

26:2H-88 to 26:2H-91

LEGISLATIVE HISTORY CHECKLIST

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(PACE-contracts)

NJSA: 26:2H-88 to 26:2H-91

LAWS OF: 1997 CHAPTER: 296

BILL NO: S2051

SPONSOR(S): Bassano and Lipman

DATE INTRODUCED: May 8, 1997

COMMITTEE: ASSEMBLY: Health

SENATE: Health

AMENDED DURING PASSAGE: Yes Amendments during passage denoted by
First reprint enacted superscript numbers

DATE OF PASSAGE: ASSEMBLY: December 18, 1997

SENATE: June 26, 1997

DATE OF APPROVAL: January 8, 1998

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBP:pp

§§1-4
C. 26:2H-88
To
26:2H-91

P.L. 1997, CHAPTER 296, *approved January 8, 1998*
Senate, No. 2051 (*First Reprint*)

1 AN ACT concerning PACE programs and supplementing Title ¹[17B]
2 26¹ of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. As used in this act:

8 "Medicaid" means the program established pursuant to P.L.1968,
9 c.413 (C.30:4D-1 et seq.).

10 "Medicare" means the program established pursuant to Pub.L.89-97
11 (42 U.S.C.§1395 et seq.).

12 "PACE" means the "Program for All-Inclusive Care for the
13 Elderly," operated by ¹[either]¹ a public ¹[or],¹ private nonprofit
14 ¹[community-based organization] or proprietary entity, as permitted
15 by federal law¹. The program is a comprehensive health and social
16 services delivery system that integrates acute and long-term care
17 services ¹[on a dually capitated, Medicare and Medicaid, prepaid
18 contractual basis for disabled and frail elderly persons who have been
19 certified as needing long-term care services, allowing these persons to
20 remain in their community]¹. ¹PACE is a capitated program which
21 provides services to disabled and frail elderly persons who are certified
22 by the State as nursing home eligible to maximize their autonomy and
23 continued independence.¹

24 "Pre-PACE" means a PACE program in its initial start-up phase and
25 includes the same comprehensive scope of services as a PACE
26 program¹], but which contracts with the Medicaid program on a
27 prepaid capitated basis for a more limited scope of services than in a
28 PACE program and which receives payment on a fee-for-service basis
29 for the balance of services provided by or through the program]¹. ¹A
30 Pre-PACE program may contract with the State to provide services to
31 Medicaid-eligible persons on a capitated basis for a limited scope of

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SHH committee amendments adopted June 19, 1997.

1 the PACE service package, with the remaining services reimbursed
2 directly to the service providers by the Medicaid and Medicare
3 programs.¹

4
5 ¹[2. An entity seeking to operate a Pre-PACE or a PACE program
6 in the State under contract with the State Medicaid program shall
7 apply to the Department of Banking and Insurance for a certificate of
8 authority pursuant to this act and shall submit such information about
9 the program and remit such application fees as shall be required by the
10 Commissioner of Banking and Insurance, by regulation.

11 a. Following receipt of an application for a certificate of authority,
12 the Commissioner of Banking and Insurance shall review it in
13 consultation with the Commissioners of Health and Senior Services
14 and Human Services and notify the applicant of any deficiencies
15 contained therein within 30 days.

16 b. The Commissioner of Banking and Insurance shall determine
17 whether the applicant is financially sound and may reasonably be
18 expected to meet its obligations to program recipients. The
19 commissioner may require the applicant, if he deems it necessary in
20 order to ensure that the applicant will be able to meet its obligations
21 to program recipients, to deposit with the commissioner, or with an
22 entity or trustee acceptable to the commissioner through which a
23 custodial or controlled account is utilized, cash, securities or any
24 combination of these or other measures that is acceptable to the
25 commissioner in an amount established by the commissioner.

26 c. The Commissioner of Banking and Insurance shall issue the
27 certificate of authority within 30 days of the receipt of the application
28 if he finds that the applicant meets the standards required by the
29 Department of Banking and Insurance and the Departments of Health
30 and Senior Services and Human Services pursuant to this act.

31 d. A Pre-PACE program which seeks to convert its certificate of
32 authority to a PACE program shall notify the Commissioner of
33 Banking and Insurance and shall meet such additional requirements
34 applicable to a PACE program as established by the commissioner
35 pursuant to this act.

