

1 MICHIGAN DEPARTMENT OF COMMUNITY HEALTH

2
3 CERTIFICATE OF NEED (CON) REVIEW STANDARDS FOR HOSPITAL BEDS

4
5 (By authority conferred on the CON Commission by sections 22215 and 22217 of Act No. 368 of the
6 Public Acts of 1978, as amended, and sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as
7 amended, being sections 333.22215, 333.22217, 24.207, and 24.208 of the Michigan Compiled Laws.)
8

9 **Section 1. Applicability**

10
11 Sec. 1. (1) These standards are requirements for approval under Part 222 of the Code that involve (a)
12 beginning operation of a new hospital or (b) replacing beds in a hospital or physically relocating hospital
13 beds from one licensed site to another geographic location or (c) increasing licensed beds in a hospital
14 licensed under Part 215 or (d) acquiring a hospital . Pursuant to Part 222 of the Code, a hospital licensed
15 under Part 215 is a covered health facility. The Department shall use these standards in applying Section
16 22225(1) of the Code, being Section 333.22225(1) of the Michigan Compiled Laws and Section
17 22225(2)(c) of the Code, being Section 333.22225(2)(c) of the Michigan Compiled Laws.
18

19 (2) An increase in licensed hospital beds is a change in bed capacity for purposes of Part 222 of the
20 Code.
21

22 (3) The physical relocation of hospital beds from a licensed site to another geographic location is a
23 change in bed capacity for purposes of Part 222 of the Code.
24

25 (4) An increase in hospital beds certified for long-term care is a change in bed capacity for purposes
26 of Part 222 of the Code and shall be subject to and reviewed under the CON Review Standards for Long-
27 Term-Care Services.
28

29 **Section 2. Definitions**

30
31 Sec. 2. (1) As used in these standards:

32 (a) "Acquiring a hospital" means the issuance of a new hospital license as the result of the acquisition
33 (including purchase, lease, donation, or other comparable arrangements) of a licensed and operating
34 hospital and which does not involve a change in bed capacity.

35 (b) "Adjusted patient days" means the number of patient days when calculated as follows:

36 (i) Combine all pediatric patient days of care and obstetrics patient days of care provided during the
37 period of time under consideration and multiply that number by 1.1.

38 (ii) Add the number of non-pediatric and non-obstetric patient days of care, excluding psychiatric
39 patient days, provided during the same period of time to the product obtained in (i) above. This is the
40 number of adjusted patient days for the applicable period.

41 (c) "Alcohol and substance abuse hospital" means a licensed hospital within a long-term (acute) care
42 (LTAC) hospital that exclusively provides inpatient medical detoxification and medical stabilization and
43 related outpatient services for persons who have a primary diagnosis of substance dependence covered
44 by DRGs 433 - 437.

45 (d) "Average adjusted occupancy rate" shall be calculated as follows:

46 (i) Calculate the number of adjusted patient days during the most recent, consecutive 36-month
47 period, as of the date of the application, for which verifiable data are available to the Department.

48 (ii) Calculate the total licensed bed days for the same 36-month period as in (i) above by multiplying
49 the total licensed beds by the number of days they were licensed.

50 (iii) Divide the number of adjusted patient days calculated in (i) above by the total licensed bed days
51 calculated in (ii) above, then multiply the result by 100.

52 (d) "Base year" means the most recent year that final MIDB data is available to the Department

53 ~~unless a different year is determined to be more appropriate by the Commission.~~

- 54 (e) "Certificate of Need Commission" or "Commission" means the Commission created pursuant to
55 Section 22211 of the code, being Section 333.22211 of the Michigan Compiled Laws.
- 56 (f) "Close a hospital" means an applicant will demonstrate to the satisfaction of the Department that a
57 hospital licensed under Part 215, and whose licensed capacity for the most recent 24 months prior to
58 submission of the application was at least 80 percent for acute care beds, will close and surrender its
59 acute care hospital license upon completion of the proposed project.
- 60 (g) "Code" means Act No. 368 of the Public Acts of 1978, as amended, being Section 333.1101 et
61 seq. of the Michigan Compiled Laws.
- 62 (h) "Common ownership or control" means a hospital that is owned by, is under common control of,
63 or has a common parent as the applicant hospital.
- 64 (i) "Compare group" means the applications that have been grouped for the same type of project in
65 the same hospital group and are being reviewed comparatively in accordance with the CON rules.
- 66 (j) "Department" means the Michigan Department of Community Health (MDCH).
- 67 (k) "Department inventory of beds" means the current list maintained for each hospital group on a
68 continuing basis by the Department of (i) licensed hospital beds and (ii) hospital beds approved by a valid
69 CON issued under either Part 221 or Part 222 of the Code that are not yet licensed. The term does not
70 include hospital beds certified for long-term-care in hospital long-term care units.
- 71 (l) "Disproportionate share hospital payments" means the most recent payments to hospitals in the
72 special pool for non-state government-owned or operated hospitals to assure funding for costs incurred by
73 public facilities providing inpatient hospital services which serve a disproportionate number of low-income
74 patients with special needs as calculated by the Medical Services Administration within the Department.
- 75 (m) "Excluded hospitals" means hospitals in the following categories:
- 76 (i) Critical access hospitals designated by CMS pursuant to 42 CFR 485.606
- 77 (ii) Hospitals located in rural or micropolitan statistical area counties
- 78 (iii) LTAC AND INPATIENT REHABILITATION FACILITY hospitals
- 79 (iv) Sole community hospitals designated by CMS pursuant to 42 CFR 412.92
- 80 (v) Hospitals with 25 or fewer licensed beds
- 81 (n) "Existing hospital beds" means, for a specific hospital group, the total of all of the following: (i)
82 hospital beds licensed by the Department of Licensing and Regulatory Affairs or its successor; (ii) hospital
83 beds with valid CON approval but not yet licensed; (iii) proposed hospital beds under appeal from a final
84 decision of the Department; and (iv) proposed hospital beds that are part of a completed application under
85 Part 222 (other than the application under review) for which a proposed decision has been issued and
86 which is pending final Department decision.
- 87 (o) "Gross hospital revenues" means the hospital's revenues as stated on the most recent Medicare
88 and Michigan Medicaid forms filed with the Medical Services Administration within the Department.
- 89 (p) "Health service area" OR "HSA" means the groups of counties listed in Appendix A.
- 90 (q) "Hospital bed" means a bed within the licensed bed complement at a licensed site of a hospital
91 licensed under Part 215 of the Code, excluding (i) hospital beds certified for long-term care as defined in
92 Section 20106(6) of the Code and (ii) unlicensed newborn bassinets.
- 93 (r) "Hospital" means a hospital as defined in Section 20106(5) of the Code being Section
94 333.20106(5) of the Michigan Compiled Laws and licensed under Part 215 of the Code. The term does
95 not include a hospital or hospital unit licensed or operated by the Department of Mental Health.
- 96 (s) "Hospital group" means a cluster or grouping of hospitals based on geographic proximity and
97 hospital utilization patterns. The list of hospital groups and the hospitals assigned to each hospital group
98 will be posted on the State OF Michigan CON web site and will be updated pursuant to Section 3.
- 99 (t) "Hospital long-term-care unit" or "HLTCU" means a nursing care unit, owned or operated by and
100 as part of a hospital, licensed by the Department, and providing organized nursing care and medical
101 treatment to 7 or more unrelated individuals suffering or recovering from illness, injury, or infirmity.
- 102 (u) "Host hospital" means a licensed and operating hospital, which delicenss hospital beds, and
103 which leases patient care space and other space within the physical plant of the host hospital, to allow an
104 LTAC hospital, INPATIENT REHABILITATION FACILITY HOSPITAL, or alcohol and substance abuse
105 hospital, to begin operation.
- 106 (v) "INPATIENT REHABILITATION FACILITY HOSPITAL" OR "IRF HOSPITAL" MEANS A
107 HOSPITAL THAT HAS BEEN APPROVED TO PARTICIPATE IN THE TITLE XVIII (MEDICARE)

