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State/Territory Name: **Kentucky**

State Plan Amendment (SPA) #: **21-0004**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

October 27, 2021

Lisa Lee
Commissioner
Kentucky Department for Medicaid Services
275 East Main Street, 6WA
Frankfort, KY 40621-0001

Re: Kentucky State Plan Amendment (SPA) 21-0004

Dear Ms. Lee:

The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 21-0004 submitted on April 6, 2021. This amendment proposes to implement the Program of All-inclusive Care for the Elderly (PACE) program in the state.

We conducted our review of your submittal according to statutory requirements of Title XIX of the Social Security Act and implementing regulations at 42 CFR § 435.733. This letter is to inform you that Kentucky Medicaid SPA 21-0004 was approved on October 25, 2021, with an effective date of July 1, 2021.

If you have any questions, please contact Melanie Benning at 404-562-7414 or via email at Melanie.Benning@cms.hhs.gov.

Sincerely,



Shantrina Roberts
Deputy Director
Division of Managed Care Operations

cc: Lee Guice, KY Department for Medicaid Services
Sharley Hughes, KY Department for Medicaid Services
Mara Siler-Price, Division of Managed Care Operations, CMS
Angela Jones, Division of Managed Care Policy, CMS

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2 1 — 0 0 4

2. STATE

Kentucky

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
CENTERS FOR MEDICARE & MEDICAID SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

July 1, 2021

5. TYPE OF PLAN MATERIAL (*Check One*)

NEW STATE PLAN

AMENDMENT TO BE CONSIDERED AS NEW PLAN

AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate transmittal for each amendment*)

6. FEDERAL STATUTE/REGULATION CITATION

42 CFR Part 460

7. FEDERAL BUDGET IMPACT

a. FFY ²⁰²¹ \$ 0
b. FFY ²⁰²² \$ 0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Page 19c
Page 19d
Att. 3.1-A, Page 11
Att. 3.1-B, Page 10
Supplement 3 to Att. 3.1-A, Page 1 - 7

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (*If Applicable*)

Page 19c - Same
Page 19d - New
Att. 3.1-A, Page 11 - Same
Att. 3.1-B, Page 10 - Same
Supplement 3 to Att. 3.1-A, Page 1 - Same
Supplement 3 to Att. 3.1-A, Page 2 - 7 - New

10. SUBJECT OF AMENDMENT

The purpose of this SPA is to implement Kentucky's PACE program

11. GOVERNOR'S REVIEW (*Check One*)

- GOVERNOR'S OFFICE REPORTED NO COMMENT
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED

12. SIGNATURE OF STATE AGENCY OFFICIAL

13. TYPED NAME
Lisa D. Lee

14. TITLE
Commissioner

15. DATE SUBMITTED
4/5/2021

16. RETURN TO

Sharley Hughes
Dept. for Medicaid Services
275 East Main Street, 6W
Frankfort KY 40601
sharleyj.hughes@ky.gov

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED
04/05/21

18. DATE APPROVED
10/25/21

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL
07/01/21

20. SIGNATURE OF REGIONAL OFFICIAL

21. TYPED NAME
Shantrina Roberts

22. TITLE Deputy Director
Division of Managed Care Operations

23. REMARKS Approved with follow changes to block # 11 as authorized by state on email dated 09/28/21
Block # 11 changed to read: the state selects "Other, As Specified" - "Governor has assigned to DMS."

State of KENTUCKY

Citation 3.1(a)(1) Amount, Duration, and Scope of Services: Categorically Needy (Continued)

1905(a)(26) and 1934

- Program of All-Inclusive Care for the Elderly (PACE) services, as described and limited in Supplement 3 to Attachment 3.1-A.

ATTACHMENT 3.1-A identifies the medical and remedial services provided to the categorically needy. (Note: Other programs to be offered to Categorically Needy beneficiaries would specify all limitations on the amount, duration and scope of those services. As PACE provides services to the frail elderly population without such limitation, this is not applicable for this program. In addition, other programs to be offered to Categorically Needy beneficiaries would also list the additional coverage -that is in excess of established service limits- for pregnancy-related services for conditions that may complicate the pregnancy. As PACE is for the frail elderly population, this also is not applicable for this program.)

