

**Office of Health Insurance Programs  
Division of Health Plan Contracting and Oversight**

**Managed Long Term Care Policy 23.01: PACE Direct Eligibility Process for  
Medicaid Beneficiaries**

**Date of Issuance: March 3, 2023**

**Revised Date of Issuance: June 28, 2023**

**Effective Date: March 1, 2023**

**Applicable to: Programs of All-Inclusive Care for the Elderly Plans**

**Purpose:** This policy provides guidance and instructions for the Program of All-Inclusive Care for the Elderly (PACE) Direct Eligibility process. Effective March 1, 2023, the New York (NYS) Department of Health (the Department) is implementing the PACE “Direct Eligibility” assessment option for the PACE plans. Direct Eligibility allows the PACE plan to conduct initial community health assessments (“CHA” or “assessment”) for potential plan enrollees.

**1. Introduction**

Pursuant to new provisions detailed in instruction found in Appendix P set forth in the Centers for Medicare and Medicaid Services (CMS) Program Agreement (see Attachment A), individuals seeking only to enroll in a PACE plan may contact the New York Independent Assessor Program (NYIAP) for an assessment or contact a PACE plan directly for an assessment to confirm a Nursing Facility Level of Care (NFLOC) and the need for more than 120 days of Community Based Long Term Services and Supports (CBLTSS).

The Department has established Direct Eligibility as an alternative process for assessing an individuals’ managed long term care (MLTC) eligibility to enroll in a PACE plan who might otherwise be admitted to a nursing home. It is the Department’s expectation that Direct Eligibility will allow the PACE plan to conduct assessments and enroll individuals quickly, supporting the goal of increasing PACE enrollments, as an integrated care plan option for Dual Eligible individuals (i.e., individuals with both Medicare and Medicaid coverages).

Prior to implementation of this policy, an individual seeking to enroll into a MLTC plan is required to have NYIAP conduct an initial CHA, as well as a clinical appointment resulting in a practitioner order, to determine MLTC plan eligibility. The PACE Direct Eligibility process allows PACE plans the option of conducting the initial CHA to determine if an individual meets the MLTC eligibility criteria and can be enrolled in their PACE plan.

As outlined in Appendix P, all PACE Direct Eligibility assessments will have a NYIAP Verification Review conducted to ensure validity of the PACE enrollment.

This policy does not apply to an individual that has already been determined eligible for MLTC, i.e., those that are currently enrolled in an MLTC plan and seeking to transfer to PACE, or individuals that have been assessed by NYIAP within the last 12 months and determined eligible for MLTC.

The following are excluded from the PACE Direct Eligibility process:

- Non-dual members in a mainstream Medicaid Managed Care (MMC) plan, HIV Special Needs Plan (HIV SNP), and Health and Recovery Plan (HARP), requesting a transfer to a PACE plan.
- Individuals that have been assessed by NYIAP within the last 12 months and determined ineligible for MLTC. The exception in this case would be if the individual has a change in condition significant enough to necessitate a new initial assessment (e.g., after a hospitalization or a new diagnosis).

PACE plans are required to determine if an individual is excluded from the Direct Eligibility process and refer them to NYIAP for assistance.

Note: The option to have a Direct Eligibility assessment applies only to potential PACE members with existing Medicaid. The process for individuals who are Medicaid Pending is currently on hold and a policy for that process will be issued at a later date.

## 2. Definitions

**Community Health Assessment (CHA)** – The assessment used in New York State (NYS) to determine the need for CBLTSS, including Personal Care Services (PCS) and consumer directed personal assistance (CDPAS) services; home health aide services; home care including nursing, physical, speech and occupational therapy, and adult day health care, as well as determining their nursing facility level of care (NFLOC). This assessment contained in the UAS-NY is part of the InterRAI suite of assessments and has been in use in NYS since 2011. The CHA is also used to determine an individual’s eligibility for MLTC enrollment, including PACE, Partial Cap and Medicaid Advantage Plans.

