January 30, 2026

Exploring the Role of the State Medicaid Agency in the Program of All-Inclusive Care for the Elderly (PACE)

Program Agreement and Waiver Findings

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Overview

- Purpose and methodology
- Background
- Key takeaways
  - Required three-way program agreements
  - Optional two-way program agreements
  - Section 903 of the Benefits Improvement and Protection Act of 2000 (BIPA, P.L.106-554) waiver requests
- Next steps

Purpose and Methodology

- First PACE chapter included in June 2025 Report to Congress
  - 2024-2025 analytic cycle raised questions about the transparency of the PACE model, particularly regarding shared federal/state oversight responsibilities
  - Interviews revealed the use of two-way program agreements signed between state administering agencies (SAAs) and PACE organizations, and waiver request documents submitted by PACE organizations to the Centers for Medicare & Medicaid Services (CMS) known as BIPA 903 waivers
- New work explores how states oversee PACE organizations; this presentation covers our review of three key types of documents
  - Template language for three-way program agreements among CMS, states, and PACE organizations
  - Optional two-way program agreements between state administering agencies and PACE organizations submitted by 16 states and the District of Columbia
  - BIPA 903 waiver requests submitted to CMS by PACE organizations in nine states

Background

Eligibility, Enrollment, and Service Delivery

- Individuals must be age 55 or older, meet the nursing facility level of care (NFLOC) requirement, live within the service area of a PACE organization, and be able to live safely in the community at the time of enrollment
- As of November 2025, 74,000 dually eligible older adults were enrolled in 198 PACE programs across 33 states and the District of Columbia; approximately 80 percent of PACE enrollees are dually eligible
- PACE organizations rely on interdisciplinary teams of providers, and must offer all Medicare- and Medicaid-covered services without benefit limitations on the amount, duration, or scope of services provided
  - PACE organizations must operate a PACE center, but care may also be delivered in participants' homes and alternative community settings

Oversight and Financing

- Oversight of PACE spans multiple divisions and offices within CMS
  - Center for Medicare holds primary responsibility for PACE oversight, coordinating monitoring activities with other CMS components
  - Federal oversight includes audits of PACE organizations and review of mandated quality data submitted quarterly through the CMS Health Plan Management System (HPMS)
- PACE organizations receive capitated payments from Medicaid and Medicare that do not vary with changes in a participant's health status
- States generally base Medicaid capitation rates on a blend of nursing facility and community-based care costs for older adults in the area
  - Rates must be less than the amount that would otherwise have been paid (AWOP) for a comparable population meeting NFLOC criteria but not enrolled in PACE
  - Separate Medicaid rates are established for dually eligible and Medicaid-only PACE participants

Key Takeaways:

Required Three-Way Program Agreements

Required Three-Way Program Agreements

- PACE organizations operate under a three-way agreement with CMS and the SAA
  - Seven articles, including sections on eligibility, enrollment and disenrollment; appeals and grievances; quality assessment and performance improvement; and data collection and reporting requirements
  - Language is standardized across states, with state-specific information in appendices
- Though three-way program agreement language is standardized, states can include two types of optional content
  - State-specific requirements for individuals to qualify as PACE eligible
  - State-specific terms and conditions if agreed upon by all three parties and consistent with federal law and regulation

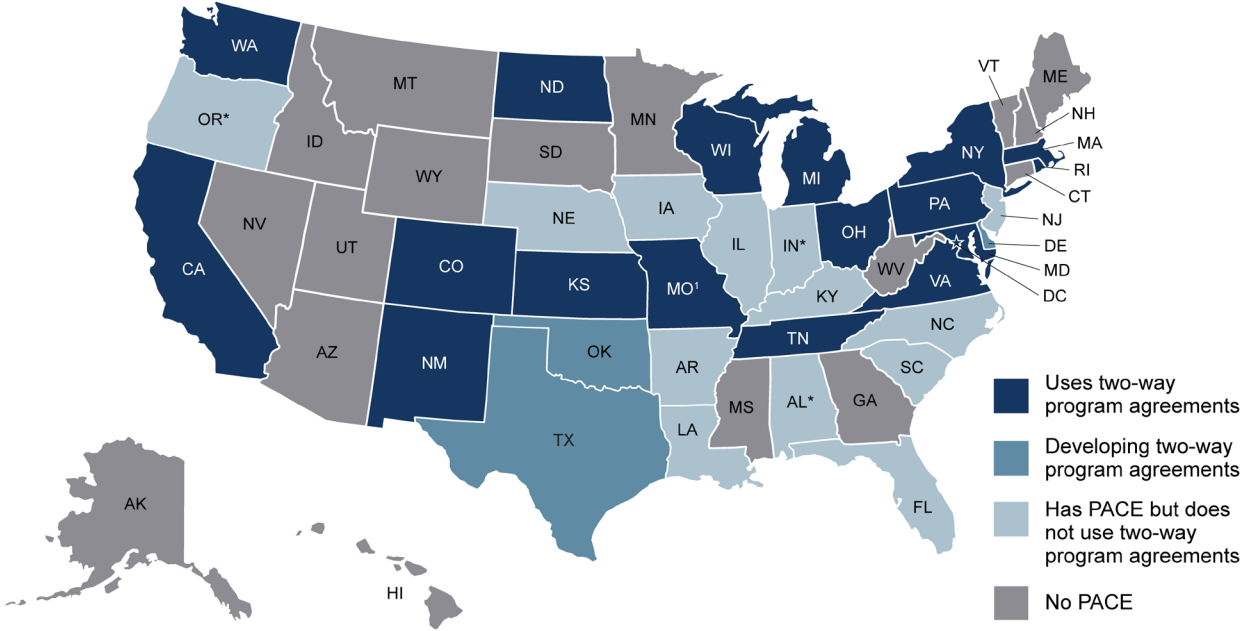
Required Three-Way Program Agreements, cont.