State of KENTUCKY

Citation 3.1(a)(2) Amount, Duration, and Scope of Services: Medically Needy (Continued)
1905(a)(26) and 1934

- Program of All-Inclusive Care for the Elderly (PACE) services, as described and limited in Supplement 3 to Attachment 3.1-A.

ATTACHMENT 3.1-B identifies services provided to each covered group of the medically needy. (Note: Other programs to be offered to Medically Needy beneficiaries would specify all limitations on the amount, duration and scope of those services. As PACE provides services to the frail elderly population without such limitation, this is not applicable for this program. In addition, other programs to be offered to Medically Needy beneficiaries would also list the additional coverage -that is in excess of established service limits- for pregnancy-related services for conditions that may complicate the pregnancy. As PACE is for the frail elderly population, this also is not applicable for this program.)

Amount, Duration and Scope of Medical and Remedial Care Services Provided To the Categorically Needy

27. Program of All-Inclusive Care for the Elderly (PACE) services, as described in Supplement 3 to Attachment 3.1-A.

Election of PACE: By virtue of this submittal, the State elects PACE as an optional State Plan service.

No election of PACE: By virtue of this submittal, the State elects to not add PACE as an optional State Plan service.

Amount, Duration and Scope of Medical and Remedial Care Services Provided To the Medically Needy

25. Ambulatory prenatal care for pregnant women furnished during a presumptive eligibility period by an eligible provider (in accordance with section 1920 of the Act).
- Provided No limitations With limitations Not provided
27. Program of All-Inclusive Care for the Elderly (PACE) services, as described in Supplement 3 to Attachment 3.1-A.
- Election of PACE: By virtue of this submittal, the State elects PACE as an optional State Plan service.
- No election of PACE: By virtue of this submittal, the State elects to not add PACE as an optional State Plan service.
28. (i) Licensed or Otherwise State-Approved Freestanding Birth Centers
- Provided No limitations With limitations
- None licensed or approved
28. (ii) Licensed or Otherwise State-recognized covered professionals providing services in the Freestanding Birth Center.
- Provided No limitations With limitations
- Not Applicable (there are no licensed or State approved Freestanding Birth Centers)

PACE SERVICES

Name and address of State Administering Agency, if different from the State Medicaid Agency.

N/A

Regular Post Eligibility

The state applies post-eligibility treatment of income rules to PACE participants who are eligible under section 1902(a)(10)(A)(ii)(VI) of the Act (42 C.F.R. §435.217 of the regulations).

Yes No

Post-eligibility for states that have elected to apply the rules to PACE participants

Note: Section 2404 of the Affordable Care Act mandated that, for the five-year period beginning January 1, 2014, the definition of an “institutionalized spouse” in section 1924(h)(1) of the Social Security Act include all married individuals eligible for certain home and community-based services (HCBS), including HCBS delivered through 1915(c) waivers. As of this writing, the ACA provision has been extended through December 31, 2019. This means that married individuals eligible in the eligibility group described at 42 C.F.R. §435.217 must have their post-eligibility treatment-of-income rules determined under the rules described in section 1924(d). Because states that elect to apply post-eligibility treatment-of-income rules to PACE participants may only do so to the same extent the rules are applied to individuals eligibility under 42 C.F.R. §435.217, application of the post-eligibility treatment-of-income rules must be applied to married individuals receiving PACE services consistent with the provisions described herein under “Spousal post-eligibility” so long as the amendment to section 1924 of the Act made by the ACA remains in effect.

1. 1634 and SSI States

The State applies the post-eligibility rules to individuals who are receiving PACE services and are eligible under 42 C.F.R. §435.217 consistent with the rules of 42 C.F.R. §435.726, and, where applicable, section 1924 of the Act. Payment for PACE services is reduced by the amount remaining after deducting the following amounts from the PACE enrollee’s income.

