he or she jeopardizes the participant's health or safety, or the safety of himself, herself, or others.

(b) The PACE organization shall only involuntarily disenroll a participant for the participant's or caregiver's disruptive or threatening behavior if the PACE organization retains the following in the participant's medical record:

(i) The reasons for proposing to disenroll the participant.

(ii) Documentation of all efforts to remedy the situation, including the following:

(a) For a participant with decision making-capacity who fails to comply with his or her plan of care: At least two attempts the PACE organization made in the past six months to educate the participant on the importance of following the care plan, the negative health consequences of not doing so, and a warning that not doing so may result in disenrollment. Medical records and copies of letters written to the participant are examples of acceptable documentation.

(b) For a participant who jeopardizes the participant's health or safety, or the safety of himself, herself, or others: One or both of the following records regarding at least one incident of disruptive or threatening behavior:

(i) A signed statement from a witness or the provider.

(ii) A police report or a security staff report.

(4) Geography:

(a) The participant's permanent residence is no longer located in the service area.

(b) The participant remains outside the service area for a period of more than thirty consecutive days, unless the PACE organization authorizes a longer period of absence for extenuating circumstances.

(5) Incarceration: The participant is incarcerated for a period of more than thirty consecutive days.

(6) Level of care: The participant no longer meets the level-of-care requirements in rule 173-50-02 of the Administrative Code and is not deemed eligible.

(7) Providers: The PACE organization is unable to offer healthcare services because of a loss of state licenses or contracts with outside providers.

(8) PACE agreement: The agreement between the PACE organization, ODA, and CMS is not renewed or is terminated.

(B) Process to involuntarily disenroll a PACE participant:

- (1) If a PACE organization requests permission to disenroll a participant under this rule, it shall submit the request to ODA along with both of the following:
 - (a) Documentation supporting one or more reasons listed under paragraph (A) of this rule.
 - (b) The participant's utilization profile.
- (2) In the time between the request and ODA's decision, the PACE organization shall continue to provide necessary services to the participant.
- (3) ODA shall approve or deny the request based upon the requirements in paragraph (A) of this rule.
- (4) If ODA does not approve the request, the PACE organization shall continue to provide necessary services to the participant.
- (5) If ODA approves the request, all of the following apply:
 - (a) A participant's involuntary disenrollment is effective on the first day of the month beginning thirty days after the day the PACE organization sends notice of the disenrollment to the participant.
 - (b) The PACE organization shall notify the participant in writing of the last day of enrollment.
 - (c) The PACE organization shall continue to provide for the necessary services to the participant through the last day of enrollment.
 - (d) The participant shall continue to obtain necessary services through the PACE organization and shall continue to remain liable for any premiums or post-eligibility treatment of income costs incurred through the last day of enrollment.
 - (e) Before disenrollment, the PACE organization shall initiate a discharge plan for each participant who is involuntarily disenrolled. In each discharge plan, it shall state how it plans to do the following:
 - (i) Help the participant obtain necessary transitional care through referrals to other medicaid or medicare service providers.
 - (ii) Provide the participant's medical records to new providers no later than thirty days after disenrollment.

- (6) After ODA approves an involuntary disenrollment, ODA does all of the following:
- (a) ODA notifies the PACE organization.
 - (b) ODA sends the participant a notice of denial and hearing rights under section 5101.35 of the Revised Code and division 5101:6 of the Administrative Code.
 - (i) If the participant requests a hearing within fifteen days after ODA approves the involuntary disenrollment, ODA places the disenrollment on hold until a state hearing has been conducted.
 - (a) If the decision of the state hearing is that ODA made a correct decision to disenroll, ODA implements the requirements under paragraph (B)(5) of this rule and enters the decision into the ODA- and ODM-approved eligibility systems.
 - (b) If the decision of the state hearing is that ODA made an incorrect decision to disenroll, the participant remains enrolled in PACE.
 - (ii) If the participant does not request a hearing, ODA proceeds with disenrolling the participant from PACE and implement the requirements under paragraph (B)(5) of this rule.

Effective:

Five Year Review (FYR) Dates: 4/15/2024

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 121.07, 173.01, 173.02, 173.50
Rule Amplifies: 173.50; 42 C.F.R. 460.164, 460.166, 460.172, 460.210
Prior Effective Dates: 03/28/2009, 02/17/2013, 08/01/2016, 10/05/2020,
02/14/2022