108 | PROGRAM AS A PROSPECTIVE PAYMENT SYSTEM (PPS) EXEMPT INPATIENT REHABILITATION
109 | HOSPITAL IN ACCORDANCE WITH 42 CFR PART 412 SUBPART P.

110 | (v) "Licensed site" means the location of the facility authorized by license and listed on that licensee's
111 | certificate of licensure.

112 | (w) "Limited access area" means those underserved areas with a patient day demand that meets or
113 | exceeds the state-wide average of patient days used per 50,000 residents in the base year and as
114 | identified in Appendix D. Limited access areas shall be redetermined when a new hospital has been
115 | approved or an existing hospital closes.

116 | (x) "Long-term (acute) care hospital" or "LTAC hospital" means a hospital has been approved to
117 | participate in the Title XVIII (Medicare) program as a prospective payment system (PPS) exempt hospital
118 | in accordance with 42 CFR Part 412 SUBPART O.

119 | (y) "Medicaid" means title XIX of the social security act, chapter 531, 49 Stat. 620, 1396 to 1396g and
120 | 1396i to 1396u.

121 | (z) "Medicaid volume" means the number of Medicaid recipients served at the hospital as stated on
122 | the most recent Medicare and Michigan Medicaid forms filed with the Medical Services Administration
123 | within the Department.

124 | (aa) "Michigan Inpatient Data Base" or "MIDB" means the data base compiled by the Michigan Health
125 | and Hospital Association or successor organization. The data base consists of inpatient discharge
126 | records from all Michigan hospitals and Michigan residents discharged from hospitals in border states for
127 | a specific calendar year.

128 | (bb) "New beds in a hospital" means hospital beds that meet at least one of the following: (i) are not
129 | currently licensed as hospital beds, (ii) are currently licensed hospital beds at a licensed site in one
130 | hospital group which are proposed for relocation in a different hospital group as determined by the
131 | Department pursuant to Section 3 of these standards, (iii) are currently licensed hospital beds at a
132 | licensed site in one hospital group which are proposed for relocation to another geographic site which is in
133 | the same hospital group as determined by the Department, but which are not in the replacement zone, or
134 | (iv) are currently licensed hospital beds that are proposed to be licensed as part of a new hospital in
135 | accordance with Section 6(2) of these standards.

136 | (cc) "New hospital" means one of the following: (i) the establishment of a new facility that shall be
137 | issued a new hospital license, (ii) for currently licensed beds, the establishment of a new licensed site that
138 | is not in the same hospital group as the currently licensed beds, (iii) currently licensed hospital beds at a
139 | licensed site in one hospital group which are proposed for relocation to another geographic site which is in
140 | the same hospital group as determined by the Department, but which are not in the replacement zone, or
141 | (iv) currently licensed hospital beds that are proposed to be licensed as part of a new hospital in
142 | accordance with section 6(2) of these standards.

143 | (dd) "Obstetrics patient days of care" means inpatient days of care for patients in the applicant's
144 | Michigan Inpatient Data Base data ages 15 through 44 with ~~drgs-DRGs~~ 370 through 375 (obstetrical
145 | discharges).

146 | (ee) "Overbedded hospital group" means a hospital group in which the total number of existing hospital
147 | beds in that hospital group exceeds the hospital group needed hospital bed supply.

148 | (ff) "Pediatric patient days of care" means inpatient days of care for patients in the applicant's
149 | Michigan Inpatient Data Base data ages 0 through 14 excluding normal newborns.

150 | (gg) "Planning year" means five years beyond the base year, ~~established by the CON Commission,~~ for
151 | which hospital bed need is developed, ~~unless a different year is determined to be more appropriate by the~~
152 | ~~Commission.~~

153 | (hh) "Qualifying project" means each application in a comparative group which has been reviewed
154 | individually and has been determined by the Department to have satisfied all of the requirements of
155 | Section 22225 of the code, being section 333.22225 of the Michigan Compiled Laws and all other
156 | applicable requirements for approval in the Code or these Standards.

157 | (ii) "Relocate existing licensed hospital beds" for purposes of sections 6(3) and 8 of these standards,
158 | means a change in the location of existing hospital beds from the existing licensed hospital site to a
159 | different existing licensed hospital site within the same hospital group or HSA. This definition does not
160 | apply to projects involving replacement beds in a hospital governed by Section 7 of these standards.