1. Allowances for the maintenance needs of the individual (check one):
 1. The amount deducted is equal to:
 - (a) The SSI federal benefit rate
 - (b) Medically Needy Income Level (MNIL)
 - (c) The special income level standard for the institutionalized individuals eligible under section 1902(a)(10)(A)(ii)(V) of the Act
 - (d) Percentage of the Federal Poverty Level: _____%
 - (e) Other (specify): _____
 2. The following dollar amount: \$ _____
 Note: If this amount changes, this item will be revised.
 3. The following formula is used to determine the needs allowance:

Note: If the amount protected for a PACE enrollee in item 1 is equal to, or greater than, the PACE enrollee's income, enter N/A in items 2 and 3.

2. Allowance for the maintenance needs of the spouse:

The amount deducted for the PACE enrollee's spouse is equal to:

 1. The SSI federal benefit rate
 2. Optional State Supplement Standard
 3. Medically Needy Income Level Standard
 4. The following dollar amount (provided it does not exceed the amount(s) described in 1-3): \$ _____
 5. The following percentage of the following standard that is not greater than the standards above: _____% of _____ standard.
 6. Not applicable (N/A)
3. Allowance of the maintenance needs of the family (check one):
 1. AFDC need standard
 2. Medically needy income standard

The amount specified below cannot exceed the higher of the need standard for a family of the same size used to determine eligibility under the State's approved AFDC plan or the medically needy income standard established under 435.811 for a family of the same size.

- 3. ____ The following dollar amount: \$ _____
Note: If this amount changes, this item will be revised.
- 4. ____ The following percentage of the following standard that is not greater than the standards above: _____% of _____ standard.
- 5. ____ The amount is determined using the following formula:

- 6. ____ Other
- 7. ____ Not applicable (N/A)

4. Allowance for medical and remedial care expenses, as described in 42 CFR 435.726(c)(4).

2. 209(b) States,

The State applies the post-eligibility rules to individuals who are receiving PACE services and are eligible under 42 C.F.R. §435.217 consistent with the rules of 42 C.F.R. §435.735, and, where applicable, section 1924 of the Act. Payment for PACE services is reduced by the amount remaining after deducting the following amounts from the PACE enrollee’s income.

- 1. Allowances for the maintenance needs of the individual (check one):
 - 1. The amount deducted is equal to:
 - (a) ____ The SSI federal benefit rate
 - (b) ____ Medically Needy Income Level (MNIL)
 - (c) ____ The special income level standard for the institutionalized individuals eligible under section 1902(a)(10)(A)(ii)(V) of the Act
 - (d) ____ Percentage of the Federal Poverty Level: _____%
 - (e) ____ Other (specify): _____
 - 2. ____ The following dollar amount: \$ _____
Note: If this amount changes, this item will be revised.
 - 3. ____ The following formula is used to determine the needs allowance:

Note: If the amount protected for a PACE enrollee in item 1 is equal to, or greater than, the PACE enrollee’s income, enter N/A in items 2 and 3.

2. Allowance for the maintenance needs of the spouse:

The amount deducted for the PACE enrollee's spouse is equal to:

- 1. ___ The more restrictive income standard established under 42 C.F.R. §435.121
- 2. ___ Optional State Supplement Standard
- 3. ___ Medically Needy Income Level Standard
- 4. ___ The following dollar amount (provided it does not exceed the amount(s) described in 1-3): \$ _____
- 5. ___ The following percentage of the following standard that is not greater than the standards above: ___% of ___ standard.
- 6. ___ Not applicable (N/A)

3. Allowance of the maintenance needs of the family (check one):

- 1. ___ AFDC need standard
- 2. ___ Medically needy income standard

The amount specified below cannot exceed the higher of the need standard for a family of the same size used to determine eligibility under the State's approved AFDC plan or the medically needy income standard established under 435.811 for a family of the same size.

