

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

# HOUSE BILL 2383

AN ACT

AMENDING TITLE 36, CHAPTER 29, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 5;  
RELATING TO THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 36, chapter 29, Arizona Revised Statutes, is amended  
3 by adding article 5, to read:

4 ARTICLE 5. PACE PROGRAM

5 36-2999.01. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "ADMINISTRATION" MEANS THE ARIZONA HEALTH CARE COST CONTAINMENT  
8 SYSTEM ADMINISTRATION.

9 2. "CENTERS FOR MEDICARE AND MEDICAID SERVICES" MEANS THE FEDERAL  
10 AGENCY UNDER THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES THAT  
11 IS RESPONSIBLE FOR APPROVING THE PACE PROGRAM APPLICATION AND JOINING THE  
12 STATE IN SIGNING AN AGREEMENT WITH THE PACE ORGANIZATION ONCE IT HAS BEEN  
13 APPROVED AS A PROVIDER UNDER 42 CODE OF FEDERAL REGULATIONS PART 460.

14 3. "CONTRACT" MEANS A WRITTEN AGREEMENT BETWEEN A PERSON, AN  
15 ORGANIZATION, OR OTHER ENTITY AND THE ADMINISTRATION TO PROVIDE HEALTH CARE  
16 SERVICES TO A MEMBER UNDER TITLE 36, CHAPTER 29.

17 4. "DIRECTOR" MEANS THE DIRECTOR OF THE ARIZONA HEALTH CARE COST  
18 CONTAINMENT SYSTEM ADMINISTRATION.

19 5. "ELIGIBLE PARTICIPANT" MEANS A PERSON WHO:

20 (a) IS A RESIDENT OF THIS STATE AND A UNITED STATES CITIZEN OR A  
21 PERSON WHO MEETS THE REQUIREMENTS FOR QUALIFIED ALIEN STATUS AS DETERMINED  
22 PURSUANT TO SECTION 36-2903.03, WHO ENTERED THE UNITED STATES ON OR BEFORE  
23 AUGUST 21, 1996 OR WHO ENTERED THE UNITED STATES ON OR AFTER AUGUST 22, 1996  
24 AND WHO IS A MEMBER OF AN EXCEPTION GROUP UNDER PUBLIC LAW 104-193, SECTION  
25 412.

26 (b) MEETS THE ELIGIBILITY CRITERIA PURSUANT TO SECTION 36-2934.

27 (c) NEEDS INSTITUTIONAL SERVICES AS DETERMINED PURSUANT TO SECTION  
28 36-2936.

29 (d) IS DEFINED AS ELIGIBLE PURSUANT TO SECTION 1902(a)(10)(A)(ii)(XV)  
30 AND (XVI) OF TITLE XIX OF THE SOCIAL SECURITY ACT AND WHO MEETS THE INCOME  
31 REQUIREMENTS OF SECTION 36-2950 OR IS WILLING TO PAY PRIVATE FEES.

32 (e) IS AT LEAST FIFTY-FIVE YEARS OF AGE.

33 (f) RESIDES IN THE PACE ORGANIZATION'S SERVICE AREA ON ENROLLMENT.

34 (g) IS WILLING TO ABIDE BY THE REQUIREMENT THAT ENROLLEES RECEIVE ALL  
35 HEALTH AND LONG-TERM CARE SERVICES EXCLUSIVELY FROM THE PACE ORGANIZATION AND  
36 ITS CONTRACTED OR REFERRED PROVIDERS.

37 (h) IS ABLE TO BE MAINTAINED IN A COMMUNITY BASED SETTING AT THE TIME  
38 OF ENROLLMENT WITHOUT JEOPARDIZING THE PERSON'S HEALTH OR SAFETY.