**New York Independent Assessor (NYIAP)** – The New York Independent Assessor (NYIAP) program was established in 2022 to conduct, for NYS Medicaid consumers, the Community Health Assessment (CHA) and conduct a clinical appointment resulting in a Practitioner Order. The NYIAP assessment process determines if the individual is stable to receive personal care and/or consumer directed personal assistance (PCS/CDPAS) in their home as well as determine MLTC plan enrollment eligibility. The previous Conflict Free Evaluation and Enrollment Center (CFEEC) assessment process, which only assessed individuals for MLTC plan eligibility, has been subsumed under the NYIAP.

**New York Medicaid Choice (NYMC)** is the Department’s managed care enrollment broker that provides MLTC education and enrollment for individuals.

## 3. Direct Eligibility Assessment Process

### Initial Assessment Options for PACE

Individuals seeking enrollment into PACE have two options to have their initial assessment conducted:

- **Direct Eligibility:** The PACE plan conducts the CHA to determine if they are eligible to enroll into the plan. The PACE plan informs the individual if they are eligible. If the plan determines the individual is eligible for PACE, the PACE plan may proceed with PACE plan enrollment. The PACE plan’s assessment is then subject to an additional NYIAP Verification Review to determine if the individual can remain enrolled in the PACE plan.

- **NYIAP:** NYIAP conducts the CHA, and a clinical appointment resulting in a Practitioner Order. The NYIAP assessment process determines if the individual is stable to receive personal care and/or PCS/CDPAS in their home as well as determine MLTC plan enrollment eligibility. NYMC then coordinates the necessary education and enrollment.

**Note:** The same assessment tool and enrollment criteria apply in both options.

The Direct Eligibility process begins with contact between the PACE plan and the individual. This contact may be due to the PACE plan's marketing efforts, referrals, or other outreach activity.

At the time of informing the individual about the Direct Eligibility assessment option, the PACE plan must provide the individual a copy of the PACE Direct Eligibility Disclosure Letter (Attachment B). This letter must be used by the PACE plan to educate an individual of their options, including the Direct Eligibility process. The education must include:

- Details informing the individual they have the right to choose between the Direct Eligibility or the NYIAP process.
- That a Direct Eligibility CHA only applies to enrollment into this PACE plan.
- That there will be a subsequent NYIAP "Direct Eligibility Verification Review" that may result in another CHA being conducted by NYIAP.
- That the Verification Review may overturn the Direct Eligibility CHA, prompting an involuntary disenrollment from the PACE plan; and
- That if the Direct Eligibility CHA finds the individual ineligible for PACE enrollment, they have the option of choosing the NYIAP initial assessment process.

If the individual chooses the Direct Eligibility process, the PACE plan will conduct the direct eligibility CHA, which includes obtaining all necessary contact and background information to communicate with the individual and/or an authorized representative.

If an individual chooses the NYIAP initial assessment process, the PACE plan is responsible for providing the individual the necessary information to contact NYIAP. NYIAP will follow its existing Initial Assessment protocol to schedule and conduct the assessment (CHA and clinical appointment), send the individual notification of the outcome of the assessment, and provide enrollment education.

At the time of conducting the Direct Eligibility CHA, the PACE plan assessor will document that the individual has been provided and has read the PACE Direct Eligibility Disclosure Letter and note this in the case file.

After the completion of the Direct Eligibility CHA, the PACE plan is responsible for reviewing the assessment to determine if the individual meets the eligibility criteria (i.e., NFLOC and 120 day CBLTSS).

### **Direct Eligibility Outcome - Meets PACE Eligibility Criteria**

For individuals that meet the eligibility criteria, the PACE plan will inform the individual that they are eligible to enroll. The PACE plan will follow the existing New York Medicaid Choice (NYMC) enrollment process. As part of the existing process, NYMC will send the MLTC Enrollment Confirmation (Attachment C) to the member to notify them of their enrollment effective date.

The PACE plan is responsible for submitting all Direct Eligibility enrollments to NYIAP for assessment Verification Review (see Section 4).