- 161 (jj) "Remaining patient days of care" means total inpatient days of care in the applicant's Michigan
162 Inpatient Data Base data minus obstetrics patient days of care and pediatric patient days of care.
- 163 (kk) "Replace beds" means a change in the location of the licensed hospital, ~~or~~ the replacement of a
164 portion of the licensed beds at the same licensed site, OR THE ONE-TIME REPLACEMENT OF LESS
165 THAN 50% OF THE LICENSED BEDS TO A NEW SITE WITHIN 250 YARDS OF THE BUILDING ON
166 THE LICENSED SITE CONTAINING MORE THAN 50% OF THE LICENSED BEDS, WHICH MAY
167 INCLUDE A NEW SITE ACROSS A HIGHWAY(S) OR STREET(S) AS DEFINED IN MCL 257.20 AND
168 EXCLUDES A NEW SITE ACROSS A LIMITED ACCESS HIGHWAY AS DEFINED IN MCL 257.26. The
169 hospital beds will be in new physical plant space being developed in new construction or in newly acquired
170 space (purchase, lease, donation, etc.) within the replacement zone.
- 171 (ll) "Replacement zone" means a proposed licensed site that is (i) in the same hospital group as the
172 existing licensed site as determined by the Department in accord with Section 3 of these standards and (ii)
173 on the same site, on a contiguous site, or on a site within 2 miles of the existing licensed site if the existing
174 licensed site is located in a county with a population of 200,000 or more, or on a site within 5 miles of the
175 existing licensed site if the existing licensed site is located in a county with a population of less than
176 200,000.
- 177 (mm) "Uncompensated care volume" means the hospital's uncompensated care volume as stated on
178 the most recent Medicare and Michigan Medicaid forms filed with the Medical Services Administration
179 within the Department.
- 180 (nn) "Underserved area" means those geographic areas not within 30 minute drive time of an existing
181 licensed acute care hospital with 24 hour/7 days a week emergency room services utilizing the most direct
182 route using the lowest speed limits posted as defined by the Michigan Department of Transportation
183 (MDOT).
- 184 (oo) "Use rate" means the number of days of inpatient care per 1,000 population during a one-year
185 period.

186
187 (2) The definitions in Part 222 shall apply to these standards.

188 **Section 3. Hospital groups**

189
190
191 Sec. 3. Each existing hospital is assigned to a hospital group pursuant to subsection (1).

192
193 (1) These hospital groups and the assignments of hospitals to hospital groups shall be updated by
194 the Department every five years or at the direction of the Commission. The methodology described in
195 "New Methodology for Defining Hospital Groups" by Paul I. Delamater, Ashton M. Shortridge, and Joseph
196 P. Messina, 2011 shall be used as follows:

197 (a) For each hospital, calculate the patient day commitment index (%C – a mathematical computation
198 where the numerator is the number of inpatient hospital days from a specific geographic area provided by
199 a specified hospital and the denominator is the total number of patient days provided by the specified
200 hospital using MIDB data) for all Michigan zip codes using the summed patient days from the most recent
201 three years of MIDB data. Include only those zip codes found in each year of the most recent three years
202 of MIDB data. Arrange observations in an origin-destination table such that each hospital is an origin
203 (row) and each zip code is a destination (column) and include only hospitals with inpatient records in the
204 MIDB.

205 (b) For each hospital, calculate the road distance to all other hospitals. Arrange observations in an
206 origin-destination table such that each hospital is an origin (row) and each hospital is also a destination
207 (column).

208 (c) Rescale the road distance origin-destination table by dividing every entry in the road distance
209 origin-destination table by the maximum distance between any two hospitals.

210 (d) Append the road distance origin-destination table to the %C origin-destination table (by hospital)
211 to create the input data matrix for the clustering algorithm.

212 (e) Group hospitals into clusters using the k-means clustering algorithm with initial cluster centers
213 provided by a wards hierarchical clustering method. Iterate over all cluster solutions from 2 to the number
214 of hospitals (n) minus 1.

215 (i) For each cluster solution, record the group membership of each hospital, the cluster center
216 location for each of the clusters, the r^2 value for the overall cluster solution, the number of single hospital
217 clusters, and the maximum number of hospitals in any cluster.

218 (ii) "k-means clustering algorithm" means a method for partitioning observations into a user-specified
219 number of groups. It is a standard algorithm with a long history of use in academic and applied research.
220 The approach identifies groups of observations such that the sum of squares from points to the assigned
221 cluster centers is minimized, i.e., observations in a cluster are more similar to one another than they are
222 to other clusters. Several k-means implementations have been proposed; the bed need methodology
223 uses the widely-adopted Hartigan-Wong algorithm. Any clustering or data mining text will discuss k-
224 means; one example is B.S. Everitt, S. Landau, M. Leese, & D. Stahl (2011) Cluster Analysis, 5th Edition.
225 Wiley, 346 p.

226 (iii) "Wards hierarchical clustering method" means a method for clustering observations into groups.
227 This method uses a binary tree structure to sequentially group data observations into clusters, seeking to
228 minimize overall within-group variance. In the bed need methodology, this method is used to identify the
229 starting cluster locations for k-means. Any clustering text will discuss hierarchical cluster analysis,
230 including Ward's method; one example is: G. Gan, C. Ma, & J. Wu (2007) Data Clustering: Theory,
231 Algorithms, and Applications (Asa-Siam Series on Statistics and Applied Probability). Society for Industrial
232 and Applied Mathematics (Siam), 466 p.

233 (f) Calculate the incremental F score (F_{inc}) for each cluster solution (i) between 3 and $n-1$ letting:

234 $r_i^2 = r^2$ of solution i

235 $r_{i-1}^2 = r^2$ of solution i-1

236 $k_i =$ number of clusters in solution i

237 $k_{i-1} =$ number of clusters in solution i-1

238 $n =$ total number of hospitals

239 where:
$$F_{inc,i} = \frac{\left(\frac{r_i^2 - r_{i-1}^2}{k_i - k_{i-1}} \right)}{\left(\frac{1 - r_i^2}{n - (k_i - 1)} \right)}$$

240 (g) Select candidate solutions by finding those with peak values in f_{inc} scores such that $f_{inc,i}$ is greater
241 than both $f_{inc,i-1}$ and $f_{inc,i+1}$.

242 (h) Remove all candidate solutions in which the largest single cluster contains more than 20
243 hospitals.