39 6. "INTERDISCIPLINARY TEAM" MEANS PACE STAFF AND PACE SUBCONTRACTORS  
40 WHO HAVE CURRENT AND APPROPRIATE LICENSURE, CERTIFICATION OR ACCREDITATION  
41 AND WHO ARE RESPONSIBLE FOR ASSESSMENT AND DEVELOPMENT OF THE PACE  
42 PARTICIPANT'S CARE PLAN AND MAY CONDUCT ASSESSMENTS OF PACE PARTICIPANTS AND  
43 PROVIDE SERVICES TO PACE PARTICIPANTS WITHIN THEIR SCOPE OF PRACTICE.

44 7. "NONPARTICIPATING PROVIDER" MEANS A PROVIDER WHO DOES NOT HAVE A  
45 CONTRACTUAL RELATIONSHIP WITH THE PACE ORGANIZATION.

1           8. "PACE" MEANS THE PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY AS  
2 DEFINED IN SECTION 4801 OF THE BALANCED BUDGET ACT OF 1997 AND AUTHORIZED  
3 UNDER SECTIONS 1894 AND 1934 OF THE SOCIAL SECURITY ACT.

4           9. "PACE CENTER" MEANS A FACILITY OPERATED BY A PACE ORGANIZATION WHERE  
5 PRIMARY CARE AND OTHER SERVICES ARE FURNISHED TO PACE PARTICIPANTS.

6           10. "PACE ORGANIZATION" MEANS AN ORGANIZATION THAT:

7           (a) IS DEFINED UNDER SECTION 1894(a)(2) OF THE SOCIAL SECURITY ACT.

8           (b) HAS AN AGREEMENT TO OPERATE A PACE PROGRAM IN ACCORDANCE WITH 42  
9 CODE OF FEDERAL REGULATIONS PART 460.

10           (c) IS A PERMANENT PROVIDER TYPE UNDER MEDICARE THAT ALLOWS STATES THE  
11 OPTION TO PAY FOR PACE SERVICES UNDER MEDICAID.

12           (d) IS CAPITATED BY BOTH MEDICARE AND MEDICAID OR MEDICARE AND PRIVATE  
13 PAY TO PROVIDE ALL MEDICAL AND LONG-TERM CARE SERVICES.

14           11. "PACE PROGRAM AGREEMENT" MEANS AN AGREEMENT BETWEEN A PACE  
15 ORGANIZATION, CENTERS FOR MEDICARE AND MEDICAID SERVICES AND THE  
16 ADMINISTRATION.

17           12. "PARTICIPANT" MEANS AN INDIVIDUAL WHO IS ENROLLED IN A PACE  
18 PROGRAM.

19           13. "SECTION 1115 WAIVER" MEANS THE RESEARCH AND DEMONSTRATION WAIVER  
20 GRANTED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES.

21           14. "SERVICE AREA" MEANS THE GEOGRAPHIC AREA IN WHICH THE PACE  
22 ORGANIZATION HAS AGREED TO PROVIDE SERVICES UNDER THE PACE PROGRAM AGREEMENT.

23           15. "STATE ADMINISTERING AGENCY" MEANS THE ARIZONA HEALTH CARE COST  
24 CONTAINMENT SYSTEM ADMINISTRATION, THE STATE AGENCY RESPONSIBLE FOR  
25 ADMINISTERING THE PACE PROGRAM AGREEMENT.

26           36-2999.02. PACE program: powers and duties of the director:  
27   interdisciplinary teams

