



OPERATIONAL MEMO

TITLE:	PACE PARTICIPANT ADVERSE AND EXPEDITED APPEALS
SUPERSEDES NUMBER:	N/A
EFFECTIVE DATE:	JANUARY 1, 2021
DIVISION AND OFFICE:	BENEFITS AND SERVICES MANAGEMENT DIVISION, COMMUNITY LIVING OFFICE
PROGRAM AREA:	PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY
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APPROVED BY: COLIN LAUGHLIN	

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Purpose and Audience:

The purpose of this Operational Memo is to provide Programs of All-Inclusive Care for the Elderly (PACE) organizations with instructions for submitting the following information to the Department of Health Care Policy & Financing (the Department): 1. An adverse appeal. 2. A request to extend the timeframe of an expedited appeal. The memo also stresses the requirement of processing expedited appeals as indicated by the participant.

Information:

The PACE Program Agreement is an agreement between a PACE organization, the Centers for Medicare & Medicaid Services (CMS), and the State administering agency (SAA) for the operation of a PACE program. The Department is the SAA responsible for administering the PACE Program Agreement in Colorado.

Adverse Appeals

- A. For each adverse appeal decision, the PACE organization must submit the following information to the Department, at the same time the decision is made:

1. The appeal form completed by the participant, his or her family, or representative.
 2. The impartial third party's review letter.
 3. The PACE organization's letter/notice of action to the participant.
 4. The participant's current plan of care, relevant interdisciplinary team member assessments, and associated notes.
- B. References
1. 42 CFR §460.104(d)(2)(vi) - If the interdisciplinary team fails to provide the participant with timely notice of the resolution of the request or does not furnish the services required by the revised plan of care, this failure constitutes an adverse decision, and the participant's request must be automatically processed by the PACE organization as an appeal in accordance with §460.122.
 2. 42 CFR §460.122(h) - Determination adverse to participant. For a determination that is wholly or partially adverse to a participant, at the same time the decision is made, the PACE organization must notify the following: (1) CMS, (2) The State administering agency, and (3) The participant.

Expedited Appeals

- A. If the PACE organization wants to extend the 72-hour expedited appeal timeframe based on §460.122(f)(3)(ii), the PACE organization must submit the following information to the Department:
1. The appeal form completed by the participant, his or her family, or representative.
 2. A letter justifying the need for additional information, including how the delay is in the interest of the participant.
- B. An expedited appeal is based on the **participant's belief** that his or her life, health, or ability to regain or maintain maximum function could be seriously jeopardized, absent provision of the service in dispute.
1. PACE personnel may not overrule the participant's belief and subsequently process a standard appeal.
- C. Reference
1. 42 CFR §460.122(f) - Expedited appeals process. (1) A PACE organization must have an expedited appeals process for situations in which the participant believes that his or her life, health, or ability to regain or maintain maximum function could be seriously jeopardized, absent provision of the service in dispute. (2) Except as provided in paragraph (f)(3) of this section, the PACE organization must respond to the appeal as expeditiously as the participant's health condition requires, but no later

than 72 hours after it receives the appeal. (3) The PACE organization may extend the 72-hour timeframe by up to 14 calendar days for either of the following reasons: (i) The participant requests the extension. (ii) The organization justifies to the State administering agency the need for additional information and how the delay is in the interest of the participant.

Directions

- A. The PACE organization will submit adverse appeal information and requests to extend expedited appeal timeframes via SharePoint.
- B. The PACE organization will email the Department at the same time information is submitted to SharePoint.
- C. The PACE organization will use the Department's PACE email address. hcpf_pace@state.co.us.

Note: The email address contains an underscore (_) after hcpf.

Attachment(s):

None

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