244 (i) Identify the minimum number of single hospital clusters from the remaining candidate solutions.
245 Remove all candidate solutions containing a greater number of single hospital clusters than the identified
246 minimum.

247 (j) From the remaining candidate solutions, choose the solution with the largest number of clusters

248 (k). This solution (k clusters) is the resulting number and configuration of the hospital groups.

249 (k) Rename hospital groups as follows:

250 (i) For each hospital group, identify the HSA in which the maximum number of hospitals are located.
251 In case of a tie, use the HSA number that is lower.

252 (ii) For each hospital group, sum the number of current licensed hospital beds for all hospitals.

253 (iii) Order the groups from 1 to k by first sorting by HSA number, then sorting within each HSA by the
254 sum of beds in each hospital group. The hospital group name is then created by appending number in
255 which it is ordered to "hg" (e.g., hg1, hg2, ... hgk).

256 (iv) Hospitals that do not have patient records in the MIDB - identified in subsection (1)(a) - are
257 designated as "ng" for non-groupable hospitals.

258
259 (2) For an application involving a proposed new licensed site for a hospital (whether new or
260 replacement), the proposed new licensed site shall be assigned to an existing hospital group utilizing the
261 methodology described in "A Methodology for Defining Hospital Groups" by Paul L. Delamater, Ashton M.
262 Shortridge, and Joseph P. Messina, 2011 as follows:

- 263 (a) Calculate the road distance from proposed new site (s) to all existing hospitals, resulting in a list of
 264 n observations (s_n).
- 265 (b) Rescale s_n by dividing each observation by the maximum road distance between any two
 266 hospitals identified in subsection (1)(c).
- 267 (c) For each hospital group, subset the cluster center location identified in subsection (1)(e)(i) to only
 268 the entries corresponding to the road distance between hospitals. For each hospital group, the result is a
 269 list of n observations that define each hospital group's central location in relative road distance.
- 270 (d) Calculate the distance ($d_{k,s}$) between the proposed new site and each existing hospital group
 271 where: $d_{k,s} = \sqrt{(HG_{k,1} - s_1)^2 + (HG_{k,2} - s_2)^2 + (HG_{k,3} - s_3)^2 + \dots + (HG_{k,n} - s_n)^2}$
- 272 (e) Assign the proposed new site to the closest hospital group (HG k) by selecting the minimum value
 273 of $d_{k,s}$.
- 274 (f) If there is only a single applicant, then the assignment procedure is complete. If there are
 275 additional applicants, then steps (a) – (e) must be repeated until all applicants have been assigned to an
 276 existing hospital group.
- 277
- 278 (3) The Department shall amend the hospital groups to reflect: (a) approved new licensed site(s)
 279 assigned to a specific hospital group; (b) hospital closures; and (c) licensure action(s) as appropriate.
 280
- 281 (4) As directed by the Commission, new hospital group assignments established according to
 282 subsection (1) shall supersede the previous subarea/hospital group assignments and shall be posted on
 283 the State of Michigan CON web site effective on the date determined by the Commission.
 284

285 **Section 4. Determination of the needed hospital bed supply**

- 286
- 287 Sec. 4. (1) The determination of the needed hospital bed supply for a hospital group for a planning
 288 year shall be made using the MIDB and the methodology detailed in "New Methodology for Determining
 289 Needed Hospital Bed Supply" by Paul L. Delamater, Ashton M. Shortridge, and Joseph P. Messina, 2011
 290 as follows:
- 291 (a) All hospital discharges for normal newborns (DRG 391 prior to 2008, DRG 795 thereafter) and
 292 psychiatric patients (ICD-9-CM codes 290 through 319, see Appendix E for ICD-10-CM Codes, as a
 293 principal diagnosis) will be excluded.
- 294 (b) For each county, compile the monthly patient days used by county residents for the previous five
 295 years (base year plus previous four years). Compile the monthly patient days used by non-Michigan
 296 residents in Michigan hospitals for the previous five years as an "out-of-state" unit. The out-of-state
 297 patient days unit is considered an additional county thereafter. Patient days are to be assigned to the
 298 month in which the patient was discharged. For patient records with an unknown county of residence,
 299 assign patient days to the county of the hospital where the patient received service.
- 300 (c) For each county, calculate the monthly patient days for all months in the planning year. For each
 301 county, construct an ordinary least squares linear regression model using monthly patient days as the
 302 dependent variable and months (1-60) as the independent variable. If the linear regression model is
 303 significant at a 90% confidence level (F-score, two tailed p value ≤ 0.1), predict patient days for months
 304 109-120 using the model coefficients. If the linear regression model is not significant at a 90% confidence
 305 level (F-score, two tailed p value > 0.1), calculate the predicted monthly patient day demand in the
 306 planning year by finding the monthly average of the three previous years (months 25-60).
- 307 (d) For each county, calculate the predicted yearly patient day demand in the planning year. For
 308 counties with a significant regression model, sum the monthly predicted patient days for the planning year.
 309 For counties with a non-significant regression model, multiply the three year monthly average by 12.
- 310 (e) For each county, calculate the base year patient day commitment index (%c) to each hospital
 311 group. Specifically, divide the base year patient days from each county to each hospital group by the total
 312 number of base year patient days from each county.
- 313 (f) For each county, allocate the planning year patient days to the hospital groups by multiplying the
 314 planning year patient days by the %c to each hospital group from subsection (e).
- 315 (g) For each hospital group, sum the planning year patient days allocated from each county.

316 (h) For each hospital group, calculate the average daily census (ADC) for the planning year by
317 dividing the planning year patient days by 365. Round each ADC value up to the nearest whole number.
318 (i) For each hospital group, select the appropriate occupancy rate from the occupancy table in
319 Appendix C.
320 (j) For each hospital group, calculate the planning year bed need by dividing the planning year ADC
321 by the appropriate occupancy rate. Round each bed need value up to the nearest whole number.
322

323 (2) The determination of the needed hospital bed supply for a limited access area shall be made
324 using the MIDB and the methodology detailed in "A Methodology for Determining Needed Hospital Bed
325 Supply" by Paul L. Delamater, Ashton M. Shortridge, And Joesph P. Messina, 2011 as follows:

326 (a) All hospital discharges for normal newborns (DRG 391 prior to 2008, DRG 795 thereafter) and
327 psychiatric patients (ICD-9-CM codes 290 through 319, see Appendix E for ICD-10-CM Codes, as a
328 principal diagnosis) will be excluded.