Note: For Dual Eligible individuals, the PACE plan remains responsible for ensuring that the individual also has initially completed the Medicare portion of the PACE plan's enrollment.

### **Direct Eligibility Outcome - Does Not Meet PACE Eligibility Criteria**

For individuals that are found to not meet the eligibility criteria, the PACE plan must provide the individual with the PACE Direct Eligibility Assessment Outcome Letter (Attachment D) within 3 business days of completing the assessment. The PACE plan is required to inform the individual that:

- The outcome of this PACE Direct Eligibility CHA only prevents enrollment into their PACE plan; and
- The individual retains the option of having NYIAP conduct another initial assessment to see if they are eligible for PCS/CDPAS, and/or MLTC, including PACE.

If the individual chooses to have NYIAP conduct another assessment, the PACE plan should assist the individual in contacting NYIAP.

## **4. NYIAP Verification Review Process**

The NYIAP Verification Review will determine the validity of the PACE enrollment through a quality check ("Assessment Desk Review") and may include a repeat assessment conducted by NYIAP ("PACE Independent Review Assessment") if the Assessment Desk Review finds the Direct Eligibility CHA does not meet PACE eligibility standards. The Verification Review is completed by NYIAP within 30 calendar days of the member's PACE plan enrollment effective date.

To initiate the verification review process, the PACE plan must complete the electronic web-based PACE Direct Eligibility Assessment Desk Review Request Form within 3 business days of the acceptance of the enrollment. For access to the form's secure URL, please contact NYIAP HPA. Once received, this same URL will continue to work for all subsequent Verification Review requests.

Upon the submission of the form, NYIAP will send an auto-generated email response to the PACE plan notifying that the form has been received.

NYIAP will review the form to determine that it is complete and accurate. If the form contains inaccurate or incomplete information, NYIAP will send an email via MOVEit to the PACE plan representative listed on the request form informing the plan that the form has been disregarded and that a new form submission is required.

For forms that are determined complete, NYIAP will conduct an Assessment Desk Review.

### **A. Assessment Desk Review**

NYIAP conducts an Assessment Desk Review using a quality assurance review tool to determine if the PACE direct eligibility assessment meets the quality assurance review tool standards. NYIAP must complete the Assessment Desk Review within seven (7) calendar days of the member's PACE plan enrollment effective date. NYIAP will notify the PACE plan of the outcome of the Assessment Desk Review via the D file process.

If the Direct Eligibility assessment meets the standards of the quality assurance review, the member will remain enrolled in the PACE plan and the NYIAP Verification Process is complete.

If the Direct Eligibility assessment does not meet the standards of the quality assurance review, NYIAP will conduct a PACE Independent Review Assessment.

## **B. PACE Independent Review Assessment**

NYIAP will conduct a PACE Independent Review Assessment (i.e., another CHA) on individuals whose Direct Eligibility assessments did not meet the standards of the Assessment Desk Review. The PACE Independent Review Assessment is used to determine if the member meets the eligibility criteria to remain enrolled in the PACE plan.

**Note:** The PACE Independent Review Assessment will not include a clinical appointment.

NYIAP is responsible for the initial attempt to contact the Member and/or an Authorized Representative to schedule the assessment. If the individual is unreachable or refuses to participate in the PACE Independent Review Assessment, NYIAP will contact the PACE plan, who will make an additional attempt to contact the member within 2 business days. Upon successful contact, NYIAP will schedule the assessment within 7 calendar days.

## **C. NYIAP Verification Review Determination**

At the completion of the PACE Independent Review Assessment, NYIAP will determine if the PACE enrollment was valid. NYIAP will notify the PACE plan of the determination of their review via the D file process. The PACE plan is responsible for reviewing the D file to determine next steps.

If NYIAP determines the member is eligible, the member will remain enrolled in the PACE plan and the NYIAP Verification Review Process is complete. The PACE plan should inform the member that the Direct Eligibility process has been completed and that they will remain enrolled.

