

**As Introduced**

**134th General Assembly**

**Regular Session**

**2021-2022**

**H. B. No. 600**

**Representative Roemer**

**Cosponsors: Representatives Hoops, Lipps, Manchester, Seitz, Stein**

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**A BILL**

To amend sections 173.50 and 173.501 of the Revised Code to expand Ohio's Medicaid component known as the Program of All-Inclusive Care for the Elderly (PACE) and to make an appropriation.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 173.50 and 173.501 of the Revised Code be amended to read as follows:

**Sec. 173.50.** (A) As used in this section and section 173.501 of the Revised Code:

(1) "CMS" means the United States centers for medicare and medicaid services.

(2) "Entity" has the same meaning as in 42 C.F.R. 460.10.

(3) "PACE center," "PACE organization," "participant," and "state administering agency" have the same meanings as in 42 C.F.R. 460.6.

(B) Pursuant to a contract entered into with the department of medicaid as an interagency agreement under section 5162.35 of the Revised Code, the department of aging shall carry

out, as the state administering agency, the day-to-day 18  
administration of the component of the medicaid program known as 19  
the program of all-inclusive care for the elderly or PACE. The 20  
department of aging shall carry out its PACE administrative 21  
duties in accordance with the provisions of the interagency 22  
agreement and all applicable federal laws, including the "Social 23  
Security Act," section 1934, 42 U.S.C. 1396u-4 and 42 C.F.R. 24  
Part 460. 25

~~(B)~~ (C) Not later than ninety days after the effective 26  
date of this amendment, the department of aging shall issue a 27  
request for proposals from any entity interested in becoming a 28  
PACE organization for service areas in the counties, or 29  
contiguous zip codes within the counties, or extending from the 30  
counties, of Franklin, Hamilton, Montgomery, Lorain, Lucas, and 31  
Summit. Proposals shall be submitted to the department not later 32  
than ninety days after the date the department issues the 33  
request for proposals. 34

(D) To be eligible for approval by the department to 35  
become a PACE organization, an entity shall meet all of the 36  
following requirements: 37

(1) The entity is one of the following or is owned by 38  
either of the following: 39

(a) A nonprofit entity that is exempt from federal income 40  
taxation under section 501(c)(3) of the Internal Revenue Code; 41

(b) A for-profit entity. 42

(2) The entity provides a feasibility study of its 43  
proposed service area to the department within ninety days after 44  
providing a letter of intent to apply to the department. 45

(3) The entity has a current, valid provider agreement, as 46

defined in section 5164.01 of the Revised Code, or is eligible 47  
to enter into a provider agreement. 48

(4) The entity meets all federal requirements applicable 49  
to PACE organizations. 50

(5) The entity demonstrates to the satisfaction of the 51  
department that the organization has experience providing health 52  
care services to frail older adults and that each member of the 53  
entity's staff, including employees and contractors, complies 54  
with 42 C.F.R. 460.64. 55

(6) The entity has a facility suitable to be a PACE 56  
center, or plans to acquire, build, or expand a facility 57  
suitable to be a PACE center prior to beginning services, in its 58  
proposed service area, as described in the request for proposals 59  
process. 60

(7) The entity meets any additional requirements in rules 61  
adopted by the department pursuant to division (K) of this 62  
section. 63

(E) The department shall review all proposals submitted in 64  
accordance with this section. For each of the six service areas 65  
identified in division (C) of this section, the department shall 66  
determine from the proposals which entity it approves to become 67  
PACE organization for each service area. The determination shall 68  
be made not later than one hundred eighty days after the date 69  
the department issues the request for proposals. 70

(F) The department shall provide each entity it approves 71  
to become a PACE organization with a statement of assurances to 72  
CMS that indicates that the department considers the entity to 73  
be qualified to be a PACE organization and is willing to enter 74  
into a PACE program agreement with the entity. 75

(G) Each entity approved by the department to become a PACE organization shall apply to CMS to become a PACE organization and include with the application to CMS the department's statement of assurance. 76  
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(H) Each entity approved to become a PACE organization by both the department and CMS shall begin providing services to participants not later than two years after the entity receives notice of its approval from CMS, but only if adequate federal financial participation is available. 80  
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(I) A PACE organization and the department shall make eligibility determinations for individuals seeking to enroll in the PACE program pursuant to 42 C.F.R. 460.152. 85  
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(J) So long as a PACE organization is providing access to PACE program services for all eligible individuals in the area served by the PACE organization, the department shall not authorize any other organization to serve as a PACE organization for that area. 88  
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For purposes of this division, an individual is considered to have access to PACE program services if there is a PACE organization with an adult day health center, or approved alternative care setting, that is within a forty-five-minute drive from the individual's place of residence. 93  
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(K) To the extent authorized by rules authorized by section 5162.021 of the Revised Code, the director of aging may adopt rules in accordance with Chapter 119. of the Revised Code regarding the PACE program, including rules establishing priorities for enrolling in the program pursuant to section 173.501 of the Revised Code. The rules shall address only those issues that are not addressed in rules adopted by the medicaid 98  
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| director for the PACE program.   | 105 |
| <b>Sec. 173.501.</b> (A) As used in this section:                        | 106 |
| <del>"Nursing, "nursing facility"</del> has the same meaning as in       | 107 |
| section 5165.01 of the Revised Code.                                     | 108 |
| <del>"PACE provider" has the same meaning as in the "Social</del>        | 109 |
| <del>Security Act," section 1934(a) (3), 42 U.S.C. 1396u-4(a) (3).</del> | 110 |
| (B) The department of aging shall establish a home first                 | 111 |
| component of the PACE program under which eligible individuals           | 112 |
| may be enrolled in the PACE program in accordance with this              | 113 |
| section. An individual is eligible for the PACE program's home           | 114 |
| first component if both of the following apply:                          | 115 |
| (1) The individual has been determined to be eligible for                | 116 |
| the PACE program.  | 117 |
| (2) At least one of the following applies:                               | 118 |
| (a) The individual has been admitted to a nursing                        | 119 |
| facility.  | 120 |
| (b) A physician has determined and documented <del>in writing</del>      | 121 |
| that the individual has a medical condition that, unless the             | 122 |
| individual is enrolled in home and community-based services such         | 123 |
| as the PACE program, will require the individual to be admitted          | 124 |
| to a nursing facility within thirty days of the physician's              | 125 |
| determination.   | 126 |
| (c) The individual has been hospitalized and a physician                 | 127 |
| has determined and documented <del>in writing</del> that, unless the     | 128 |
| individual is enrolled in home and community-based services such         | 129 |
| as the PACE program, the individual is to be transported                 | 130 |
| directly from the hospital to a nursing facility and admitted.           | 131 |