28           A. THE PACE PROGRAM IS ESTABLISHED TO PROVIDE MANAGED CARE BENEFITS  
29 FOR THE FRAIL ELDERLY THROUGH A COMPREHENSIVE MEDICAL AND SOCIAL SERVICE  
30 DELIVERY SYSTEM THAT USES INTERDISCIPLINARY TEAMS IN AN ADULT DAY HEALTH  
31 CENTER IN ACCORDANCE WITH 42 CODE OF FEDERAL REGULATIONS PART 460 AND  
32 SECTIONS 1894, 1905(a) AND 1934 OF THE SOCIAL SECURITY ACT. THE  
33 ADMINISTRATION SHALL OFFER THE PACE PROGRAM AS A VOLUNTARY OPTION FOR  
34 INDIVIDUALS WHO ARE AT LEAST FIFTY-FIVE YEARS OF AGE, LIVE IN THE PACE  
35 SERVICE AREA, ARE CERTIFIED AS ELIGIBLE FOR NURSING HOME LEVEL OF CARE AND  
36 MEET THE REQUIREMENTS FOR AN ELIGIBLE PARTICIPANT. THE PROGRAM SHALL PROVIDE  
37 SERVICES TO PACE PARTICIPANTS PURSUANT TO THIS ARTICLE AND FEDERAL MEDICARE  
38 AND MEDICAID REQUIREMENTS THAT GOVERN PACE ORGANIZATIONS.

39           B. THE ADMINISTRATION SHALL SERVE AS THE STATE ADMINISTERING AGENCY  
40 UNDER 42 CODE OF FEDERAL REGULATIONS PART 460, WHICH INCLUDES ADDITIONAL  
41 OBLIGATIONS OF COORDINATION WITH CENTERS FOR MEDICARE AND MEDICAID SERVICES  
42 IN THE ADMINISTRATION OF THE PACE PROGRAM. THE DIRECTOR IN THE PERFORMANCE  
43 OF ALL DUTIES SHALL CONSIDER THE USE OF EXISTING PROGRAMS, RULES AND  
44 PROCEDURES IN THE COUNTIES AND DEPARTMENT IF APPROPRIATE IN MEETING FEDERAL

1 REQUIREMENTS. IN ADMINISTERING THE PACE PROGRAM, THE DIRECTOR HAS THE SAME  
2 POWERS AND DUTIES PRESCRIBED IN SECTION 36-2932.

3 C. A PACE ORGANIZATION MUST ESTABLISH AN INTERDISCIPLINARY TEAM AT  
4 EACH PACE CENTER TO COMPREHENSIVELY ASSESS AND MEET THE INDIVIDUAL NEEDS OF  
5 EACH PACE PARTICIPANT. THE PACE ORGANIZATION MUST ASSIGN EACH PACE  
6 PARTICIPANT TO AN INTERDISCIPLINARY TEAM FUNCTIONING AT THE PACE CENTER THAT  
7 THE PARTICIPANT ATTENDS. THE INTERDISCIPLINARY TEAM SHALL BE COMPOSED OF AT  
8 LEAST THE MEMBERS SPECIFIED IN 42 CODE OF FEDERAL REGULATIONS PART  
9 460.102(B).

10 36-2999.03. Eligibility determination; applications; enrollment

11 A. IN ADDITION TO THE ELIGIBILITY CRITERIA PRESCRIBED IN SECTION  
12 36-2934 AND THE PREADMISSION SCREENING CONDUCTED PURSUANT TO SECTION 36-2936,  
13 TO BE ELIGIBLE TO ENROLL WITH A PACE ORGANIZATION, A PERSON MUST:

- 14 1. BE AT LEAST FIFTY-FIVE YEARS OF AGE.
- 15 2. RESIDE IN A PACE ORGANIZATION'S SERVICE AREA ON ENROLLMENT.
- 16 3. BE CERTIFIED BY THE ADMINISTRATION AS ELIGIBLE FOR NURSING HOME  
17 LEVEL OF CARE.
- 18 4. AGREE TO RECEIVE COVERED SERVICES THROUGH THE PACE ORGANIZATION.
- 19 5. BE ABLE AT THE TIME OF ENROLLMENT TO LIVE IN A COMMUNITY SETTING  
20 WITHOUT JEOPARDIZING THE PERSON'S HEALTH OR SAFETY.

21 6. A PACE PROGRAM SHALL NOT DISCRIMINATE DURING THE ENROLLMENT OF  
22 MEMBERS ON THE BASIS OF THE HEALTH OF AN INDIVIDUAL AND SHALL CONFIRM ITS  
23 ENROLLMENT PROCEDURES TO COMPLY WITH 42 CODE OF FEDERAL REGULATIONS SECTION  
24 460.150.