329 (b) Calculate the average patient day use rate of Michigan residents. Sum total patient days of
330 Michigan residents in the base year and divide by estimated base year population for the state (population
331 data available from US Census Bureau).

332 (c) Calculate the minimum number of patient days for designation of a limited access area by
333 multiplying the average patient day use rate by 50,000. Round up to the nearest whole number.

334 (d) Follow steps outlined in Section 4(1)(b) – (d) to predict planning year patient days for each
335 underserved area. Round up to the nearest whole number. The patient days for each underserved area
336 are defined as the sum of the zip codes corresponding to each underserved area.

337 (e) For each underserved area, compare the planning year patient days to the minimum number of
338 patient days for designation of a limited access area calculated in (c). Any underserved area with a
339 planning year patient day demand greater than or equal to the minimum is designated as a limited access
340 area.

341 (f) For each limited access area, calculate the planning year bed need using the steps outlined in
342 Section 4(1)(h) – (j). For these steps, use the planning year patient days for each limited access area.
343

344 **Section 5. Bed Need**

345
346 Sec. 5. (1) The bed-need numbers shall apply to projects subject to review under these standards,
347 except where a specific CON review standard states otherwise.
348

349 (2) The Department shall re-calculate the acute care bed need methodology in Section 4 every two
350 years, or as directed by the Commission.
351

352 ~~(3) The Commission shall designate the base year and the future planning year which shall be utilized~~
353 ~~in applying the methodology pursuant to subsection (2).~~
354

355 ~~—(4)—~~The effective date of the bed-need numbers shall be established by the Commission.
356

357 ~~(54)~~ New bed-need numbers established by subsections (2) and (3) shall supersede PREVIOUS bed-
358 need numbers and shall be posted on the State Of Michigan CON web site as part of the hospital bed
359 inventory.
360

361 ~~(65)~~ Modifications made by the Commission pursuant to this section shall not require standard
362 advisory committee action, a public hearing, or submittal of the standard to the legislature and the
363 governor in order to become effective.
364

365 **Section 6. Requirements for approval -- new beds in a hospital**

366
367 Sec. 6. (1) An applicant proposing new beds in a hospital, except an applicant meeting the
368 requirements of subsection 2, 3, 4, or 5 shall demonstrate that it meets all of the following:

369 (a) The new beds in a hospital shall result in a hospital of at least 200 beds in a metropolitan
370 statistical area county or 25 beds in a rural or micropolitan statistical area county. This subsection may be
371 waived by the Department if the Department determines, in its sole discretion, that a smaller hospital is
372 necessary or appropriate to assure access to health-care services.

373 (b) The total number of existing hospital beds in the hospital group to which the new beds will be
374 assigned does not currently exceed the needed hospital bed supply. The Department shall determine the
375 hospital group to which the beds will be assigned in accord with Section 3 of these standards.

376 (c) Approval of the proposed new beds in a hospital shall not result in the total number of existing
377 hospital beds, in the hospital group to which the new beds will be assigned, exceeding the needed hospital
378 bed supply. The Department shall determine the hospital group to which the beds will be assigned in
379 accord with Section 3 of these standards.

380
381 (2) An applicant proposing to begin operation as a new LTAC hospital, IRF HOSPITAL or alcohol and
382 substance abuse hospital within an existing licensed, host hospital shall demonstrate that it meets all of
383 the requirements of this subsection:

384 (a) If the LTAC OR IRF hospital applicant described in this subsection does not meet the Title XVIII
385 requirements of the Social Security Act for exemption from PPS as an LTAC OR IRF hospital within 12
386 months after beginning operation, then it may apply for a six-month extension in accordance with
387 R325.9403 of the CON rules. If the applicant fails to meet the Title XVIII requirements for PPS exemption
388 as an LTAC OR IRF hospital within the 12 or 18-month period, then the CON granted pursuant to this
389 section shall expire automatically.

390 (b) The patient care space and other space to establish the new hospital is being obtained through a
391 lease arrangement and renewal of a lease between the applicant and the host hospital. The initial,
392 renewed, or any subsequent lease shall specify at least all of the following:

393 (i) That the host hospital shall delicense the same number of hospital beds proposed by the
394 applicant for licensure in the new hospital or any subsequent application to add additional beds.

395 (ii) That the proposed new beds shall be for use in space currently licensed as part of the host
396 hospital.

397 (iii) That upon non-renewal and/or termination of the lease, upon termination of the license issued
398 under Part 215 of the act to the applicant for the new hospital, or upon noncompliance with the project
399 delivery requirements or any other applicable requirements of these standards, the beds licensed as part
400 of the new hospital must be disposed of by one of the following means:

401 (A) Relicensure of the beds to the host hospital. The host hospital must obtain a CON to acquire the
402 LTAC OR IRF hospital. In the event that the host hospital applies for a CON to acquire the LTAC OR IRF
403 hospital [including the beds leased by the host hospital to the LTAC OR IRF hospital] within six months
404 following the termination of the lease with the LTAC OR IRF hospital, it shall not be required to be in
405 compliance with the hospital bed supply if the host hospital proposes to add the beds of the LTAC OR IRF
406 hospital to the host hospital's medical/surgical licensed capacity and the application meets all other
407 applicable project delivery requirements. The beds must be used for general medical/surgical purposes.
408 Such an application shall not be subject to comparative review and shall be processed under the
409 procedures for non-substantive review (as this will not be considered an increase in the number of beds
410 originally licensed to the applicant at the host hospital);

411 (B) Delicensure of the hospital beds; or

412 (C) Acquisition by another entity that obtains a CON to acquire the new hospital in its entirety and that
413 entity must meet and shall stipulate to the requirements specified in Section 6(2).

414 (c) The applicant or the current licensee of the new hospital shall not apply, initially or subsequently,
415 for CON approval to initiate any other CON covered clinical services; provided, however, that this section
416 is not intended, and shall not be construed in a manner which would prevent the licensee from contracting
417 and/or billing for medically necessary covered clinical services required by its patients under arrangements
418 with its host hospital or any other CON approved provider of covered clinical services.

419 (d) The new licensed hospital shall remain within the host hospital.