36 e. A certificate of authority shall be valid for three years and may
37 be renewed in accordance with regulations adopted by the
38 Commissioner of Banking and Insurance.]¹

39

40 ¹[3. a. The Commissioner of Banking and Insurance, in
41 consultation with the Commissioners of Health and Senior Services
42 and Human Services, shall adopt regulations pursuant to the
43 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
44 regarding financial solvency of Pre-PACE and PACE programs.

45 b. The Commissioners of Health and Senior Services and Human
46 Services, shall jointly adopt regulations pursuant to the

1 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
2 regarding relevant standards for Pre-PACE and PACE programs.]¹

3

4 ¹2. A PACE or Pre-PACE program shall operate in the State only
5 in accordance with a contract with the Department of Health and
6 Senior Services, which shall be prepared in consultation with the
7 Department of Human Services, and pursuant to the provisions of this
8 act.

9 The programs shall not be subject to the requirements of P.L.1973,
10 c.337 (C.26:2J-1 et seq.).¹

11

12 ¹3. A PACE or Pre-PACE program shall, at the time of entering
13 into the initial contract and at each renewal thereof, demonstrate cash
14 reserves to cover expenses in the event of insolvency.

15 a. The cash reserves, at a minimum, shall equal the sum of:

16 (1) One month's total capitation revenue; and

17 (2) One month's average payment to subcontractors.

18 b. The program may demonstrate cash reserves to cover expenses
19 of insolvency with one or more of the following: reasonable and
20 sufficient net worth, insolvency insurance, letters of credit or parental
21 guarantees.¹

22

23 ¹4. A PACE or Pre-PACE program shall provide full disclosure
24 regarding the terms of enrollment and the option to disenroll at any
25 time to all persons who seek to participate or are participants in the
26 program.¹

27

28 ¹[4.] 5.¹ This act shall take effect immediately.

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32

33 Authorizes PACE and Pre-PACE programs to contract with
34 Department of Health and Senior Services.

1 b. The Commissioner of Banking and Insurance shall determine
2 whether the applicant is financially sound and may reasonably be
3 expected to meet its obligations to program recipients. The
4 commissioner may require the applicant, if he deems it necessary in
5 order to ensure that the applicant will be able to meet its obligations
6 to program recipients, to deposit with the commissioner, or with an
7 entity or trustee acceptable to the commissioner through which a
8 custodial or controlled account is utilized, cash, securities or any
9 combination of these or other measures that is acceptable to the
10 commissioner in an amount established by the commissioner.

11 c. The Commissioner of Banking and Insurance shall issue the
12 certificate of authority within 30 days of the receipt of the application
13 if he finds that the applicant meets the standards required by the
14 Department of Banking and Insurance and the Departments of Health
15 and Senior Services and Human Services pursuant to this act.

16 d. A Pre-PACE program which seeks to convert its certificate of
17 authority to a PACE program shall notify the Commissioner of
18 Banking and Insurance and shall meet such additional requirements
19 applicable to a PACE program as established by the commissioner
20 pursuant to this act.

21 e. A certificate of authority shall be valid for three years and may
22 be renewed in accordance with regulations adopted by the
23 Commissioner of Banking and Insurance.

24

25 3. a. The Commissioner of Banking and Insurance, in consultation
26 with the Commissioners of Health and Senior Services and Human
27 Services, shall adopt regulations pursuant to the "Administrative
28 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) regarding
29 financial solvency of Pre-PACE and PACE programs.

30 b. The Commissioners of Health and Senior Services and Human
31 Services, shall jointly adopt regulations pursuant to the
32 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
33 regarding relevant standards for Pre-PACE and PACE programs.

34

35 4. This act shall take effect immediately.

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STATEMENT

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40 This bill authorizes the Commissioner of Banking and Insurance to
41 issue a certificate of authority for PACE and Pre-PACE programs
42 which may contract with the State Medicaid program.