25 B. THE ADMINISTRATION SHALL FORWARD INTAKE INFORMATION OF A POTENTIAL  
26 ENROLLEE TO THE PACE ORGANIZATION STAFF WHO SHALL ASSESS THE APPLICANT'S  
27 APPROPRIATENESS FOR ENROLLMENT IN THE PACE PROGRAM IN ACCORDANCE WITH THE  
28 REQUIREMENTS OF 42 CODE OF FEDERAL REGULATIONS SECTION 460.152.

29 C. ALL LETTERS TO APPLICANTS REGARDING DENIAL OF ENROLLMENT BY THE  
30 PACE ORGANIZATION MUST INCLUDE THE REASON FOR THE DENIAL AND THE APPLICANT'S  
31 APPEAL RIGHTS. THIS LETTER, ALONG WITH DOCUMENTATION OR PERTINENT  
32 INFORMATION RELATED TO THE DECISION, MUST BE FORWARDED TO THE ADMINISTRATION  
33 FOR REVIEW. THE DENIAL LETTER MUST DIRECT THE APPLICANT BACK TO THE  
34 ADMINISTRATION FOR REVIEW.

35 D. SECTIONS 36-2934.01, 36-2934.02 AND 36-2935 ALSO APPLY TO THE PACE  
36 ORGANIZATION AND ITS PARTICIPANTS.

37 36-2999.04. Case management; definition

38 A. IN ADDITION TO SERVICES PRESCRIBED IN SECTION 36-2939, THE PACE  
39 ORGANIZATION SHALL PROVIDE CASE MANAGEMENT TO COORDINATE SERVICES AND PROMOTE  
40 ACCESS TO ALL NECESSARY MEDICAL, SOCIAL AND OTHER SERVICES IN COORDINATION  
41 WITH RULES ADOPTED BY THE DIRECTOR. CASE MANAGEMENT SERVICES INCLUDE THE  
42 FOLLOWING:

- 43 1. AN IN-DEPTH ASSESSMENT TO DETERMINE THE LEVEL OF CASE MANAGEMENT  
44 NEEDED AND SERVICES TO BE ACCESSED.

1           2. AN INDIVIDUAL CASE MANAGEMENT SERVICE PLAN OUTLINING NEEDED  
2 SERVICES AND ACCESS PLANS.

3           3. SERVICE PLAN IMPLEMENTATION TO INCLUDE COUNSELING TO ENCOURAGE THE  
4 PACE PARTICIPANT'S COOPERATION, SERVICE AUTHORIZATION, REFERRAL FOR SERVICES  
5 AND CASE COORDINATION.

6           4. A REVIEW OF THE SERVICE PLAN TO BE CONDUCTED ON AN AS-NEEDED BASIS,  
7 AT A MINIMUM OF AT LEAST ONCE EACH SIX MONTH PERIOD OF COVERAGE.

8           B. A PACE ORGANIZATION SHALL PROVIDE PAYMENT OR REIMBURSEMENT ONLY FOR  
9 SERVICES PROVIDED PURSUANT TO THIS ARTICLE UNDER REFERRAL FROM ITS  
10 INTERDISCIPLINARY TEAM THAT CONDUCTS CASE MANAGEMENT UNLESS IT IS AN  
11 EMERGENCY SERVICE.

12           C. FOR THE PURPOSES OF THIS SECTION, "CASE MANAGEMENT" MEANS A SERVICE  
13 THAT WILL DIRECT PARTICIPANTS TO THE MOST APPROPRIATE AMOUNT, DURATION AND  
14 TYPE OF SERVICES AND CONTINUALLY MONITOR AND REASSESS A PARTICIPANT'S NEED  
15 FOR SERVICES PROVIDED PURSUANT TO THIS ARTICLE.

