EXHIBIT K

DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES

SUBJECT: Program of All-Inclusive Care for the Elderly (PACE); 2-12

DESCRIPTION: Effective January 1, 2013, the Program of All inclusive Care for the Elderly (PACE) provider manual will be updated to incorporate language consistent with CFR 460.122 and CFR 460.192 and to update language in the manual to reflect the current language utilized in Arkansas Medicaid Home and Community Based Programs.

PUBLIC COMMENT: No public hearing was held. The public comment period expired on October 18, 2012. No public comments were submitted. The proposed effective date is January 1, 2013.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: Arkansas Code § 20-76-201 authorizes the Department of Human Services to administer programs for the indigent and to "make rules and regulations" pertaining to the administration of those programs. Arkansas Code § 20-77-107 specifically authorizes the department to "establish and maintain an indigent medical care program."

EXHIBIT K

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY Department of Human Services
DIVISION Division of Medical Services
DIVISION DIRECTOR Andrew Allison, PhD
CONTACT PERSON
ADDRESS P.O Box 1437, Slot S295, Little Rock, AR 72203
PHONE NO. 682-8359 **FAX NO.** 682-2480 **E-MAIL** leann.edwards@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Marilyn Strickland
PRESENTER E-MAIL marilyn.strickland@arkansas.gov

INSTRUCTIONS

A. **Please make copies of this form for future use.**
B. **Please answer each question completely using layman terms. You may use additional sheets, if necessary.**
C. **If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.**
D. **Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:**

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
Room 315, State Capitol
Little Rock, AR 72201

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1. What is the short title of this rule?

   Program of All-Inclusive Care for the Elderly (PACE); 2-12

2. What is the subject of the proposed rule?

   The subject of this rule is to update the medical criteria to be consistent with the other Home and Community Based Waiver programs medical criteria and to clarify language in accordance with CFR 460.122 and 460.192.

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes ____ No __X__.
   If yes, please provide the federal rule, regulation, and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?
   Yes ____ No__X__.

   If yes, what is the effective date of the emergency rule?

   When does the emergency rule expire?

   Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes_____ No_____

5. Is this a new rule? Yes____ No __X__ If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule? Yes_____ No__X___ If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes__X__ No ____If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give Arkansas Code citation.

Arkansas Statute 20-76-201

7. What is the purpose of this proposed rule? Why is it necessary?

The propsed rule is necessary in order to provide consistency in the PACE provider manual in reference to CFR 460.122 and CFR 460.192 and medical criteria of other Home and Community Based Waiver Services.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

https://www.medicaid.state.ar.us/InternetSolution/general/comment/comment.aspx

9. Will a public hearing be held on this proposed rule? Yes_____ No__X___.
If yes, please complete the following:
Date:_____
Time:_____
Place:_____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

October 18, 2012

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

January 1, 2013

12. Do you expect this rule to be controversial? Yes_____ No __X___ If yes, please explain.

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

Medical associations, interested providers, and advocacy organizations. Their positions for or against is not known at this time.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services
DIVISION Division of Medical Services
PERSON COMPLETING THIS STATEMENT Thomas Carlisle
TELEPHONE NO. 682-0422 **FAX NO.** 682-3889 **EMAIL:** Thomas.carlisle@arkansas.gov

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE - Program of All-Inclusive Care for the Elderly; 2-12

1. Does this proposed, amended, or repealed rule have a financial impact?
   Yes ____ No __X__.

2. Does this proposed, amended, or repealed rule affect small businesses?
   Yes ____ No __X__.

   If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.

3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program.

Current Fiscal Year		Next Fiscal Year	
General Revenue		General Revenue	
Federal Funds		Federal Funds	
Cash Funds		Cash Funds	
Special Revenue		Special Revenue	
Other (Identify)		Other (Identify)	
Total		Total	

5. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule and explain how they are affected.

Current Fiscal Year	Next Fiscal Year

6. What is the total estimated cost by fiscal year to the agency to implement this rule? Is this the cost of the program or grant? Please explain.