420 (e) The new hospital shall be assigned to the same hospital group as the host hospital.

421 (f) The proposed project to begin operation of a new hospital, under this subsection, shall constitute
422 a change in bed capacity under Section 1(2) of these standards.

423 (g) The lease will not result in an increase in the number of licensed hospital beds in the hospital
424 group.

425 (h) Applications proposing a new hospital under this subsection shall not be subject to comparative
426 review.

427

428 (3) An applicant proposing to add new hospital beds, as the receiving licensed hospital under Section
429 8, shall demonstrate that it meets all of the requirements of this subsection and shall not be required to be
430 in compliance with the needed hospital bed supply if the application meets all other applicable CON review
431 standards and agrees and assures to comply with all applicable project delivery requirements.

432 (a) The approval of the proposed new hospital beds shall not result in an increase in the number of
433 licensed hospital beds as follows:

434 (i) In the hospital group pursuant to Section 8(2)(a), or
435 (ii) in the HSA pursuant to Section 8(2)(b).

436 (b) Where the source hospital was subject to Section 8(3)(b), the receiving hospital shall have an
437 average adjusted occupancy rate of 40 percent or above.

438 (c) Where the source hospital was subject to Section 8(3)(b), the addition of the proposed new
439 hospital beds at the receiving hospital shall not exceed the number determined by the following
440 calculation:

441 (i) As of the date of the application, calculate the adjusted patient days for the most recent,
442 consecutive 36-month period where verifiable data is available to the Department, and divide by .40.
443 (ii) Divide the result of subsection (i) by 1095 (or 1096, if the 36-month period includes a leap year)
444 and round up to next whole number or 25, whichever is larger. This is the maximum number of beds that
445 can be licensed at the receiving hospital.

446 (iii) Subtract the receiving hospital's total number of licensed beds and approved beds from the result
447 of subsection (ii). This is the maximum number of beds that can be added to the receiving hospital.

448 (d) Where the source hospital was subject to Section 8(3)(b), the receiving hospital's average
449 adjusted occupancy rate must not be less than 40 percent after the addition of the proposed new hospital
450 beds.

451 (e) Subsection (3)(b), (c), and (d) shall not apply to excluded hospitals.

452 (f) The proposed project to add new hospital beds, under this subsection, shall constitute a change in
453 bed capacity under Section 1(2) of these standards.

454 (g) Applicants proposing to add new hospital beds under this subsection shall not be subject to
455 comparative review.

456

457 (4) An applicant may apply for the addition of new beds if all of the following subsections are met.
458 Further, an applicant proposing new beds at an existing licensed hospital site shall not be required to be in
459 compliance with the needed hospital bed supply if the application meets all other applicable CON review
460 standards and agrees and assures to comply with all applicable project delivery requirements.

461 (a) The beds are being added at the existing licensed hospital site.

462 (b) The hospital at the existing licensed hospital site has operated at an adjusted occupancy rate of
463 80 percent or above for the previous, consecutive 24 months based on its licensed and approved hospital
464 bed capacity. The adjusted occupancy rate shall be calculated as follows:

465 (i) Calculate the number of adjusted patient days during the most recent, consecutive 24-month
466 period for which verifiable data are available to the Department.

467 (ii) Divide the number calculated in (i) above by the total possible patient days [licensed and approved
468 hospital beds multiplied by 730 (or 731 if including a leap year)]. This is the adjusted occupancy rate.

469 (c) The number of beds that may be approved pursuant to this subsection shall be the number of
470 beds necessary to reduce the adjusted occupancy rate for the hospital to 75 percent. The number of beds
471 shall be calculated as follows:

472 (i) Divide the number of adjusted patient days calculated in subsection (b)(i) by .75 to determine
473 licensed bed days at 75 percent occupancy.

474 (ii) Divide the result of step (i) by 730 (or 731 if including a leap year) and round the result up to the
475 next whole number.

476 (iii) Subtract the number of licensed and approved hospital beds as documented on the "Department
477 Inventory of Beds" from the result of step (ii) and round the result up to the next whole number to
478 determine the maximum number of beds that may be approved pursuant to this subsection.

479 (d) A licensed acute care hospital that has relocated its beds, after the effective date of these
480 standards, shall not be approved for hospital beds under this subsection for five years from the effective
481 date of the relocation of beds.

482 (e) Applicants proposing to add new hospital beds under this subsection shall not be subject to
483 comparative review.

484 (f) Applicants proposing to add new hospital beds under this subsection shall demonstrate to the
485 Department that they have pursued a good faith effort to relocate acute care beds from other licensed
486 acute care hospitals within the HSA. At the time an application is submitted to the Department, the
487 applicant shall demonstrate that contact was made by one certified mail return receipt for each
488 organization contacted.

489
490 (5) An applicant proposing a new hospital in a limited access area shall not be required to be in
491 compliance with the needed hospital bed supply if the application meets all other applicable CON review
492 standards, agrees and assures to comply with all applicable project delivery requirements, and all of the
493 following subsections are met.

494 (a) The proposed new hospital, unless a critical access hospital, shall have 24 hour/7 days a week
495 emergency services, obstetrical services, surgical services, and licensed acute care beds.

496 (b) The Department shall assign the proposed new hospital to an existing hospital group based on
497 the current market use patterns of existing hospital groups.

498 (c) Approval of the proposed new beds in a hospital in a limited access area shall not exceed the bed
499 need for the limited access area as determined by the bed need methodology in Section 4 and as set forth
500 in Appendix D.

501 (d) The new beds in a hospital in a limited access area shall result in a hospital of at least 100 beds in
502 a metropolitan statistical area county or 50 beds in a rural or micropolitan statistical area county. If the
503 bed need for a limited access area, as shown in Appendix D, is less, then that will be the minimum
504 number of beds for a new hospital under this provision. If an applicant for new beds in a hospital under
505 this provision simultaneously applies for status as a critical access hospital, the minimum hospital size
506 shall be that number allowed under state/federal critical access hospital designation.

507 (e) Applicants proposing to create a new hospital under this subsection shall not be approved, for a
508 period of five years after beginning operation of the facility, of the following covered clinical services: (i)
509 open heart surgery, (ii) therapeutic cardiac catheterization, (iii) fixed positron emission tomography (PET)
510 services, (iv) all transplant services, (v) neonatal intensive care services/beds, and (vi) fixed urinary
511 extracorporeal shock wave lithotripsy (UESWL) services.

