

VIRGINIA ACTS OF ASSEMBLY -- 2019 SESSION

CHAPTER 419

An Act to amend and reenact § 32.1-330.3 of the Code of Virginia, relating to Department of Medical Assistance Services; PACE program; prospective client education.

[H 1975]

Approved March 18, 2019

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-330.3 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-330.3. Operation of a pre-PACE plan or PACE plan; oversight by Department of Medical Assistance Services.

A. Operation of a pre-PACE plan or PACE plan that participates in the medical assistance services program must be in accordance with a prepaid health plan contract or other PACE contract consistent with Chapter 6 of Title IV of the federal Balanced Budget Act of 1997 with the Department of Medical Assistance Services.

1. As used in this section, "~~pre-PACE~~" *unless the context requires a different meaning:*

"PACE" means of or associated with long-term care health plans (i) authorized as programs of all-inclusive care for the elderly by Subtitle I (§ 4801 et seq.) of Chapter 6 of Title IV of the Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stat. 528 et seq., §§ 4801-4804, 1997, pursuant to Title XVIII and Title XIX of the United States Social Security Act (42 U.S.C. § 1395eee et seq.), and the state plan for medical assistance services as established pursuant to Chapter 10 (§ 32.1-323 et seq.) and (ii) which have signed agreements with the Department of Medical Assistance Services as long-term care health plans.

"Pre-PACE" means of or associated with long-term care prepaid health plans (i) authorized by the U.S. Health Care Financing Administration pursuant to § 1903(m)(2)(B) of Title XIX of the United States Social Security Act (42 U.S.C. § 1396b et seq.) and the state plan for medical assistance services as established pursuant to Chapter 10 (§ 32.1-323 et seq.) and (ii) which have signed agreements with the Department of Medical Assistance Services as long-term care prepaid health plans.

2. As used in this section, "PACE" means of or associated with long-term care health plans (i) authorized as programs of all-inclusive care for the elderly by Subtitle I (§ 4801 et seq.) of Chapter 6 of Title IV of the Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stat. 528 et seq., §§ 4801-4804, 1997, pursuant to Title XVIII and Title XIX of the United States Social Security Act (42 U.S.C. § 1395eee et seq.), and the state plan for medical assistance services as established pursuant to Chapter 10 (§ 32.1-323 et seq.) and (ii) which have signed agreements with the Department of Medical Assistance Services as long-term care health plans.

B. Operation of a pre-PACE plan or PACE plan that participates in the medical assistance services program shall be in accordance with a prepaid health plan contract or other PACE contract consistent with Chapter 6 of Title IV of the federal Balanced Budget Act of 1997 with the Department of Medical Assistance Services.

C. All contracts and subcontracts shall contain an agreement to hold harmless the Department of Medical Assistance Services and pre-PACE and PACE enrollees in the event that a pre-PACE or PACE provider cannot or will not pay for services performed by the subcontractor pursuant to the contract or subcontract.

~~C.~~ D. During the pre-PACE or PACE period, the plan shall have a fiscally sound operation as demonstrated by total assets being greater than total unsubordinated liabilities, sufficient cash flow and adequate liquidity to meet obligations as they become due, and a plan for handling insolvency approved by the Department of Medical Assistance Services.

~~D.~~ E. The pre-PACE or PACE plan must demonstrate that it has arrangements in place in the amount of, at least, the sum of the following to cover expenses in the event of insolvency:

1. One month's total capitation revenue to cover expenses the month prior to insolvency; and
2. One month's average payment of operating expenses to cover potential expenses the month after the date of insolvency has been declared or operations cease.

The required arrangements to cover expenses shall be in accordance with the PACE Protocol as published by On Lok, Inc. in cooperation with the U.S. Health Care Financing Administration, as of April 14, 1995, or any successor protocol that may be agreed upon between the U.S. Health Care Financing Administration and On Lok, Inc.

Appropriate arrangements to cover expenses shall include one or more of the following: reasonable and sufficient net worth, insolvency insurance, letters of credit, or parental guarantees.

~~E.~~ F. Enrollment in a pre-PACE or PACE plan shall be restricted to those individuals who participate in programs authorized pursuant to Title XIX or Title XVIII of the United States Social

Security Act, respectively.

~~F.~~ *G.* Full disclosure shall be made to all individuals in the process of enrolling in the pre-PACE or PACE plan that services are not guaranteed beyond a 30-day period.

~~G.~~ *H.* The Board of Medical Assistance Services shall establish a Transitional Advisory Group to determine license requirements, regulations, and ongoing oversight. The Advisory Group shall include representatives from each of the following organizations: Department of Medical Assistance Services, Department of Social Services, Department of Health, Bureau of Insurance, Board of Medicine, Board of Pharmacy, Department for Aging and Rehabilitative Services, and a pre-PACE or PACE provider.

1. The Department shall develop and implement a coordinated plan to provide choice and education about the PACE program. The plan shall ensure that:

1. Information about the availability and potential benefits of participating in the PACE program is provided to all eligible long-term services and supports clients as part of the preadmission screening process pursuant to § 32.1-330. The client's choice regarding participation in the PACE program shall be documented on the state preadmission screening authorization form. The Department shall provide initial and ongoing training of all preadmission screening teams on the PACE program.

2. The Department develops informational materials and correspondence, including the initial and annual enrollment letters, for use by the Department and its contractors to educate and notify potentially eligible clients about long-term services and supports. These informational materials shall include the following:

- a. A description of the PACE program;*
- b. A statement that an eligible individual has the option to enroll in the PACE program or be automatically enrolled in a managed care organization; and*
- c. Contact information for PACE providers.*