



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

October 17, 2016

Centers for Medicare and Medicaid Services
Attn: CMS-4168-P
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244-1850

RE: Medicare and Medicaid Programs: Programs of All-Inclusive Care for the Elderly (PACE) – Proposed Rule (CMS-4168-P)

The Consortium for Citizens with Disabilities (CCD) is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

CCD appreciates the opportunity to comment on the proposed PACE regulation. Our comments will be restricted to the application of the home and community-based services (HCBS) settings requirement. CCD strongly supports the application of the settings rule to PACE.

The settings requirements set standards to ensure that Medicaid community-based services are non-institutional in nature. HCBS consumers must be integrated with the community, and given choices regarding services and supports, and who provides them. Consumers also must be treated with dignity and respect, and be free from coercion and restraint. Additional requirements apply when the service provider owns or otherwise controls the consumer's residence.

These are requirements that are entirely appropriate for PACE services. PACE services often are provided at a specific PACE center, but the availability of services at the center should not isolate consumers from the broader community. More broadly, any HCBS provided by a PACE organization should be in compliance with the HCBS settings requirements. PACE, like HCBS generally, is meant to provide a non-institutional alternative for persons who have significant care needs. It is to the benefit of the PACE model and PACE consumers that the model be subject to requirements that protect the program's non-institutional nature.

CMS specifically has asked whether sections 460.70 and 460.98 should be revised to incorporate the settings requirements. We agree that these sections are appropriate sections for such incorporation, since section 460.70 applies to contracted services, while section 460.98 applies to services provided directly by a PACE organization.

We suggest a slight revision to the proposed amendment. CMS proposes that sections 460.70 and 460.98 incorporate the settings requirements in section 441.301(c)(4).¹ We suggest that this incorporation be modified to also include subsection (c)(5). Subsection (c)(4) sets standards for HCBS settings, and subsection (c)(5) describes settings that cannot be considered home and community-based. Each of these subsections should be honored by PACE organizations and their contractors.

Thank you for the opportunity to comment on this important regulation.

Sincerely,

CCD Long-Term Services and Supports Task Force Co-Chairs:

Daniel Berland
National Association of State Directors of Developmental Disabilities Services

Sarah Meek
Lutheran Services in America – Disability Network

Rachel Patterson
Christopher & Dana Reeve Foundation

Laura Weidner
National Multiple Sclerosis Society

¹ 81 Fed. Reg. 54,666, 54,679 (2016).