512 (f) Applicants proposing to add new hospital beds under this subsection shall be prohibited from
513 relocating the new hospital beds for a period of 10 years after beginning operation of the facility.

514 (g) An applicant proposing to add a new hospital pursuant to this subsection shall locate the new
515 hospital as follows:

516 (i) In a metropolitan statistical area county, an applicant proposing to add a new hospital pursuant to
517 this subsection shall locate the new hospital within the limited access area and serve a population of
518 50,000 or more inside the limited access area and within 30 minutes drive time from the proposed new
519 hospital.

520 (ii) In a rural or micropolitan statistical area county, an applicant proposing to add a new hospital
521 pursuant to this subsection shall locate the new hospital within the limited access area and serve a
522 population of 50,000 or more inside the limited access area and within 60 minutes drive time from the
523 proposed new hospital.

524 **Section 7. Requirements for approval to replace beds**

525
526
527 Sec. 7. (1) If the application involves the development of a new licensed site, an applicant proposing
528 to replace beds in a hospital within the replacement zone shall demonstrate that the new beds in a
529 hospital shall result in a hospital of at least 200 beds in a metropolitan statistical area county or 25 beds in

530 a rural or micropolitan statistical area county. This subsection may be waived by the Department if the
531 Department determines, in its sole discretion, that a smaller hospital is necessary or appropriate to assure
532 access to health-care services.

533
534 (2) The applicant shall specify whether the proposed project is to replace the licensed hospital to a
535 new site, ~~or~~ to replace a portion of the licensed beds at the existing licensed site, OR THE ONE-TIME
536 REPLACEMENT OF LESS THAN 50% OF THE LICENSED BEDS TO A NEW SITE WITHIN 250 YARDS
537 OF THE BUILDING ON THE LICENSED SITE CONTAINING MORE THAN 50% OF THE LICENSED
538 BEDS, WHICH MAY INCLUDE A NEW SITE ACROSS A HIGHWAY(S) OR STREET(S) AS DEFINED IN
539 MCL 257.20 AND EXCLUDES A NEW SITE ACROSS A LIMITED ACCESS HIGHWAY AS DEFINED IN
540 MCL 257.26

541
542 (3) The applicant shall demonstrate that the new licensed site is in the replacement zone.

543
544 (4) The applicant shall comply with the following requirements, as applicable:
545 (a) The applicant's hospital shall have an average adjusted occupancy rate of 40 percent or above.
546 (b) If the applicant hospital does not have an average adjusted occupancy rate of 40 percent or
547 above, then the applicant hospital shall reduce the appropriate number of licensed beds to achieve an
548 average adjusted occupancy rate of 60 percent or above. The applicant hospital shall not exceed the
549 number of beds calculated as follows:

550 (i) As of the date of the application, calculate the number of adjusted patient days during the most
551 recent, consecutive 36-month period where verifiable data is available to the Department, and divide by
552 .60.

553 (ii) Divide the result of subsection (i) above by 1095 (or 1096 if the 36-month period includes a leap
554 year) and round up to the next whole number or 25, whichever is larger. This is the maximum number of
555 beds that can be licensed at the licensed hospital site after the replacement.

556 (c) Subsection (4)(a) and (b) shall not apply to excluded hospitals.

557
558 (5) An applicant proposing replacement beds in the replacement zone shall not be required to be in
559 compliance with the needed hospital bed supply if the application meets all other applicable CON review
560 standards and agrees and assures to comply with all applicable project delivery requirements.

561
562 **Section 8. Requirements for approval of an applicant proposing to relocate existing licensed**
563 **hospital beds**

564
565 Sec 8. (1) The proposed project to relocate beds, under this section, shall constitute a change in bed
566 capacity under Section 1(3) of these standards.

567
568 (2) Any existing licensed acute care hospital (source hospital) may relocate all or a portion of its beds
569 to another existing licensed acute care hospital as follows:

570 (a) The licensed acute care hospitals are located within the same hospital group, or

571 (b) the licensed acute care hospitals are located within the same HSA if the receiving hospital meets
572 the requirements of Section 6(4)(b) of these standards.

573
574 (3) The applicant shall comply with the following requirements, as applicable:

575 (a) The source hospital shall have an average adjusted occupancy rate of 40 percent or above.

576 (b) If the source hospital does not have an average adjusted occupancy rate of 40 percent or above,
577 then the source hospital shall reduce the appropriate number of licensed beds to achieve an average
578 adjusted occupancy rate of 60 percent or above upon completion of the relocation(s). The source hospital
579 shall not exceed the number of beds calculated as follows:

580 (i) As of the date of the application, calculate the number of adjusted patient days during the most
581 recent, consecutive 36-month period where verifiable data is available to the Department, and divide by
582 .60.

583 (ii) Divide the result of subsection (i) by 1095 (or 1096 if the 36-month period includes a leap year)
584 and round up to the next whole number or 25, whichever is larger. This is the maximum number of beds
585 that can be licensed at the source hospital site after the relocation.

586 (c) Subsections (3)(a) and (b) shall not apply to excluded hospitals.

587

588 (4) A source hospital shall apply for multiple relocations on the same application date, and the
589 applications can be combined to meet the criteria of (3)(b) above. A separate application shall be
590 submitted for each proposed relocation.

591

592 (5) The hospital from which the beds are being relocated, and the hospital receiving the beds, shall
593 not require any ownership relationship.

594

595 (6) The relocated beds shall be licensed to the receiving hospital and will be counted in the inventory
596 for the applicable hospital group.

597

598 (7) The relocation of beds under this section shall not be subject to a mileage limitation.

599

600 **Section 9. Project delivery requirements terms of approval for all applicants**

601

602 Sec. 9. An applicant shall agree that, if approved, the project shall be delivered in compliance with the
603 following terms of CON approval:

604

605 (1) Compliance with these standards.

606

607 (2) Compliance with the following quality assurance standards:

608 (a) The applicant shall assure compliance with Section 20201 of the Code, being Section 333.20201
609 of the Michigan Compiled Laws.

610

611 (3) Compliance with the following access to care requirements:

612 (a) An applicant shall participate in Medicaid at least 12 consecutive months within the first two years
613 of operation and continue to participate annually thereafter.