Current Fiscal Year	Next Fiscal Year
None	None

Summary for
Program of All-Inclusive Care for the Elderly; 2-12

Effective January 1, 2013 the Program of All Inclusive Care for the Elderly (PACE) provider manual will be updated to incorporate language consistent with CFR 460.122 and CFR 460.192 and to update language in the manual to reflect the current language utilized in Arkansas Medicaid Home and Community Based Programs.

ARKANSAS DEPARTMENT OF HUMAN SERVICES

Division of Medical Services
Program Development & Quality Assurance
P.O. Box 1437, Slot S-295 · Little Rock, AR 72203-1437
501-682-8368 · Fax: 501-682-2480

TO: Arkansas Medicaid Health Care Providers – Program of All-Inclusive Care for the Elderly (PACE)

DATE: January 1, 2013

SUBJECT: Provider Manual Update Transmittal PACE-2-12

PROPOSED

REMOVE		INSERT	
Section	**Date**	**Section**	**Date**
202.200	4-1-06	202.200	1-1-13
204.200	7-15-12	204.200	1-1-13
205.100	5-1-08	205.100	1-1-13
205.200	4-1-06	205.200	1-1-13
215.100	4-1-06	215.100	1-1-13
215.200	5-1-08	215.200	1-1-13
215.300	5-1-08	215.300	1-1-13
220.000	5-1-08	220.000	1-1-13
220.100	4-1-06	220.100	1-1-13
220.200	5-1-08	220.200	1-1-13
220.300	5-1-08	220.300	1-1-13
220.400	4-1-06	220.400	1-1-13

Explanation of Updates

Sections 202.200, 204.200, 205.100, 205.200, 215.100, 215.200, 215.300, 220.000, 220.100, 220.300 and 220.400 are updated to reflect rules and regulations for the Program of All-Inclusive Care for the Elderly (PACE).

Section 220.200 is set to "Reserved" and its content is deleted.

The paper version of this update transmittal includes revised pages that may be filed in your provider manual. See Section I for instructions on updating the paper version of the manual. For electronic versions, these changes have already been incorporated.

If you have questions regarding this transmittal, please contact the HP Enterprise Services Provider Assistance Center at 1-800-457-4454 (Toll-Free) within Arkansas or locally and Out-of-State at (501) 376-2211.

If you need this material in an alternative format, such as large print, please contact our Americans with Disabilities Act Coordinator at 501-682-6453 (Local); 1-800-482-5850, extension 2-6453 (Toll-Free) or to obtain access to these numbers through voice relay, 1-800-877-8973 (TTY Hearing Impaired).

Arkansas Medicaid provider manuals (including update transmittals), official notices, notices of rule making and remittance advice (RA) messages are available for downloading from the Arkansas Medicaid website: www.medicaid.state.ar.us.

Thank you for your participation in the Arkansas Medicaid Program.

PROPOSED

Andrew Allison, PhD
Director

TOC required

202.200 Staff Oversight Responsibility (42 CFR §460.71) 1-1-13

A. The PACE Organization must ensure that all employees and contracted staff providing care directly to participants demonstrate the skills, licensure, and/or certifications necessary for performance of their position.

1. The PACE Organization must provide all staff with an orientation that includes, at a minimum, the organization's mission, philosophy, policies on participant rights, emergency plan, ethics, and the PACE Program and any policies related to the job duties.

2. The provider must develop a competency evaluation program that identifies those skills, knowledge and abilities that must be demonstrated by direct participant care staff.

3. The competency program must be evidenced as completed before performing participant care and on an on-going basis by qualified professionals. Certification of the satisfactory completion of the competency program must be in the personnel files of all staff.