- In the three-way program agreement, CMS sets out state roles and requirements in administering and overseeing PACE programs
  - Setting processes and criteria around enrollment and disenrollment, reviewing PACE marketing materials, setting licensure requirements for PACE organizations, and monitoring PACE program compliance
- Specific state responsibilities for monitoring include
  - Conducting readiness reviews
  - Monitoring during the trial period
  - Ongoing program monitoring
  - Monitoring of corrective action plans (CAPs)
  - Monitoring of level of care redeterminations
- For some of these monitoring activities, such as trial period and ongoing monitoring and monitoring of CAPs, SAAs work in conjunction with CMS
- For other activities such as conducting readiness reviews and monitoring of level of care redeterminations, SAAs are solely responsible, and CMS does not have a role

Key Takeaways:

Optional Two-Way Program Agreements

Use of PACE Two-Way Program Agreements by State



Notes: PACE is Program of All-Inclusive Care for the Elderly. MACPAC was unable to review Maryland's two-way program agreement due to state delays in Freedom of Information Act (FOIA) requests. However, Maryland Code of Regulations Section 10.09.44.04 references a two-way program agreement. [1] Missouri relies on state statute largely derived from a previous two-way program agreement. * Indicates state that did not respond to outreach.

Source: MACPAC analysis of two-way program agreements and state statute submitted by states.

Two-Way Program Agreements

- Reviewed both agreement templates with boilerplate language and actual contracts signed with PACE organizations
- States generally use two-way program agreements to supplement the federal PACE oversight framework by adding more detailed requirements, leading to wide variation across states
- Additional state requirements most often appear in areas already identified in the three-way program agreement
  - trial period monitoring
  - ongoing organizational oversight
  - CAPs
  - enrollee level-of-care redeterminations
  - reporting on quality, financial performance, and encounter data

Two-Way Program Agreements, cont.

- Trial period monitoring: three states
  - California and North Dakota allow the SAA to request additional information; Virginia requires financial reporting
- Ongoing monitoring: 15 states and the District of Columbia
  - Requirements are generally broad; require PACE organizations to make records and facilities available for state review or inspection
- CAPs: nine states
  - Five outline enforcement actions if CAPs are inadequate; two define timeframes for developing CAPs; three take a more active role in monitoring
- Enrollee level of care redeterminations: six states
  - Three states establish timeframes for completing redeterminations; four delegate to PACE organizations
  - Tennessee is the only state that waives recertification for specific conditions in agreement

Two-Way Program Agreements, cont.

- Reporting requirements: 14 states
  - Several states require submission of data that overlap with HPMS; grievances and appeals (seven), enrollment (six), disenrollment (five), incidents (four)
  - Nine states require PACE organizations to submit financial data beyond CMS requirement
  - Eight states require quality-related reporting, such as quality assurance plans and reviews
  - Seven states require submission of encounter data, though five do not specify scope
  - 12 states require additional reports, such as service utilization (five), fraud and abuse (five), statistical data (four), provider listings (three)
- Additional SAA roles: seven states
  - Four states expand SAA role in PACE organization marketing, three describe how SAA will promote PACE and educate beneficiaries, two add technical assistance roles
  - Michigan is the only SAA with a clinical role, approving training materials for nursing aides

Key Takeaways:

BIPA 903 Waivers

Use of BIPA 903 Waiver Requests

- Section 903 of BIPA grants PACE organizations operating flexibility by allowing them to request waivers of certain regulatory provisions under Medicare and Medicaid
  - Congress lists five provisions of the PACE model that CMS may not waive
    - (1) serving frail elderly individuals who require a nursing facility-level care; (2) providing comprehensive, integrated acute and long-term care services; (3) using an interdisciplinary team; (4) using capitated, integrated financing; and (5) assuming full financial risk
- CMS has standardized instructions for PACE organizations interested in developing and submitting waiver requests
  - PACE organizations write waiver requests and submit them to SAA for approval
  - If the state does not approve the request, CMS automatically denies the waiver
  - If the state approves the request, the state forwards it to CMS
  - CMS makes determinations within 90 days

Analysis of BIPA 903 Waiver Requests

- Reviewed a total of 47 waiver requests
  - 32 PACE organizations in nine states
- Nearly all waiver requests were related to two primary issues
  - Remote enrollee assessment, including service determination requests
    - Most waiver requests sought permission to waive federal PACE regulations that require in-person enrollee assessments
    - During the COVID-19 public health emergency (PHE), CMS permitted the use of remote technology to conduct these assessments; many PACE organizations requested waivers to allow them to continue remote assessments after the PHE ended
    - Majority of these submissions also requested waivers of in-person assessment for service determinations
  - Master's level social workers as part of the interdisciplinary team
    - Many waivers also requested permission to waive federal regulatory requirements for composition and responsibilities of the interdisciplinary team
    - Nearly all these requests focused on the shortage of Master's level social workers
    - PACE organizations requested the ability to substitute other types of clinical professionals
- Not all waiver requests reviewed had complete information about CMS and state approvals

Next Steps

Next Steps

- Staff will return in March to share findings from stakeholder interviews
- For discussion:
  - To what extent is the SAA responsible for overseeing the PACE organization? How do states address limitations in their ability to oversee PACE organizations?
  - Are the ways in which states use their two-way program agreements in line with Commissioner expectations of how states fulfill their designated oversight responsibilities? What areas would Commissioners flag for additional exploration?

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JANUARY MEETING

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