43 PACE means the "Program for All-Inclusive Care for the Elderly,"
44 operated by either a public or private nonprofit community-based
45 organization. The program is a comprehensive health and social
46 services delivery system that integrates acute and long-term care

1 services on a dually capitated, Medicare and Medicaid, prepaid
2 contractual basis for disabled and frail elderly persons who have been
3 certified as needing long-term care services, allowing these persons to
4 remain in their community. "Pre-PACE" means a PACE program in
5 its initial start-up phase and includes the same comprehensive scope of
6 services as a PACE program, but which contracts with the Medicaid
7 program on a prepaid capitated basis for a more limited scope of
8 services than in a PACE program and which receives payment on a
9 fee-for-service basis for the balance of services provided by or through
10 the program.

11 The PACE program is currently a Medicare and Medicaid
12 demonstration project of the federal Health Care Financing
13 Administration in the Department of Health and Human Services,
14 although it is anticipated that Congress will enact legislation this
15 session to authorize Medicare reimbursement for PACE programs on
16 a permanent basis. Until such time as federal legislation is adopted,
17 PACE programs cannot be implemented in the State (there are no
18 demonstration sites in the State); however, Pre-PACE programs,
19 which do not contract with Medicare on a prepaid, capitated basis,
20 but do contract with a state Medicaid program, can be established in
21 the State, pending receipt of a certificate of authority under this bill.

22 The bill requires a Pre-PACE or a PACE program (when federal
23 law so permits) to apply to the Commissioner of Banking and
24 Insurance who shall review the application in consultation with the
25 Commissioners of Health and Senior Services and Human Services and
26 determine whether the applicant is financially sound and may
27 reasonably be expected to meet its obligations to program recipients.
28 The Commissioner of Banking and Insurance may, if he deems it
29 necessary, require the applicant to deposit with the commissioner, or
30 with an entity or trustee acceptable to the commissioner through which
31 a custodial or controlled account is utilized, cash, securities or any
32 combination of these or other measures that is acceptable to the
33 commissioner in an amount established by the commissioner.

34 The Commissioner of Banking and Insurance shall issue the
35 certificate of authority within 30 days of the receipt of the application
36 if he finds that the applicant meets the standards required by the
37 Department of Banking and Insurance and the Departments of Health
38 and Senior Services and Human Services. The certificate of authority
39 will be valid for three years and may be renewed thereafter.

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44 Authorizes Commissioner of Banking and Insurance to issue certificate
45 of authority to PACE and Pre-PACE programs.

[Passed Both Houses]

[First Reprint]

SENATE, No. 2051

STATE OF NEW JERSEY

INTRODUCED MAY 8, 1997

By Senators BASSANO, LIPMAN,
Assemblywoman Vandervalk and Assemblyman Blee

1 AN ACT concerning PACE programs and supplementing Title ¹**[17B]**
2 26¹ of the Revised Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. As used in this act:

8 "Medicaid" means the program established pursuant to P.L.1968,
9 c.413 (C.30:4D-1 et seq.).

10 "Medicare" means the program established pursuant to Pub.L.89-97
11 (42 U.S.C. §1395 et seq.).

12 "PACE" means the "Program for All-Inclusive Care for the
13 Elderly," operated by ¹**[either]**¹ a public ¹**[or]**¹ private nonprofit
14 ¹**[community-based organization] or proprietary entity, as permitted**
15 **by federal law**¹. The program is a comprehensive health and social
16 services delivery system that integrates acute and long-term care
17 services ¹**[on a dually capitated, Medicare and Medicaid, prepaid**
18 **contractual basis for disabled and frail elderly persons who have been**
19 **certified as needing long-term care services, allowing these persons to**
20 **remain in their community]**¹. ¹**PACE is a capitated program which**
21 **provides services to disabled and frail elderly persons who are certified**
22 **by the State as nursing home eligible to maximize their autonomy and**
23 **continued independence.**¹

24 "Pre-PACE" means a PACE program in its initial start-up phase and
25 includes the same comprehensive scope of services as a PACE
26 program¹**[**, but which contracts with the Medicaid program on a
27 prepaid capitated basis for a more limited scope of services than in a

EXPLANATION - Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and intended to be omitted in the law.

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SHH committee amendments adopted June 19, 1997.

1 PACE program and which receives payment on a fee-for-service basis
2 for the balance of services provided by or through the program】¹. ¹△
3 Pre-PACE program may contract with the State to provide services to
4 Medicaid-eligible persons on a capitated basis for a limited scope of
5 the PACE service package, with the remaining services reimbursed
6 directly to the service providers by the Medicaid and Medicare
7 programs.¹

8

9 ¹【2. An entity seeking to operate a Pre-PACE or a PACE program
10 in the State under contract with the State Medicaid program shall
11 apply to the Department of Banking and Insurance for a certificate of
12 authority pursuant to this act and shall submit such information about
13 the program and remit such application fees as shall be required by the
14 Commissioner of Banking and Insurance, by regulation.