16           36-2999.05. Establishment of capitation rate

17           A. UNDER A PACE PROGRAM AGREEMENT AND 42 CODE OF FEDERAL REGULATIONS  
18 SECTION 460.182, THE ADMINISTRATION SHALL MAKE A PROSPECTIVE MONTHLY PAYMENT  
19 TO THE PACE ORGANIZATION OF A CAPITATION RATE FOR EACH MEDICAID PARTICIPANT.

20           B. THE PACE ORGANIZATION MUST ACCEPT THE CAPITATION PAYMENT AS PAYMENT  
21 IN FULL FOR MEDICAID PARTICIPANTS AND MAY NOT BILL, CHARGE, COLLECT OR  
22 RECEIVE ANY OTHER FORM OF PAYMENT FROM THE ADMINISTRATION OR FROM OR ON  
23 BEHALF OF THE PACE PARTICIPANT, EXCEPT AS FOLLOWS:

24           1. PAYMENT WITH RESPECT TO THE SHARE OF COST AND ANY AMOUNTS DUE UNDER  
25 THE POSTELIGIBILITY TREATMENT OF INCOME.

26           2. MEDICARE PAYMENT RECEIVED FROM THE CENTERS FOR MEDICARE AND  
27 MEDICAID SERVICES OR FROM OTHER PAYORS.

28           3. ADJUSTMENTS RELATED TO ENROLLMENT AND DISENROLLMENT OF PACE  
29 PARTICIPANTS IN THE PACE ORGANIZATION.

30           4. A FEE-FOR-SERVICE PAYMENT BY THE ADMINISTRATION OR MEDICARE PRIOR  
31 TO THE PACE PARTICIPANT BEING CAPITATED.

32           C. MEDICAID CAPITATED RATES FOR PACE ORGANIZATIONS SHALL BE  
33 ESTABLISHED WHICH ARE LESS THAN THE AMOUNT THAT WOULD OTHERWISE HAVE BEEN  
34 PAID UNDER THE STATE PLAN IF THE INDIVIDUALS WERE NOT ENROLLED WITH PACE AND  
35 SHALL BE ADJUSTED TO TAKE INTO ACCOUNT THE COMPARATIVE FRAILITY OF PACE  
36 ENROLLEES.

37           D. AT LEAST THIRTY DAYS BEFORE FINALIZING THE CAPITATION RATES, THE  
38 ADMINISTRATION SHALL SEND WRITTEN NOTICE OF THE PROPOSED CAPITATION RATES TO  
39 THE PACE ORGANIZATION.

40           36-2999.06. PACE program notification; application; state assurance

41           A. A PACE ORGANIZATION'S APPLICATION MUST BE ACCOMPANIED BY AN  
42 ASSURANCE FROM THE STATE ADMINISTERING AGENCY INDICATING THAT THE STATE  
43 CONSIDERS THE ORGANIZATION TO BE QUALIFIED TO BE A PACE ORGANIZATION AND IS  
44 WILLING TO ENTER INTO A PACE PROGRAM AGREEMENT WITH THE ORGANIZATION. THE  
45 ADMINISTRATION MAY COLLECT FROM THE PACE ORGANIZATION APPLICANT THE DIRECT

1 COST ASSOCIATED WITH THE EVALUATION OF THE PACE APPLICATION PURSUANT TO THIS  
2 SECTION.

3 B. IN ACCORDANCE WITH SECTIONS 1894, 1905(A) AND 1934 OF THE SOCIAL  
4 SECURITY ACT, PACE IS ESTABLISHED AS A STATE OPTION UNDER MEDICAID. THE  
5 DIRECTOR SHALL SUBMIT AN AMENDMENT TO THE STATE'S MEDICAID PLAN, AUTHORIZING  
6 THE IMPLEMENTATION OF PACE AS SOON AS PRACTICABLE BUT NOT LATER THAN  
7 SEPTEMBER 1, 2006.

8 C. THE ADMINISTRATION SHALL BEGIN ACCEPTING NOTICES OF INTENT TO FILE  
9 A PACE PROGRAM APPLICATION NO LATER THAN THIRTY DAYS AFTER APPROVAL OF THE  
10 STATE'S MEDICAID PLAN AMENDMENT.