If NYIAP determines the member is not eligible for PACE, the plan must review the PACE Independent Review Assessment and determine if they agree with NYIAP determination. If the plan does not agree, the plan can pursue a dispute by following the process outlined in Section 5 below. If the plan agrees, the PACE plan must follow the involuntary disenrollment process.

## **D. Involuntary Disenrollment Process**

The PACE plan is required to initiate the involuntary disenrollment with NYMC within five (5) business days of notification for cases that NYIAP determined that the member was not eligible for PACE and the PACE plan agrees that the enrollment was invalid or the dispute process upheld NYIAP determination. Before initiating the involuntary disenrollment process the PACE plan is required to follow the below process:

### **Member Notification:**

The PACE plan is required to make three (3) reasonable attempts over five (5) business days to contact the member to inform them of the determination that they are not eligible to remain enrolled in the PACE plan through the Direct Eligibility process. Upon successful contact the PACE plan will educate individual on the following:

- A reminder regarding how the Direct Eligibility process works;

- The specific reason for the involuntary disenrollment; and
- To expect to receive an official disenrollment notice from NYIAP which will provide guidance on next steps and their right to appeal the disenrollment.

After the Initial outreach is completed or if the PACE plan is unable to contact the member (after three reasonable attempts over 5 business days), the PACE plan must send the Plan's preapproved *Intent to Disenroll* (Attachment E) to the member and their authorized representative, if applicable prior to submitting the *Managed Long Term Care Involuntary Disenrollment Request Form*.

#### **Submission of the Involuntary Disenrollment Form to New York Medicaid Choice:**

After conducting member outreach and notification, PACE plans must submit a completed *Managed Long Term Care Involuntary Disenrollment Request Form* to NYMC along with supporting documentation specified below within 5 business days of notification of NYIAP's decision. For involuntary disenrollments due to NYIAP's determination that the PACE Direct Eligibility enrollment was found invalid, the PACE plan must select the following reason on the *Form*: For PACE only, PACE Direct Eligibility enrollment was found invalid along with the required supporting documentation outlined on the form

When the appropriate documentation is accepted by NYMC, individuals will be notified by NYMC of their disenrollment due to the above reason. Fair Hearing rights apply to this notice including Aid to Continue. PACE plans will be notified of accepted disenrollments via the 834 file process.

#### **Referrals Required:**

Individuals who are disenrolled from their PACE plan will continue to receive their Medicaid coverage through the Medicaid fee-for-service program or through a managed care plan if the individual is eligible and chooses to enroll in a new plan. PACE plans are reminded that an involuntary disenrollment does not eliminate the plan's contractual obligations upon disenrollment, including referral to other plans, local districts, agencies and/or services such as Level I house-keeping services, Adult Protective Services, or non-Medicaid community services that may be available.

Individuals disenrolled from the PACE plan due to the Verification Review process can contact NYIAP within 45 days of their disenrollment effective date for a clinical appointment, resulting in a Practitioner Order. The PACE Independent Review Assessment and the Practitioner Order will meet the requirements of the assessment process for an individual seeking PCS/CDPAS and/or MLTC eligibility.

## **5. Dispute Process**

The PACE plan has the option of disputing the NYIAP ineligibility finding. The PACE plan's reason for disputing the NYIAP involuntary disenrollment determination must be based upon one of the following factors:

1. A factual disagreement with the Independent Review Assessment based on documented clinical and social determinants of health, or identified omissions in the assessment; or

2. An analysis by the PACE plan that since the member has come under the care of the PACE plan their needs have stabilized, accounting for an improvement in status between assessments. Further, without the PACE plan's assistance, the member may decline in functional status, therefore meeting the eligibility criteria. Examples of reasons for the PACE plan's dispute under this factor may be based on the presence of at least one of the following criteria:
  - Severe cognitive impairment which necessitates cueing or provision of services for the member to complete activities of daily living and to comply with the medical regimen for chronic disease;
  - History of numerous hospitalizations and/or trips to the emergency room, and the ability of the Plan to avert hospitalization and/or emergency room use through medical management;
  - Complex medical conditions and care management needs requiring continuous clinical oversight by the multidisciplinary team for the member to remain medically stable;
  - Psychiatric diagnoses and behaviors requiring constant intervention by the plan. In the absence of support and services, the member would likely be unable to complete activities of daily living and comply with medical regimen for their chronic disease; and
  - One or more social determinants of health in which the plan's intervention has resulted in positive outcomes for the member in any of these criteria.