(d) Both of the following apply: 132

(i) The individual is the subject of a report made under 133  
section 5101.63 of the Revised Code regarding abuse, neglect, or 134  
exploitation or such a report referred to a county department of 135  
job and family services under section 5126.31 of the Revised 136  
Code or has made a request to a county department for protective 137  
services as defined in section 5101.60 of the Revised Code. 138

(ii) A county department of job and family services and ~~an~~ 139  
~~area agency on aging~~ a PASSPORT administrative agency have 140  
jointly documented ~~in writing~~ that, unless the individual is 141  
enrolled in home and community-based services such as the PACE 142  
program, the individual should be admitted to a nursing 143  
facility. 144

(C) Each month, the department of aging shall identify 145  
individuals who are eligible for the home first component of the 146  
PACE program. When the department identifies such an individual, 147  
the department shall notify the PACE ~~provider serving the~~ 148  
organization with a service area in which the individual 149  
resides. The PACE ~~provider organization~~ shall determine whether 150  
the PACE program is appropriate for the individual and whether 151  
the individual would rather participate in the PACE program than 152  
continue or begin to reside in a nursing facility. If the PACE 153  
~~provider organization~~ determines that the PACE program is 154  
appropriate for the individual and the individual would rather 155  
participate in the PACE program than continue or begin to reside 156  
in a nursing facility, the PACE ~~provider organization~~ shall so 157  
notify the department of aging. On receipt of the notice from 158  
the PACE ~~provider organization~~, the department of aging shall 159  
approve the individual's enrollment in the PACE program in 160  
accordance with priorities established in rules adopted under 161

section 173.50 of the Revised Code. 162

**Section 2.** That existing sections 173.50 and 173.501 of 163  
the Revised Code are hereby repealed. 164

**Section 3.** All items in this act are hereby appropriated 165  
as designated out of any moneys in the state treasury to the 166  
credit of the designated fund. For all operating appropriations 167  
made in this act, those in the first column are for fiscal year 168  
2022 and those in the second column are for fiscal year 2023. 169  
The operating appropriations made in this act are in addition to 170  
any other operating appropriations made for the FY 2022-FY 2023 171  
biennium. 172

**Section 4.** 173

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| A | MCD DEPARTMENT OF MEDICAID             |        |                        |              |     |
| B | Dedicated Purpose Fund Group           |        |                        |              |     |
| C | 5CV3                                   | 651687 | PACE Program Expansion | \$50,000,000 | \$0 |
| D | TOTAL DPF Dedicated Purpose Fund Group |        |                        | \$50,000,000 | \$0 |
| E | TOTAL ALL BUDGET FUND GROUPS           |        |                        | \$50,000,000 | \$0 |

PACE PROGRAM EXPANSION 175

The foregoing appropriation item 651687, PACE Program 176  
Expansion, shall be used to expand the component of the Medicaid 177  
program known as the Program of All-Inclusive Care for the 178  
Elderly or PACE to a total of six PACE organizations in 179

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| accordance with section 173.50 of the Revised Code, as amended   | 180 |
| by this act.   | 181 |
| Amounts equal to the unexpended, unencumbered balance of         | 182 |
| the foregoing appropriation item, 651687, PACE Program           | 183 |
| Expansion, at the end of fiscal year 2022 are hereby             | 184 |
| reappropriated to the same appropriation item in fiscal year     | 185 |
| 2023 for the same purpose.                                       | 186 |
| <b>Section 5.</b> Within the limits set forth in this act, the   | 187 |
| Director of Budget and Management shall establish accounts       | 188 |
| indicating the source and amount of funds for each appropriation | 189 |
| made in this act, and shall determine the form and manner in     | 190 |
| which appropriation accounts shall be maintained. Expenditures   | 191 |
| from operating appropriations contained in this act shall be     | 192 |
| accounted for as though made in H.B. 110 of the 134th General    | 193 |
| Assembly. The operating appropriations made in this act are      | 194 |
| subject to all provisions of H.B. 110 of the 134th General       | 195 |
| Assembly that are generally applicable to such appropriations.   | 196 |