

Chapter H 3

CERTIFICATE OF NEED

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H 3.001 Administrative rules for subch. II, ch. 150, Stats. The following rules shall be used in administering the certificate of need provisions of ch. 150, Stats.

History: Cr. Register, June, 1978, No. 270, eff. 7-1-78.

H 3.01 Definitions. For the purpose of this section the following definitions shall apply:

(1) **AFFECTED PERSONS.** "Affected persons" means any or all of the following:

- (a) The applicant.
- (b) Those members of the public who are to be served by the proposed health service.
- (c) Those persons who offer services in the same health service area which are similar to those proposed in the application or who have formally indicated an intention to provide such similar services in the future.
- (d) Any agency which establishes rates for health care facilities or health maintenance organizations in the appropriate HSA.
- (e) The HSA(s) in whose area the proposed health service will be offered and any HSAs serving contiguous areas.

(2) **APPLICANT.** An "applicant" is the person for whom a certificate of need is requested.

(3) **CERTIFICATE OF NEED.** A "certificate of need" is a written authorization by the department for a person to implement an approved proposal.

(4) **DATE OF NOTIFICATION.** The "date of notification" is the date on which the department publishes notice of the receipt of an application and the proposed period for the review in a newspaper of general circulation.

(5) **DEPARTMENT.** The "department" is the department of health and social services.

(6) **HEALTH SYSTEMS AGENCY (HSA).** A "health systems agency" is an agency designated under 42 USC 3001. In these rules, where reference is

made to a specific HSA (as in "the" HSA, or "appropriate" HSA), such reference applies to the HSA (s) within whose area the proposed health service will be offered.

(7) **OBLIGATION.** An "obligation" is an enforceable contract which is entered into for the construction, leasing, acquisition, or permanent financing of a capital asset.

(8) **PERSON.** A "person" is an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies and insurance companies), a state or a political subdivision or instrumentality (including a municipal corporation) of a state.

History: Cr. Register, June, 1978, No. 270, eff. 7-1-78.

H 3.02 Non-substantive reviews.-(1) Pursuant to s. 150.02 (4) and (5), Stats., projects which are determined to be reviewable, and which meet any of the following criteria, shall be determined eligible for non-substantive review:

- (a) A one-time capital expenditure of less than \$10,000.
- (b) Capital expenditure projects developed pursuant to a plan of correction for code deficiencies previously approved by the department.
- (c) Capital expenditure projects which are required to remedy an emergency situation detected not more than 30 days prior to the request for a non-substantive review determination and which threatens the safety of patients or the ability of the institution to remain in operation.
- (d) Replacement of clinical equipment with equipment of similar capability if the equipment is included in the facility's annual capital expenditure budget or plan.
- (e) Proposals for the replacement of non-health related equipment with equipment of similar capacity.
- (f) An increase in the estimated total cost of an approved proposal which is more than \$100,000 but less than \$500,000, or ten percent of the amount for which the certificate was issued, whichever is smaller.
- (g) Proposals about which both the department and the HSA agree that there is no significant financial impact on the institution, and little or no impact on the scope of the delivery of health services in the area or region.

Note: Chapter 34, Laws of 1979 created "150.02 (4) (e) Predevelopment Activities" as an additional category of reviewable projects eligible for non-substantive review. Projects meeting the definition of predevelopment activity as defined in the law will, therefore, be eligible for non-substantive reviews.

(2) Applications for non-substantive reviews shall be submitted to the department and the HSA on forms printed by the department and may be supplemented by other material which the applicant wishes to include.

(3) All applications shall be reviewed for completeness upon receipt by the department and the HSA. An application shall be considered complete if all sections of the application form which have been designated as relevant are answered. If the department determines that any of the designated items required to be answered by the applicant have

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not been answered, the application is incomplete. Whenever the department determines that an application is incomplete, notice shall be mailed to the applicant within 5 working days of receipt of the application. If the department fails to give such notice, the application shall be deemed to be complete.

(4) Applications which include a request for a non-substantive review shall be examined by the department and the HSA and a determination of the proposal's eligibility for such review shall be made within 15 working days of the date of the receipt of a complete application or of materials making the application complete, whichever is later.

(5) If the department determines that an application for a non-substantive review is not eligible for a non-substantive review, the application shall be regarded as a notice of intent under H 3.03. The notice of intent period will have begun on the date the application was determined complete. An application for a substantive review of the proposal will be sent to the applicant. The resulting application will be reviewed under H 3.04.

(6) The department shall issue a certificate of need on all approved proposals subjected to a non-substantive review within 20 days of the determination made pursuant to H 3.02 (3).

(7) If the department does not approve a proposal which has been subjected to a non-substantive review, the application shall, within 20 days of the determination made pursuant to H 3.02 (3), be referred to the HSA for review in accordance with the procedures beginning at H 3.04 (2).

History: Cr. Register, June, 1978, No. 270, eff. 7-1-78; renum. (1) to (6) to be (2) to (7), cr. (1), Register, August, 1979, No. 284, eff. 9-1-79.

H 3.03 Notice of intent. (1) (a) Except as provided in H 3.02, any person proposing to engage in an activity covered in s. 150.02, Stats. shall submit a notice of intent to the department and the HSA prior to the submission of an application.

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