# SENATE
## STATE OF MINNESOTA
## NINETY-THIRD SESSION

# S.F. No. 5007

(SENATE AUTHORS: MORRISON)

| DATE | D-PG | OFFICIAL STATUS |
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| 03/18/2024 | 12404 | Introduction and first reading<br>Referred to Human Services |

A bill for an act

relating to human services; implementing the PACE program; proposing coding for new law in Minnesota Statutes, chapter 256B.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[256B.6902] PACE SERVICE DELIVERY SYSTEM.**

Subdivision 1. **Establishment.** The Program of All-Inclusive Care for the Elderly (PACE) is created with the powers and duties established by law. PACE is a program authorized under section 9412(b)(2) of the federal Omnibus Reconciliation Act of 1986, Public Law 99-509, and section 256B.69, subdivision 23. PACE requires the secretary of the federal Department of Health and Human Services to grant Medicare and Medicaid waivers to permit community-based organizations to provide comprehensive health care services on a capitated basis to eligible individuals who are at risk of institutionalization.

Subd. 2. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given.

(b) "Department" means the Department of Human Services.

(c) "PACE organization" means an entity as defined in Code of Federal Regulations, title 42, section 460.6.

(d) "Eligible population" means persons 55 years of age and older who have been screened by the county and found eligible for services under the elderly waiver or community access for disability inclusion or who are already eligible for Medicaid and meet the level of care criteria for receipt of waiver services who may choose to enroll in the PACE program.

Subd. 3. **Services for eligible persons.** (a) Within the context of the PACE program under this section, the commissioner of human services may include any or all the services in medical assistance long-term services and supports.

(b) An eligible person may elect to receive services from the PACE program. If the PACE election is made, the eligible person shall not remain eligible for payment through the regular Medicare or Medicaid program. All services and programs provided through the PACE program must be provided in accordance with this section. An eligible person may elect to disenroll from the PACE program at any time.

(c) For purposes of this subdivision, "eligible person" means an individual 55 years of age or older who voluntarily enrolls in the PACE program, whose income and resources do not exceed limits established by the commissioner of human services, and for whom a licensed physician certifies the PACE program provides an appropriate alternative to institutionalized care.

Subd. 4. **Requirements.** By coordinating an extensive array of medical and nonmedical services, the needs of the program participants shall be met primarily in an outpatient environment in an adult day health center, the participant's home, or an institutional setting. The PACE service delivery system enhances the quality of life for the participant and offers the potential to reduce and cap the costs of the medical needs of the participants, including hospital and nursing home admissions. The PACE service delivery system shall:

(1) maintain eligible persons at home as an alternative to long-term institutionalization;

(2) provide optimum accessibility to various important social and health resources that are available to assist eligible persons in maintaining independent living;

(3) provide that eligible persons who are frail elderly but who have the capacity to remain in an independent living situation have access to the appropriate social and health services without which independent living would not be possible;

(4) coordinate, integrate, and link social and health services by removing obstacles that impede or limit improvements in delivery of these services;

(5) provide the most efficient and effective use of capitated funds for the delivery of the social and health services; and

(6) ensure that capitation payments amount to no more than 100 percent of the amount paid under the Medicaid fee-for-service or the relevant managed care programs for an actuarially similar population.

Subd. 5. **Implementation.** (a) By October 1, 2024, the commissioner of human services shall prepare and submit a PACE state plan amendment to the federal Centers for Medicare and Medicaid Services (CMS) to establish the Program of All-Inclusive Care for the Elderly (PACE) to provide community-based, risk-based, and capitated long-term care services as optional services under the Minnesota Title XIX State Plan and under contracts entered into between the federal Centers for Medicare and Medicaid Services, the commissioner of human services, and the PACE organization meeting the requirements of the Balanced Budget Act of 1997, Public Law 105-33, and any other applicable law or regulation.

(b) By December 31, 2024, or upon federal approval, whichever is later, the commissioner of human services shall establish the PACE organization application process for receiving bids for competitive capitated rates.

(c) By June 30, 2025, for services to be delivered beginning January 1, 2026, PACE organizations awarded contracts by the commissioner must establish service operations.

