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HB 365

Testimony on HB 365

January 30, 2009

House Human Services

Room 152, Capitol 3:00

Title: An act providing for programs of all inclusive care for the elderly, allowing a waiver of HMO requirements, clarifying that PACE are not Medicaid managed care networks. Amending sections 33-31-102, 33-31-201 and 53-6-702, and provide immediate effective date.

My name is Kelly Williams; I am the Administrator of the Senior and Long Term Care Division in the Department of Public Health and Human Services and I am testifying on behalf of the Department as a proponent to House Bill 365.

The Program of All-Inclusive Care for the Elderly (PACE) is designed to enable the frail elderly to remain in familiar surroundings and preserve maximum physical, social and cognitive function. The PACE **Program** is a new program in Montana as of October 1, 2008, and was implemented as a model focused at serving elderly Montanans in a community setting.

PACE is a State/Federal partnership in conjunction with a local PACE organization in which capped payments are made to the PACE organization to provide all necessary medical care to individuals aged 55 and older within a defined service area. PACE is defined in federal regulations at 42 CFR 460.6. It is a managed care model, i.e., a capitated benefit that offers a comprehensive service delivery system and integrated Medicare and Medicaid financing.

Currently the program is exclusively for individuals 55 or older who live in Yellowstone County or the City of Livingston and meet nursing facility level of care criteria. Billings Clinic is the service provider or organization for Montana's Program for All Inclusive Care for the Elderly. The maximum number of individuals that can be served under this model is limited to 130. (100 in Yellowstone County and 30 in Livingston which is the rural site)

The language in HB 365 was developed in cooperation with DPHHS, the State Auditor's Office and the provider of Montana's Program of All-Inclusive Care for the Elderly (PACE), Billings Clinic.

In most cases, people served in PACE sites are both Medicaid and Medicare eligible, where those payors combine to cover 100% of costs. Billings Clinic has found some people who wish to enroll in the PACE program who are Medicare only, meaning that they would need to pay for the Medicaid portion of the costs out of pocket. Additionally they have been approached by some individuals that are entirely private pay seeking to pay the full cost of care provided through PACE. Federal regulations state that eligibility for enrollment in a PACE program is not restricted to an individual who is Medicare enrolled and /or Medicaid eligible. In order to comply with federal regulations, the PACE organization must allow individuals, to enroll and pay for these services in this manner, if they choose to do so.

However, because of the managed care components of the PACE program, State laws pertaining to Health Maintenance Organizations (HMO's) do not allow for such private payments under PACE unless the provider meets the HMO requirements of significant reserves and the extensive regulations associated with HMO's.

Since October, Montana has been operating under a waiver of the PACE requirements and Billings Clinic has been denying enrollment to participants who are Medicare only beneficiaries and participants who are private pay because of the conflict between the PACE enrollment requirements and the State statutes. This waiver at the federal level is time limited, in order to allow the state an opportunity to develop an alternative to HMO licensure for PACE programs or to provide for waiver provisions related to PACE.

PACE programs are well defined and regulated already by the federal and state government under Medicaid and Medicare provisions, it would be unduly burdensome to require PACE organizations to meet the additional regulatory requirements of an HMO.

This bill modifies the portion of State law that effectively prohibits the implementation of PACE in Montana, and is a necessary statutory change to allow the PACE organization to provide PACE services in compliance with State Medicaid and federal Centers for Medicare and Medicaid Services (CMS) regulations that govern this program.

This bill also provides for a clarification to the definitions under title 53-6-702 that provides that a PACE organization as defined in 42 CFR 460.6 that has received a waiver under 33-31-201 is not a managed care community network

We would urge you to pass House Bill 365.