

**Program of All Inclusive Care for the Elderly (PACE)  
Policy and Procedure for  
Permanent Waiver of Annual Recertification**

**I. Requirement**

§ 42 CFR 460.160 (b) (1)

*Waiver of Annual Requirement shall permanently waive the annual recertification requirement for a participant if it is determined that there is no reasonable expectation of improvement or significant change in the participant's condition because of the severity of a chronic condition or the degree of functional capacity.*

**II. Policy**

Federal regulations require that at least annually, the state administering agency, the Department of Health and Hospitals, Office of Aging and Adult Services (OAAS), must reevaluate whether a Program of All Inclusive Care for the Elderly (PACE) participant meets the level of care eligibility criteria required under the State Medicaid plan for coverage of PACE services.

While annual recertification of continued level of care eligibility is a federal requirement, federal regulations also allow the state administering agency to permanently waive this requirement for a participant, **after the Initial certification**. In order to do so, the state administering agency must determine that there is no reasonable expectation of improvement or a significant change in the participant's condition because of the severity of a chronic condition, due to the degree of impairment of functional capacity.

A PACE provider may request a **Permanent Waiver of Annual Recertification after the participant's Initial certification**, and within ninety (90) calendar days from the date of the participant's subsequent annual recertification assessment date. The request for *Permanent Waiver of Annual Recertification* must include evidence of the following:

- a. The participant's medical record and plan of care support that the participant has a fragile medical condition(s) with no reasonable expectation of improvement or significant change in the participant's condition due to the severity of a chronic condition or the degree of functional capacity (e.g., nearing end of life, living with a chronic progressive, irreversible, disease, including, but not limited to diagnoses of End Stage

- Renal Disease [ESRD], Chronic Heart Failure [CHF],  
Amyotrophic Lateral Sclerosis [ALS]), **OR**;  
b. the participant is **permanently** residing in a nursing facility

As part of the decision making process, OAAS may request an onsite visit to meet with the participant, conduct its own level of care assessment and/or to request additional supporting information.

### **III. Procedure**

The procedure noted below will be followed by the PACE provider and OAAS:

#### **A. PACE Provider Responsibilities:**

1. The PACE provider will submit a request for a *Permanent Waiver of Annual Recertification* on **OAAS-PF-13-009 form** to the OAAS Regional Office, **for participants who meet the above noted criteria**, within **ninety (90)** calendar days from the date of the participant's annual recertification assessment date.
2. The PACE Interdisciplinary Team (IDT) will provide a brief **Justification Summary Statement** on OAAS-PF-13-009 form that includes the reason(s) why the participant meets the Permanent Waiver of Annual Recertification criteria, as described in this policy.
3. Supporting documentation from the participant's medical record, and Plan of Care (POC) must be included to support the **Justification Summary Statement**. Supporting documentation includes any information that clearly demonstrates that 1) the participant has a fragile medical condition(s) with no reasonable expectation of improvement or significant change in the participant's condition due to the severity of a chronic condition or the degree of functional capacity (e.g., nearing end of life, living with a chronic progressive, irreversible, disease, including, but not limited to diagnoses of End Stage Renal Disease [ESRD], Chronic Heart Failure [CHF], Amyotrophic Lateral Sclerosis [ALS]), **OR** 2) the participant is **permanently** residing in a nursing facility.
4. Supporting documentation will include 1) a diagnosis of a chronic, and/or disabling medical condition with no reasonable expectation of improvement or significant change in the participant's condition due to the severity of a chronic condition or the degree of functional capacity (e.g., nearing end of life, living with a chronic progressive, irreversible, disease, including,

but not limited to diagnoses of End Stage Renal Disease [ESRD], Chronic Heart Failure [CHF], Amyotrophic Lateral Sclerosis [ALS]), **OR 2) evidence that the participant is a permanent resident of a nursing facility, and 4) a copy of the participant's Plan of Care (POC).**

5. Once the OAAS Regional Office receives and reviews the request and supporting documentation, they may determine that additional supporting documentation is needed from the PACE provider before a final determination can be reached. **If this occurs, the PACE provider must submit the requested information no later than (5) five business days from the date of receipt of OAAS' request.** If OAAS does not receive the requested information by the required timeline, the OAAS will proceed with the denial process, as applicable.
6. If OAAS approves the PACE provider's request for a Permanent Waiver of Annual Recertification, **PACE will no longer be required to conduct an annual MDS-HC reassessment on that participant** for level of care determination, unless otherwise requested by OAAS.

**B. Responsibilities of OAAS Regional Office (RO) Staff**

1. OAAS RO staff will:
  - a. review the submitted request for *Permanent Waiver of Annual Recertification*, **Justification Summary Statement** (OAAS-PF-13-009) and supporting documentation, including the participant's POC;
  - b. determine if the submitted **Justification Summary Statement** and supporting documentation is adequate to support the request in accordance with the eligibility criteria described in this policy;
  - c. determine if an on-site visit is warranted.
2. OAAS RO staff will respond within ten (10) business days from receipt of an adequate Request for *Permanent Waiver of Annual Recertification* form (**OAAS-PF-13-009**), and supporting documentation, including the participant's POC.
3. If OAAS RO determines that the participant meets the Permanent Wavier of Annual Recertification eligibility criteria described in this policy, the PACE provider and PACE participant will be notified in writing by the OAAS (OAAS notifies provider via the *Permanent Waiver of Annual Recertification* form [**OAAS-PF-13-009**], and the participant's Level of Care

eligibility requirement will be waived permanently, unless otherwise determined by OAAS).

4. The OAAS RO will make a notation in the **Notebook** of the applicable MDS-HC assessment, located in the OAAS assessment database, that states the following:

**Permanent Waiver of Annual Recertification eligibility criteria met on \_\_\_\_\_ (date goes in blank space).**

If the OAAS RO staff determines that the participant does not meet the Permanent Wavier of Annual Recertification eligibility criteria, and **the participant does not meet nursing facility level of care on any one Pathway, or on Deemed Continued Eligibility, a denial for continuation of PACE services will be issued by OAAS Regional Office.**

5. a denial notice and appeal rights will be issued to the participant. A copy of the denial notice will be sent to the PACE provider.
6. The OAAS RO will make a notation in the **Notebook** of the applicable MDS-HC assessment, located in the OAAS assessment database, that states the following:

**Request for Permanent Waiver of Annual eligibility criteria and supporting documentation, including participant's POC, were reviewed by OAAS. Criteria for Permanent Waiver of Annual Recertification not met on \_\_\_\_\_ (date goes in blank space)** (Include all actions on the part of OAAS in making this determination, e.g., on-site visit to meet with PACE participant/staff, follow up telephone conversations/emails requesting more information, etc.).

7. If the participant files an appeal on or before the date of the proposed adverse action, PACE services shall continue until the Division of Administrative Law (DAL) renders a decision. OAAS staff will notify the PACE provider via email message to continue services until the appeal is heard and a decision is rendered.
8. If a timely appeal is not filed, services will be terminated effective at the end of the month in which the denial notice was issued.