To dispute the NYIAP involuntary disenrollment determination, the PACE plan must submit a PACE Direct Eligibility Independent Review Assessment Dispute Form to NYIAP along with the required supporting documentation within 5 business days of the NYIAP notification. The Form and supporting documentation are to be submitted to NYIAP through MOVEit.

NYIAP will review the dispute request and provide the PACE plan with a resolution within 7 calendar days via the D File process. If NYIAP still finds the member ineligible for PACE, the involuntary disenrollment will move forward (see "Involuntary Disenrollment" Section 4.D.). If NYIAP finds the member is eligible to remain in PACE, the plan should inform the member that the Direct Eligibility process has been completed and that they will remain enrolled.

## **6. Direct Eligibility Violations and/or Suspension**

As outlined in Article III.A.3 of the PACE model contract, the Department may suspend or terminate the plan's ability to conduct PACE Direct Eligibility assessments if there is any action taken on the part of the plan that violates the guidance for conducting such assessments.

Where verification reviews demonstrate a pattern of inappropriate Direct Eligibility determinations by a PACE plan, as evidenced by the higher of ten percent (10%) or ten (10) or more of the plan's eligibility enrollments for a given month not adhering to the eligibility criteria, the plan's ability to conduct Direct Eligibility assessments shall be suspended upon written notification by the Department. A NYIAP ineligibility determination which is overturned will not count towards the threshold of inappropriate Direct Eligibility determinations conducted by a PACE plan.

As outlined in Appendix P, any suspension of the Direct Eligibility process shall last between six (6) months and twenty-four (24) months as determined by the Department and identified in the written suspension notice to the PACE plan. Reinstatement of the eligibility process may be

further conditioned on the plan accepting and meeting or surpassing any requirements outlined in the plan's corrective action plan to address the identified deficiency(ies) related to its Direct Eligibility assessment process. A suspension of the eligibility process may be indefinite should the plan fail to address or adhere to the corrective action plan. Nothing in this section shall be construed to preclude or preempt the Department from imposing any other sanction, penalty, or other enforcement action, up to and including permanent disqualification from Direct Eligibility.

In addition, the NYIAP initial assessment process is the foremost process for assessing an individual's eligibility for MLTC enrollment, including PACE. The PACE Direct Eligibility assessment process is optional for the individual, and the PACE plan may also opt out of participation. The PACE plan also cannot limit the individual's opportunity to choose their assessment method and must inform them of their option of either an assessment conducted by the PACE plan or by NYIAP. Plans may not pressure or steer individuals to choose the PACE Direct Eligibility assessment option, and any evidence of doing so may be investigated by the Department.

## **7. Reassessment**

The PACE program remains exempt from the NYIAP reassessment requirement. Therefore, once the individual is enrolled, the PACE plan remains responsible for all routine and non-routine reassessments, regardless of whether the individual was enrolled via the Direct Eligibility or NYIAP process. The PACE plan remains responsible for conducting all CMS and Department mandated assessments, and the ongoing adherence to the PACE eligibility criteria and contract obligations.

## **Attachments**

- Appendix P (Attachment A)
- PACE Direct Eligibility Disclosure Letter (Attachment B)
- PACE Direct Eligibility Assessment Outcome Letter (Attachment C)
- MLTC Enrollment Confirmation Notice Plan (Attachment D)
- Intent to Disenroll Letter (Attachment E)
- MLTC Involuntary Disenrollment Notice (Attachment F)

Questions related to this document may be sent to [mltcinfo@health.ny.gov](mailto:mltcinfo@health.ny.gov)