B. The PACE Organization must develop a program to ensure that all staff furnishing direct participant care services:

1. Comply with any state or federal requirements for direct patient care staff in their respective settings;

2. Comply with the requirements of 42 CFR §460.68(a) regarding persons with criminal convictions;

3. Have verified current certifications or licenses for their respective positions;

4. Are free of communicable diseases and are up to date with immunizations before performing direct patient care;

5. Have been oriented to the PACE Program; and

6. Agree to abide by the philosophy, practices and protocols of the PACE Organization.

204.200 Medical Criteria 1-1-13

PACE participants must meet one of the following criteria:

The individual is unable to perform either of the following:

A. At least one (1) of the three (3) activities of daily living (ADL) of transferring and/or locomotion, eating or toileting without extensive assistance from or total dependence upon another person; or,

B. At least two (2) of the three (3) activities of daily living (ADL) of transferring and/or locomotion, eating or toileting without limited assistance from another person;

C. Medical assessment results in a score of three or more on Cognitive Performance Scale;

D. Medical assessment results in a Changes in Health, End-Stage Disease and Symptoms and Signs (CHESS) score of three or more;

E. Individuals diagnosed with a serious mental illness or mental retardation are not eligible for the Living Choices Assisted Living program unless they have medical needs unrelated to the diagnosis of mental illness or mental retardation and meet the other qualifying criteria.

A diagnosis of severe mental illness or mental retardation must not bar eligibility for individuals having medical needs unrelated to the diagnosis of serious mental illness or mental retardation when they meet the other qualifying criteria.

205.100 Retention of Records 1-1-13

All medical records of PACE participants must be completed promptly, filed and retained for a minimum of six (6) years from the date of service or until all audit questions, appeal hearings, investigations or court cases are resolved, whichever is longer. The records must be available upon request for audit by an authorized representative of the Arkansas Division of Medical Services, the State Medicaid Fraud Control Unit and representatives of the National Department of Health and Human Services.

205.200 Documentation Requirements (42 CFR §460.210) 1-1-13

All services provided to the PACE participant must be properly documented in the PACE participant's record and signed by the service provider at the time the service is delivered. At a minimum, the medical record must contain appropriate identifying information and documentation of all services furnished including the following:

1. A summary of emergency care and other inpatient or long-term care services
2. Services furnished by employees of the PACE Organization
3. Services furnished by contractors and their reports
4. Interdisciplinary assessments, reassessments, plans of care, treatment and progress notes that include the participant's response to treatment
5. Laboratory, radiological and other test reports
6. Medication records
7. Hospital discharge summaries, if applicable, continuance of follow up care post hospitalization
8. Reports of contact with informal support (for example, caregiver, legal guardian, or next of kin)
9. Enrollment agreement
10. Physician orders
11. Discharge summary and Disenrollment justification, if applicable
12. Advance directives, if applicable
13. A signed release permitting disclosure of personal information
14. Accident and incident reports

215.100 Composition of the PACE Interdisciplinary Team (42 CFR §460.102) 1-1-13

The PACE interdisciplinary team must be composed of at least the following members:

A. Primary care physician (PCP)

B. Registered nurse (RN)

C. Master Social worker (MSW)

D. Physical therapist (PT)

E. Occupational therapist (OT)

F. Recreational therapist (RT)/activity coordinator

G. Dietician

H. PACE center manager

I. Home care coordinator

J. Personal care attendant/aide

K. Transportation staff/driver

215.200 Assessment/Treatment Plan 1-1-13

An interdisciplinary team is responsible for assessment, treatment planning and care delivery after the DHS-RN has completed the initial eligibility assessment for nursing facility level of care. The team must meet the following assessment requirements:

A. An initial in-person comprehensive assessment must be completed promptly following enrollment by the:

1. Primary care physician,
2. Registered nurse,
3. Master's-level social worker,
4. Physical therapist,
5. Occupational therapist,
6. Recreational therapist or activity coordinator,
7. Dietitian and
8. Home care coordinator.

B. At least semi-annually, an in-person assessment and treatment plan must be completed by the:

1. Primary care physician,
2. Registered nurse,
3. Master's-level social worker and
4. Recreational therapist/activity coordinator.

