

§ 460.106

provide the specific reasons for the denial in understandable language.

(v) If the participant or designated representative is dissatisfied with the decision on the request, the PACE organization is responsible for the following:

(A) Informing the participant or designated representative of his or her right to appeal the decision as specified in § 460.122.

(B) Describing both the standard and expedited appeals processes, including the right to, and conditions for, obtaining expedited consideration of an appeal of a denial of services as specified in § 460.122.

(C) Describing the right to, and conditions for, continuation of appealed services through the period of an appeal as specified in § 460.122(e).

(D) If the multidisciplinary team fails to provide the participant with timely notice of the resolution of the request or does not furnish the services required by the revised plan of care, this failure constitutes an adverse decision, and the participant's request must be automatically processed by the PACE organization as an appeal in accordance with § 460.122.

(d) *Changes to plan of care.* Team members who conduct a reassessment must meet the following requirements:

(1) Reevaluate the participant's plan of care.

(2) Discuss any changes in the plan with the multidisciplinary team.

(3) Obtain approval of the revised plan from the multidisciplinary team and the participant (or designated representative).

(4) Furnish any services included in the revised plan of care as a result of a reassessment to the participant as expeditiously as the participant's health condition requires.

(e) *Documentation.* Multidisciplinary team members must document all assessment and reassessment information in the participant's medical record.

§ 460.106 Plan of care.

(a) *Basic requirement.* The multidisciplinary team must promptly develop a comprehensive plan of care for each participant.

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(b) *Content of plan of care.* The plan of care must meet the following requirements:

(1) Specify the care needed to meet the participant's medical, physical, emotional, and social needs, as identified in the initial comprehensive assessment.

(2) Identify measurable outcomes to be achieved.

(c) *Implementation of the plan of care.*

(1) The team must implement, coordinate, and monitor the plan of care whether the services are furnished by PACE employees or contractors.

(2) The team must continuously monitor the participant's health and psychosocial status, as well as the effectiveness of the plan of care, through the provision of services, informal observation, input from participants or caregivers, and communications among members of the multidisciplinary team and other providers.

(d) *Evaluation of plan of care.* On at least a semi-annual basis, the multidisciplinary team must reevaluate the plan of care, including defined outcomes, and make changes as necessary.

(e) *Participant and caregiver involvement in plan of care.* The team must develop, review, and reevaluate the plan of care in collaboration with the participant or caregiver, or both, to ensure that there is agreement with the plan of care and that the participant's concerns are addressed.

(f) *Documentation.* The team must document the plan of care, and any changes made to it, in the participant's medical record.

Subpart G—Participant Rights

§ 460.110 Bill of rights.

(a) *Written bill of rights.* A PACE organization must have a written participant bill of rights designed to protect and promote the rights of each participant. Those rights include, at a minimum, the ones specified in § 460.112.

(b) *Explanation of rights.* The organization must inform a participant upon enrollment, in writing, of his or her rights and responsibilities, and all rules and regulations governing participation.

(c) *Protection of rights.* The organization must protect and provide for the exercise of the participant's rights.

§ 460.112 Specific rights to which a participant is entitled.

(a) *Respect and nondiscrimination.* Each participant has the right to considerate, respectful care from all PACE employees and contractors at all times and under all circumstances. Each participant has the right not to be discriminated against in the delivery of required PACE services based on race, ethnicity, national origin, religion, sex, age, mental or physical disability, or source of payment. Specifically, each participant has the right to the following:

- (1) To receive comprehensive health care in a safe and clean environment and in an accessible manner.
- (2) To be treated with dignity and respect, be afforded privacy and confidentiality in all aspects of care, and be provided humane care.
- (3) Not to be required to perform services for the PACE organization.
- (4) To have reasonable access to a telephone.
- (5) To be free from harm, including physical or mental abuse, neglect, corporal punishment, involuntary seclusion, excessive medication, and any physical or chemical restraint imposed for purposes of discipline or convenience and not required to treat the participant's medical symptoms.
- (6) To be encouraged and assisted to exercise rights as a participant, including the Medicare and Medicaid appeals processes as well as civil and other legal rights.
- (7) To be encouraged and assisted to recommend changes in policies and services to PACE staff.

(b) *Information disclosure.* Each PACE participant has the right to receive accurate, easily understood information and to receive assistance in making informed health care decisions. Specifically, each participant has the following rights:

- (1) To be fully informed in writing of the services available from the PACE organization, including identification of all services that are delivered through contracts, rather than fur-

nished directly by the PACE organization at the following times:

- (i) Before enrollment.
- (ii) At enrollment.
- (iii) When there is a change in services.
- (2) To have the enrollment agreement, described in § 460.154, fully explained in a manner understood by the participant.
- (3) To examine, or upon reasonable request, to be assisted to examine the results of the most recent review of the PACE organization conducted by HCFA or the State administering agency and any plan of correction in effect.

(c) *Choice of providers.* Each participant has the right to a choice of health care providers, within the PACE organization's network, that is sufficient to ensure access to appropriate high-quality health care. Specifically, each participant has the right to the following:

- (1) To choose his or her primary care physician and specialists from within the PACE network.
- (2) To request that a qualified specialist for women's health services furnish routine or preventive women's health services.
- (3) To disenroll from the program at any time.

(d) *Access to emergency services.* Each participant has the right to access emergency health care services when and where the need arises without prior authorization by the PACE multidisciplinary team.

(e) *Participation in treatment decisions.* Each participant has the right to participate fully in all decisions related to his or her treatment. A participant who is unable to participate fully in treatment decisions has the right to designate a representative. Specifically, each participant has the following rights:

- (1) To have all treatment options explained in a culturally competent manner and to make health care decisions, including the right to refuse treatment, and be informed of the consequences of the decisions.
- (2) To have the PACE organization explain advance directives and to establish them, if the participant so desires, in accordance with §§ 489.100 and 489.102 of this chapter.