11 D. AN ORGANIZATION SHALL FILE A NOTICE OF INTENT TO ESTABLISH A PACE  
12 PROGRAM WITH THE ADMINISTRATION. AT A MINIMUM, THE NOTICE SHALL DESCRIBE THE  
13 SERVICE AREA FOR THE PACE ORGANIZATION IN ACCORDANCE WITH THE FEDERAL  
14 APPLICATION PROCESS PRESCRIBED IN 42 CODE OF FEDERAL REGULATIONS  
15 SECTION 460.12.

16 E. ON RECEIPT OF A NOTICE OF INTENT TO ESTABLISH A PACE ORGANIZATION  
17 PURSUANT TO THIS SECTION, THE ADMINISTRATION SHALL PROVIDE ADEQUATE PUBLIC  
18 NOTICE OF THE INTENT AND INVITE ALTERNATIVE PROPOSALS. THE ORGANIZATION  
19 SHALL REIMBURSE THE ADMINISTRATION FOR ALL PUBLICATION COSTS. THE  
20 ADMINISTRATION SHALL PRESCRIBE A DEADLINE AFTER WHICH IT SHALL NOT ACCEPT NEW  
21 PACE APPLICATIONS FOR THE DEFINED SERVICE AREA. THE DEADLINE SHALL BE NO  
22 MORE THAN SIXTY DAYS AFTER THE INITIAL FILING OF INTENT TO ESTABLISH A PACE  
23 ORGANIZATION.

24 F. WITHIN NINETY DAYS AFTER APPLICATION SUBMISSION, THE ADMINISTRATION  
25 SHALL DO ONE OF THE FOLLOWING:

- 26 1. PROVIDE STATE ASSURANCE.  
27 2. DENY STATE ASSURANCE BASED ON NONCOMPLIANCE WITH FEDERAL AND STATE  
28 STATUTES.  
29 3. REQUEST ADDITIONAL INFORMATION NEEDED TO MAKE A FINAL  
30 DETERMINATION.

31 G. THE ADMINISTRATION SHALL OFFER STATE ASSURANCE PURSUANT TO THIS  
32 ARTICLE. IF MULTIPLE PROPOSALS ARE SUBMITTED FOR THE SAME SERVICE AREA, THE  
33 ADMINISTRATION SHALL PROVIDE STATE ASSURANCE TO THE PROPOSAL THAT IS THE MOST  
34 RESPONSIVE AND COST-EFFECTIVE AND THAT CONFORMS TO ALL OF THE APPLICABLE  
35 REQUIREMENTS OF THIS ARTICLE. THE ADMINISTRATION MAY DEVELOP ADDITIONAL  
36 CRITERIA TO EVALUATE COMPETING PROPOSALS THAT ARE CONSISTENT WITH THE FEDERAL  
37 APPLICATION PROCESS PRESCRIBED IN 42 CODE OF FEDERAL REGULATIONS  
38 SECTION 460.12.

39 36-2999.07. PACE organization qualifications; annual report;  
40 financial solvency

41 A. A PACE ORGANIZATION MUST BE ONE OF THE FOLLOWING OR BE A DISTINCT  
42 PART OF ONE OF THE FOLLOWING:

- 43 1. AN ENTITY OF A CITY, COUNTY, STATE OR TRIBAL GOVERNMENT.  
44 2. A PRIVATE NONPROFIT ENTITY ORGANIZED FOR CHARITABLE PURPOSES UNDER  
45 SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE OF 1986.



1 health committee and the house of representatives health committee or their  
2 successor committees.

3 Sec. 3. Initial PACE programs; limitation

4 Notwithstanding title 36, chapter 29, article 5, Arizona Revised  
5 Statutes, as added by this act, the Arizona health care cost containment  
6 system administration shall not authorize more than four qualified PACE  
7 programs before October 1, 2009.