C. Annually, an in-person assessment and treatment plan must be completed by the:

1. Physical therapist,
2. Occupational therapist
3. Dietitian and
4. Home care coordinator.

PACE organizations consolidate discipline specific plans into a single plan of care semi-annually through discussion and consensus of the interdisciplinary team. The consolidated plan is then discussed and finalized with the PACE participant and/or his or her significant others.

Reassessments and treatment plan changes are completed when the health or psychosocial situation of the participant changes.

215.300 PACE Participant Appeal Process 1-1-13

When an adverse decision is received, the PACE participant may appeal. The appeal request must be in writing and received by the Appeals and Hearing Section of the Department of

Human Services within thirty (30) days of the date on the letter explaining the decision. **View or print Appeals and Hearings Section contact information.**

220.000 Quality Assurance and Monitoring Activities 1-1-13

The Department of Human Services will conduct site visits annually during the trial period in conjunction with CMS or as needed to review the quality of service provision by the PACE Organization. The annual site visit review will include a clinical and administrative component and a review of compliance with life safety codes. The annual on-site review will include but not be limited to a review of the PACE Organization's compliance with requirements in 42 CFR § 460, or its successor, in the following compliance areas:

1. Administrative,
2. PACE Services,
3. Participant Rights,
4. Quality Assessment and Performance Improvement,
5. Participant Enrollment and Disenrollment,
6. Payment,
7. Federal and State Monitoring,
8. Data Collection,
9. Record Maintenance and
10. Reporting, which includes a review of the marketing materials, financial reports, samples of documentation of proper licensure for PACE Organization staff, current contract arrangements to ensure the PACE Organization has the capability to provide all federally and state required services, and other items as deemed necessary to ensure compliance with state and federal requirements.

At the conclusion of the trial period, CMS, in cooperation with the State administering agency, continues to conduct reviews of a PACE organization, as appropriate, taking into account the quality of care furnished and the organization's compliance with all of the requirements.

DHS will be responsible for conducting an exit conference with the PACE Organization to discuss any review findings, provide technical assistance in developing corrective action plans and to assist the PACE Organization in their efforts to implement the required corrections.

220.100 Monitoring by the Office of Long Term Care 1-1-13

Due to the requirement that PACE Organizations be licensed as Arkansas Adult Day Health Care Centers, the Office of Long Term Care will be conducting monitoring and oversight of the PACE Center operations.

220.200 Reserved 1-1-13

220.300 Monitoring by RN Supervisor 1-1-13

The DHS RN Supervisor attends the PACE organization's weekly Interdisciplinary Team Meetings (IDT). The DHS RN Supervisor contributes to the IDT meetings as necessary to ensure the health, welfare and safety needs of the beneficiaries are met.

220.400 Monitoring by the Centers for Medicare and Medicaid Services (CMS) and the State Administering Agency (SAA) 1-1-13

In compliance with federal requirements, each PACE Organization will enter required information for nine (9) key indicators into the Health Plan Management System (HPMS), or any successor data elements or data system on a quarterly basis. Both CMS and the State Administering Agency (SAA) will use the data entered into HPMS or its successor system to monitor the ongoing operations of the PACE Organization and identify potential problems or unusual events that may be the first indication of problems in patient care, site operations or financial solvency. These reviews will also be used to determine if further onsite monitoring will be necessary.

A. The nine (9) key indicators are as follows:

1. Routine Pneumococcal Immunizations
2. Grievances & Appeals
3. Enrollments
4. Disenrollments
5. Prospective Enrollees
6. Unscheduled Hospitalizations
7. Emergency (Unscheduled) Care
8. Unusual Incidents for participants and the PACE site (such as falls, attempted suicides, staff criminal records, infectious diseases, food poisoning, participant injury, Medication errors, lawsuits, any type of restraint use, etc.)
9. Participant Deaths

B. Other Required DHS Monitoring Reports:

1. 45 day report - tracks all applications pending more than 45 days
2. Monthly Reports - tracks all assessments, reassessments, monitoring contacts, mileage associated with home visits, and pending applications
3. Average Days for Assessment Completion - tracks statewide average and each RNs length of time between receiving referral and completing home visit.