(d) Using a risk-based financing model, the organizations contracted to implement the PACE program must assume responsibility for all costs generated by the PACE program participants and must create and maintain solvency according to CMS regulations that will cover any cost overages for any participant. The PACE program is responsible for the entire range of services in the consolidated service model, including hospital and nursing home care according to participant need as determined by an interdisciplinary team. The contracted organizations are responsible for the full financial risk. Specific arrangements of the risk-based financing model shall be adopted and negotiated by the federal Centers for Medicare and Medicaid Services, the organizations contracted to implement the PACE program, and the commissioner of human services.

(e) The requirements of the PACE model under the federal Social Security Act, section 1894, United States Code, title 42, section 1395eee; and section 1934, United States Code, title 42, section 1396u-4, shall not be waived or modified. The requirements that are not waived or modified include the following:

(1) the focus on qualifying individuals who require the level of care provided in a nursing facility;

(2) the delivery of comprehensive, integrated acute and long-term care services;

(3) the interdisciplinary team approach to care management and service delivery;

(4) capitated, integrated financing that allows the provider to pool payments received from public and private programs and individuals;

(5) the assumption by the provider of full financial risk; and

(6) the provision of a PACE benefit package for all participants, regardless of source of payment that includes all of the following:

(i) all Medicare-covered items and services;

(ii) all Medicaid-covered items and services as listed in the Minnesota Title XIX State Plan; and

(iii) any other services determined necessary by the interdisciplinary team to improve and maintain the participant's overall health status.

(f) The provisions under sections 256B.056 and 256B.69 shall apply when determining eligibility for medical assistance of a person receiving PACE services from an organization providing services under this section.

(g) Provisions for governing the treatment of income and resources of a married couple, for the purposes of determining the eligibility of a nursing facility certifiable or institutionalized spouse, shall be established to qualify for federal financial participation.

(h) Notwithstanding paragraph (e), and to the extent federal financial participation is available, the commissioner of human services, in consultation with PACE organizations, may seek increased federal regulatory flexibility from the federal Centers for Medicare and Medicaid Services to modernize the PACE program, including but not limited to addressing the following:

(1) composition of PACE interdisciplinary teams;

(2) use of community-based physicians;

(3) marketing practices; and

(4) development of a streamlined PACE waiver process.

(i) This subdivision is effective upon federal approval of a capitation rate methodology in section 256B.69.

(j) Each PACE organization must provide the department with the reporting documents required by Code of Federal Regulations, Title 42, sections 460.190 to 460.196.

Subd. 6. **Rates of payment.** (a) Beginning July 1, 2025, for services delivered on or after January 1, 2026, the commissioner shall use medical assistance appropriations to fund services under this section. The commissioner shall develop and pay capitation rates to organizations contracted to implement the PACE program under this section using actuarial

methods. The commissioner may develop capitation rates using a standardized rate methodology across managed care plan models for comparable populations. The specific rate methodology applied to PACE organizations shall address features of PACE that distinguishes it from other managed care plan models. The rate methodology must be consistent with actuarial rate development principles and must provide for all reasonable, appropriate, and attainable costs for each PACE organization within a region.

(b) The commissioner may develop statewide rates and apply geographic adjustments using available data sources deemed appropriate. Consistent with actuarial methods, the primary source of data used to develop rates for each PACE organization shall be the organization's cost and utilization data for the medical assistance program or other data sources as deemed necessary by the commissioner. Rates developed under this subdivision must reflect the level of care associated with the specific populations served under the contract.

(c) The rate methodology developed in accordance with this subdivision must contain a mechanism to account for the costs of high-cost drugs and treatments. The rates developed must be actuarially certified prior to implementation.

(d) Consistent with the requirements of federal law, the commissioner shall calculate an upper payment limit for payments to PACE organizations. In calculating the upper payment limit, the commissioner shall collect the applicable community-based and skilled nursing facility data and costs as necessary and shall consider the risk of nursing home placement for the comparable population when estimating the level of care and risk of PACE participants.

(e) The commissioner shall pay organizations contracted to implement the PACE program at a rate within the certified actuarially sound rate range developed with respect to that entity as necessary to mitigate the impact to the entity of the methodology developed in accordance with this subdivision.

Subd. 7. **Commissioner's duties.** (a) The commissioner shall:

(1) provide a reimbursement system for services under the PACE program;

(2) develop and implement contracts with organizations and set contractual obligations for the PACE program, including but not limited to reporting and monitoring of utilization of costs of the PACE program as required; and

(3) acknowledge that the department is participating in the national PACE project as initiated by federal law.

(b) The department is responsible for certifying the eligibility for services of all PACE program participants.