15 a. Following receipt of an application for a certificate of authority,
16 the Commissioner of Banking and Insurance shall review it in
17 consultation with the Commissioners of Health and Senior Services
18 and Human Services and notify the applicant of any deficiencies
19 contained therein within 30 days.

20 b. The Commissioner of Banking and Insurance shall determine
21 whether the applicant is financially sound and may reasonably be
22 expected to meet its obligations to program recipients. The
23 commissioner may require the applicant, if he deems it necessary in
24 order to ensure that the applicant will be able to meet its obligations
25 to program recipients, to deposit with the commissioner, or with an
26 entity or trustee acceptable to the commissioner through which a
27 custodial or controlled account is utilized, cash, securities or any
28 combination of these or other measures that is acceptable to the
29 commissioner in an amount established by the commissioner.

30 c. The Commissioner of Banking and Insurance shall issue the
31 certificate of authority within 30 days of the receipt of the application
32 if he finds that the applicant meets the standards required by the
33 Department of Banking and Insurance and the Departments of Health
34 and Senior Services and Human Services pursuant to this act.

35 d. A Pre-PACE program which seeks to convert its certificate of
36 authority to a PACE program shall notify the Commissioner of
37 Banking and Insurance and shall meet such additional requirements
38 applicable to a PACE program as established by the commissioner
39 pursuant to this act.

40 e. A certificate of authority shall be valid for three years and may
41 be renewed in accordance with regulations adopted by the
42 Commissioner of Banking and Insurance.】¹

43

44 ¹【3. a. The Commissioner of Banking and Insurance, in
45 consultation with the Commissioners of Health and Senior Services
46 and Human Services, shall adopt regulations pursuant to the

1 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
2 regarding financial solvency of Pre-PACE and PACE programs.

3 b. The Commissioners of Health and Senior Services and Human
4 Services, shall jointly adopt regulations pursuant to the
5 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
6 regarding relevant standards for Pre-PACE and PACE programs.】¹

7
8 ¹2. A PACE or Pre-PACE program shall operate in the State only
9 in accordance with a contract with the Department of Health and
10 Senior Services, which shall be prepared in consultation with the
11 Department of Human Services, and pursuant to the provisions of this
12 act.

13 The programs shall not be subject to the requirements of P.L.1973,
14 c.337 (C.26:2J-1 et seq.).¹

15
16 ¹3. A PACE or Pre-PACE program shall, at the time of entering
17 into the initial contract and at each renewal thereof, demonstrate cash
18 reserves to cover expenses in the event of insolvency.

19 a. The cash reserves, at a minimum, shall equal the sum of :

20 (1) One month's total capitation revenue; and

21 (2) One month's average payment to subcontractors.

22 b. The program may demonstrate cash reserves to cover expenses
23 of insolvency with one or more of the following: reasonable and
24 sufficient net worth, insolvency insurance, letters of credit or parental
25 guarantees.¹

26
27 ¹4. A PACE or Pre-PACE program shall provide full disclosure
28 regarding the terms of enrollment and the option to disenroll at any
29 time to all persons who seek to participate or are participants in the
30 program.¹

31
32 ¹[4.] ¹5. This act shall take effect immediately.

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36
37 Authorizes PACE and Pre-PACE programs to contract with
38 Department of Health and Senior Services.

ASSEMBLY HEALTH COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2051

STATE OF NEW JERSEY

DATED: NOVEMBER 17, 1997

The Assembly Health Committee reports favorably Senate Bill No. 2051 (1R).

This bill provides that PACE and Pre-PACE programs may operate in the State only in accordance with a contract with the Department of Health and Senior Services, which is prepared in consultation with the Department of Human Services, and pursuant to the provisions of this bill.

