

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2405532
<b>Decision Date:</b>	7/25/2024	<b>Hearing Date:</b>	05/09/2024
<b>Hearing Officer:</b>	Thomas Doyle	<b>Record Open to:</b>	06/06/24

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Kelly Worthen, Springfield MEC

**Interpreter:**



*The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street, Quincy, Massachusetts 02171*

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Failure to Provide Renewal Form; Pace Program; Under 65
<b>Decision Date:</b>	7/25/2024	<b>Hearing Date:</b>	05/09/2024
<b>MassHealth's Rep.:</b>	Kelly Worthen	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Remote (phone)	<b>Aid Pending:</b>	No

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through a notice dated March 27, 2024, MassHealth notified appellant that he is not eligible for MassHealth benefits because he did not return the eligibility review form to MassHealth. (Ex. 1). Appellant appealed in a timely manner on April 3, 2024. (Ex. 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth found appellant not eligible for MassHealth benefits because he did not return the eligibility review form to MassHealth.

### Issue

The issue is whether MassHealth was correct in denying appellant's application for MassHealth benefits.

## Summary of Evidence

The MassHealth worker (worker) and appellant appeared at hearing via phone and were sworn. The worker stated that appellant was sent a termination notice for failure to provide an eligibility review form that was sent to him on February 6, 2024. She stated that, as of the day of the hearing, MassHealth had not received a review application for a person over [REDACTED]. When it was pointed out to the worker that appellant was under the age of [REDACTED] she stated that appellant was covered under a PACE (Program of All-inclusive Care for the Elderly) waiver. The PACE program is a comprehensive health program that is designed to keep frail, older individuals who are certified eligible for nursing facility services living in the community. In order to be eligible for a PACE waiver, the applicant or member, among other requirements, needs to be [REDACTED] (130 CMR 519.007 (C)). She stated that MassHealth did receive an under [REDACTED] application the day before the hearing but that it could not be used to renew over [REDACTED] benefits. She stated that a PACE waiver is a traditional benefit where the waiver eligibility is dependent on a "senior renewal." The worker stated she sent out a senior renewal to appellant on April 30, 2024.<sup>1</sup> She testified she would mail appellant another senior renewal for him or [REDACTED] to complete and return to MassHealth.

At the close of the hearing, I agreed to leave the record of this appeal open until June 6, 2024 for appellant to complete and return a senior renewal application that was being mailed to him by the worker. (Ex. 5).

At the close of the record open period, I emailed the worker to ask whether she had received a completed senior renewal application from appellant. She replied that, as of June 6, 2024, she had not. (Ex. 6).

Appellant stated that [REDACTED] does his paperwork for the PACE program and they sent in the under [REDACTED] application.

## Findings of Fact

Based on a preponderance of the evidence, I find the following:

1. Appellant is a member of the Program of All-inclusive Care for the Elderly (PACE). (Testimony).
2. Applicants or members of MassHealth [REDACTED] can receive PACE waivers if they meet all eligibility requirements. Appellant is under the age of [REDACTED] (Testimony; Ex. 4).

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<sup>1</sup> She did not state what prompted her to send out the senior renewal application in April 2024, days before appellant's hearing.

3. The PACE program requires a senior renewal application even if the member is under the age of [REDACTED] (Testimony).
4. Appellant was sent a senior eligibility review form in February 2024 and did not return it. (Testimony; Ex. 1)
5. The worker sent out a senior renewal form to appellant on April 30, 2024. (Testimony).
6. The worker sent another senior eligibility review form to appellant at the conclusion of the hearing. (Testimony; Ex. 5).
7. The record was held open for appellant to submit a completed senior renewal form. (Ex. 5).
8. Despite an opportunity to submit a completed senior renewal form following the appeal hearing, the worker did not receive the senior renewal form from appellant. (Ex. 6).

## Analysis and Conclusions of Law

The appellant has the burden "to demonstrate the invalidity of the administrative determination." [REDACTED]  
Moreover, "[p]roof by a preponderance of the evidence is the standard generally applicable to administrative proceedings." [REDACTED]

### 519.007: Individuals Who Would Be Institutionalized

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(C) Program of All-inclusive Care for the Elderly (PACE).

(1) Overview. The PACE program is a comprehensive health program that is designed to keep frail, older individuals who are certified eligible for nursing facility services living in the community.

(a) A complete range of health care services is provided by one designated community-based program with all medical and social services coordinated by a team of health professionals.

(b) The MassHealth agency administers the program in Massachusetts as the Elder Service Plan (ESP).

(c) Persons enrolled in PACE have services delivered through managed care

1. in day-health centers;
2. at home; and
3. in specialty or inpatient settings, if needed.

(2) Eligibility Requirements. In determining PACE eligibility, the MassHealth agency counts the income and assets of only the applicant or member regardless of their marital status. The applicant or member must meet all of the following criteria:

- (a) be [REDACTED]
  - (b) meet Title XVI disability standards if [REDACTED]
  - (c) be certified by the MassHealth agency or its agent to be in need of nursing facility services;
  - (d) live in a designated service area;
  - (e) have medical services provided in a specified community-based PACE program;
  - (f) have countable assets whose total value does not exceed \$2,000 or, if assets exceed these standards, reduce assets in accordance with 130 CMR 520.004: Asset Reduction;<sup>2</sup> and
  - (g) have a countable-income amount less than or equal to 300% of the federal benefit rate (FBR) for an individual.
- (3) Income Standards Not Met. Individuals whose income exceeds the standards set forth in 130 CMR 519.007(C)(2) may establish eligibility for MassHealth Standard by meeting a deductible as described at 130 CMR 520.028 through 520.035.

#### 515.008: Responsibilities of Applicants and Members:

(A) Responsibility to Cooperate. The applicant or member must cooperate with the MassHealth agency in providing information necessary to establish and maintain eligibility, and must comply with all the rules and regulations of MassHealth, including recovery and obtaining or maintaining other health insurance.

In this case, appellant was sent a senior renewal form in February 2024 and did not return it to MassHealth. He was sent another senior renewal form at the end of April 2024. He did not return that form to MassHealth. Despite being given additional time following the appeal hearing to submit the completed senior renewal application, appellant did not submit the completed renewal application to MassHealth or the hearing officer in a timely manner. Further, the appellant did not request additional time to submit the missing documentation. Therefore, I find the action taken by MassHealth is within the regulations. (130 CMR 515.008). Accordingly, this appeal is denied.

## Order for MassHealth

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<sup>2</sup> This is most likely one of the reasons an applicant or member under 65 is required to submit an application designated for a person over [REDACTED] MassHealth only counts assets for applicants or members over [REDACTED]

None.

## **Notification of Your Right to Appeal to Court**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

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Thomas Doyle  
Hearing Officer  
Board of Hearings

MassHealth Representative: Dori Mathieu, Springfield MassHealth Enrollment Center, 88 Industry Avenue, Springfield, MA 01104, 413-785-4186