- 3. ___ The following dollar amount: \$ _____
Note: If this amount changes, this item will be revised.
- 4. ___ The following percentage of the following standard that is not greater than the standards above: ___% of ___ standard.
- 5. ___ The amount is determined using the following formula:

- 6. ___ Other
- 7. ___ Not applicable (N/A)

4. Allowance for medical and remedial care expenses, as described in 42 CFR 435.735 (c)(4).

Spousal Post Eligibility

State uses the post-eligibility rules of Section 1924 of the Act (spousal impoverishment protection) to determine the individual’s contribution toward the cost of PACE services if it determines the individual’s eligibility under section 1924 of the Act. There shall be deducted from the individual’s monthly income a personal needs allowance (as specified below), and a community spouse’s allowance consistent with the minimum monthly maintenance needs allowance described in section 1924(d), a family allowance, for each family member, calculated as directed by section 1924(d)(1)(C), and an amount for incurred expenses for medical or remedial care, as specified in the State Medicaid plan.

Yes ___ No ___

Note: states must elect the use the post-eligibility treatment-of-income rules in section 1924 of the Act in the circumstances described in the preface to this section.

(a.) Allowances for the needs of the:

1. Individual (check one)

(A) ___ The following standard included under the State plan (check one):

1. ___ SSI

2. ___ Medically Needy

3. ___ The special income level for the institutionalized

4. ___ Percent of the Federal Poverty Level: ___ %

5. ___ Other (specify): _____

(B) ___ The following dollar amount: \$ _____

Note: If this amount changes, this item will be revised.

(C) ___ The following formula is used to determine the needs allowance:

If this amount is different than the amount used for the individual’s maintenance allowance under 42 CFR 435.726 or 42 CFR 435.735, explain why you believe that this amount is reasonable to meet the individual’s maintenance needs in the community:

II. Rates and Payments

- A. The State assures CMS that the capitated rates will be less than the cost to the agency of providing State plan approved services to an equivalent non-enrolled population group based upon the following methodology. Please attach a description of the negotiated rate setting methodology and how the State will ensure that rates are less than the amount the state would have otherwise paid for a comparable population.

1. X Rates are set at a percent of the amount that would otherwise been paid for a comparable population.
2. Experience-based (contractors/State's cost experience or encounter date) (please describe)
3. Adjusted Community Rate (please describe)
4. Other (please describe)

The Kentucky Department for Medicaid Services provides their rate setting vendor with their most recent statewide FFS claims data, and enrollment information for the same period for the nursing home certifiable population in the state. This included both the nursing home and waiver populations in the state (institutional and non-institutional).

The PACE comparable population is then identified by limiting to members that are at least 55 years of age and reside in counties within the PACE service area. Once the PACE comparable population is identified, the PACE amounts that would otherwise have been paid (AWOPs) are developed using the appropriate rating cohorts.

AWOP Development

The state's rate setting vendor, with assistance from an actuarial firm uses the most recent available claims as the base data for the AWOP development. The base data is summarized by rating cohort and category service and then several adjustments are applied to ensure the data reflects the expected experience in the upcoming contract period. The adjustments that are made to the data to arrive at the projected AWOPs include but are not limited to:

- IBNR
- Nursing Facility Reimbursement Adjustment
- Prospective Trend
- Patient Liability Reduction
- Administrative Loading

Once the above adjustments are made to the data, a regional analysis is conducted to split the experience between the counties within the PACE service area. Finally, the nursing home and waiver AWOPs are blended to create separate PMPMs by age category for each county. The Kentucky Department for Medicaid Services establishes the Medicaid rates at a percentage of the calculated AWOPs.

- B. The State Medicaid Agency assures that the rates were set in a reasonable and predictable manner.
- C. The State will submit all capitated rates to the CMS Regional Office for prior approval, and will include the name, organizational affiliate of any actuary used, and attestation/description of the capitation rates.

III. Enrollment and Disenrollment

The State assures that there is a process in place to provide for dissemination of enrollment and disenrollment data between the State and the State Administering Agency. The State assures that it has developed and will implement procedures for the enrollment and disenrollment of participants in the State's management information system, including procedures for any adjustment to account for the difference between the estimated number of participants on which the prospective monthly payment was based and the actual number of participants in that month.