PACE, the "Program for All-Inclusive Care for the Elderly," is a program operated by a public, private nonprofit or proprietary entity, as permitted by federal law. The program is a capitated, comprehensive health and social services delivery system that integrates acute and long-term care services to disabled and frail elderly persons who are certified by the State as nursing home eligible in order to maximize their autonomy and continued independence. Pre-PACE is a PACE program in its initial start-up phase and includes the same comprehensive scope of services as a PACE program; however, a Pre-PACE program may contract with the State to provide services to Medicaid-eligible persons on a capitated basis for a limited scope of the PACE service package, with the remaining services reimbursed directly to the service providers by the Medicaid and Medicare programs.

The bill requires a PACE or Pre-PACE program, at the time of entering into the initial contract with the Department of Health and Senior Services, and at each renewal thereof, to demonstrate reasonable cash reserves to cover expenses in the event of insolvency. Also, the bill requires a PACE or Pre-PACE program to provide full disclosure regarding the terms of enrollment and the option to disenroll at any time to all persons who seek to participate or are participants in the program. Finally, the bill specifies that a PACE or Pre-PACE program shall not be subject to the requirements of the "Health Maintenance Organizations Act," P.L.1973, c.337 (C.26:2J-1 et seq.).

As reported by the committee, this bill is identical to Assembly Bill No. 3045 Aca (Vandervalk), which the committee also reported favorably on this date.

SENATE HEALTH COMMITTEE

STATEMENT TO

SENATE, No. 2051

with committee amendments

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STATE OF NEW JERSEY

DATED: JUNE 19, 1997

The Senate Health Committee reports favorably Senate Bill No. 2051 with committee amendments.

As amended by committee, this bill provides that PACE and Pre-PACE programs may operate in the State only in accordance with a contract with the Department of Health and Senior Services, which is prepared in consultation with the Department of Human Services, and pursuant to the provisions of this bill.

PACE, the "Program for All-Inclusive Care for the Elderly," is a program operated by a public, private nonprofit or proprietary entity, as permitted by federal law. The program is a capitated, comprehensive health and social services delivery system that integrates acute and long-term care services to disabled and frail elderly persons who are certified by the State as nursing home eligible in order to maximize their autonomy and continued independence. Pre-PACE is a PACE program in its initial start-up phase and includes the same comprehensive scope of services as a PACE program; however, a Pre-PACE program may contract with the State to provide services to Medicaid-eligible persons on a capitated basis for a limited scope of the PACE service package, with the remaining services reimbursed directly to the service providers by the Medicaid and Medicare programs.

The bill requires a PACE or Pre-PACE program, at the time of entering into the initial contract with the Department of Health and Senior Services, and at each renewal thereof, to demonstrate reasonable cash reserves to cover expenses in the event of insolvency. Also, the bill requires a PACE or Pre-PACE program to provide full disclosure regarding the terms of enrollment and the option to disenroll at any time to all persons who seek to participate or are participants in the program. Finally, the bill specifies that a PACE or Pre-PACE program shall not be subject to the requirements of the "Health Maintenance Organizations Act," P.L.1973, c.337 (C.26:2J-1 et seq.).

The PACE program is currently a Medicare and Medicaid demonstration project of the federal Health Care Financing

Administration in the Department of Health and Human Services, although it is anticipated that Congress will enact legislation this session to authorize Medicare reimbursement for PACE programs on a permanent basis. Until such time as federal legislation is adopted, PACE programs cannot be implemented in the State (there are no demonstration sites in the State); however, Pre-PACE programs, which do not contract with Medicare on a prepaid, capitated basis, but do contract with a state Medicaid program, can be established in the State, pending State authorization under this bill.

The committee amended the bill to provide that PACE or Pre-PACE programs shall operate in the State only in accordance with a contract with the Department of Health and Senior Services, rather than require that the programs obtain a certificate of authority to operate from the Department of Banking and Insurance. Amendments revise the definition of PACE to also include proprietary entities, as permitted by federal law. Amendments specify the minimum amount of cash reserves the program must demonstrate in order to contract with or renew a contract with the Department of Health and Senior Services, require the programs to provide full disclosure to persons who seek to participate or who are participants in the program with respect to enrollment and the option to disenroll at any time, clarify the definitions of PACE and Pre-PACE programs, specify that PACE and Pre-PACE programs are not subject to the "Health Maintenance Organizations Act" and delete provisions providing for rule-making authority for the Departments of Banking and Insurance and Health and Senior Services with respect to the programs.