614 (b) The applicant, to assure appropriate utilization by all segments of the Michigan population, shall:

615 (i) Not deny services to any individual based on ability to pay or source of payment.

616 (ii) Maintain information by source of payment to indicate the volume of care from each payor and
617 non-payor source provided annually.

618 (iii) Provide services to any individual based on clinical indications of need for the services.

619

620 (4) Compliance with the following monitoring and reporting requirements:

621 (a) An applicant approved pursuant to Section 6(4) must achieve a minimum occupancy of 75
622 percent over the last 12-month period in the three years after the new beds are put into operation, and for
623 each subsequent calendar year, or the number of new licensed beds shall be reduced to achieve a
624 minimum of 75 percent average annual occupancy for the revised licensed bed complement.

625 (b) The applicant must submit documentation acceptable and reasonable to the Department, within
626 30 days after the completion of the 3-year period, to substantiate the occupancy rate for the last 12-month
627 period after the new beds are put into operation and for each subsequent calendar year, within 30 days
628 after the end of the year.

629 (c) The applicant shall participate in a data collection system established and administered by the
630 Department or its designee. The data may include, but is not limited to, annual budget and cost
631 information, operating schedules, through-put schedules, and demographic, morbidity, and mortality
632 information, as well as the volume of care provided to patients from all payor sources. The applicant shall
633 provide the required data on a separate basis for each licensed site; in a format established by the
634 Department, and in a mutually agreed upon media. The Department may elect to verify the data through
635 on-site review of appropriate records.

636 (d) The applicant shall participate and submit data to the Michigan Inpatient Data Base (MIDB). The
637 data shall be submitted to the Department or its designee.

638 (e) The applicant shall provide the Department with timely notice of the proposed project
639 implementation consistent with applicable statute and promulgated rules.

640
641 (5) The agreements and assurances required by this section shall be in the form of a certification
642 agreed to by the applicant or its authorized agent.

643
644 **Section 10. Rural, micropolitan statistical area, and metropolitan statistical area Michigan**
645 **counties**

646
647 ~~—Sec. 10. Rural, micropolitan statistical area, and metropolitan statistical area Michigan counties, for~~
648 ~~purposes of these standards, are incorporated as part of these standards as Appendix B. The~~
649 ~~Department may amend Appendix B as appropriate to reflect changes by the statistical policy office of the~~
650 ~~office of information and regulatory affairs of the United States office of management and budget.~~

651
652

653 | **Section 4110. Department inventory of beds**

654
655 | Sec. 4110. The Department shall maintain and provide on request a listing of the Department
656 inventory of beds for each hospital group.

657
658 | **Section 4211. Effect on prior planning policies; comparative reviews**

659
660 | Sec. 4211. (1) These CON review standards supersede and replace the CON standards for hospital
661 beds approved by the CON Commission on ~~June 14, 2012~~MARCH 18, 2014 and effective ~~September 28,~~
662 2012JUNE 2, 2014.

663
664 (2) Projects reviewed under these standards shall be subject to comparative review except those
665 projects meeting the requirements of Section 7 involving the replacement of beds in a hospital within the
666 replacement zone and projects involving acquisition (including purchase, lease, donation or comparable
667 arrangements) of a hospital.

668
669 | **Section 4312. Additional requirements for applications included in comparative reviews**

670
671 | Sec. 4312. (1) Except for those applications for limited access areas, any application for hospital
672 beds, that is subject to comparative review under Section 22229 of the Code, being Section 333.22229 of
673 the Michigan Compiled Laws, or under these standards shall be grouped and reviewed comparatively with
674 other applications in accordance with the CON rules.

675
676 (2) Each application in a comparative review group shall be individually reviewed to determine
677 whether the application is a qualifying project. If the Department determines that two or more competing
678 applications are qualifying projects, it shall conduct a comparative review. The Department shall approve
679 those qualifying projects which, when taken together, do not exceed the need, as defined in Section
680 22225(1) of the Code, and which have the highest number of points when the results of subsection (3) are
681 totaled. If two or more qualifying projects are determined to have an identical number of points, then the
682 Department shall approve those qualifying projects that, when taken together, do not exceed the need in
683 the order in which the applications were received by the Department based on the date and time stamp
684 placed on the applications by the department in accordance with rule 325.9123.

685
686 (3)(a) A qualifying project will be awarded points based on the percentile ranking of the applicant's
687 uncompensated care volume and as measured by percentage of gross hospital revenues as set forth in
688 the following table. The applicant's uncompensated care volume will be the cumulative of all currently
689 licensed Michigan hospitals under common ownership or control with the applicant that are located in the
690 same health service area as the proposed hospital beds. If a hospital under common ownership or control
691 with the applicant has not filed a Cost Report, then the related applicant shall receive a score of zero. The
692 source document for the calculation shall be the most recent Cost Report filed with the Department for
693 purposes of calculating disproportionate share hospital payments.

	<u>Percentile Ranking</u>	<u>Points Awarded</u>
695	90.0 – 100	25 pts
696	80.0 – 89.9	20 pts
697	70.0 – 79.9	15 pts
698	60.0 – 69.9	10 pts
699	50.0 – 59.9	5 pts

700
701
702 | Where an applicant proposes to close a hospital(s) as part of its application, data from the hospital(s) to
703 be closed shall be excluded from this calculation.

704 | (b) A qualifying project will be awarded points based on the health service area percentile rank of the
705 applicant's Medicaid volume as measured by percentage of gross hospital revenues as set forth in the

706 following table. For purposes of scoring, the applicant's Medicaid volume will be the cumulative of all
 707 currently licensed Michigan hospitals under common ownership or control with the applicant that are
 708 located in the same health service area as the proposed hospital beds. If a hospital under common
 709 ownership or control with the applicant has not filed a Cost Report, then the related applicant shall receive
 710 a score of zero. The source document for the calculation shall be the most recent Cost Report filed with
 711 the department for purposes of calculating disproportionate share hospital payments.
 712

	<u>percentile rank</u>	<u>points awarded</u>
713	87.5 – 100	20 pts
714	75.0 – 87.4	15 pts
715	62.5 – 74.9	10 pts
716	50.0 – 61.9	5 pts
717	less than 50.0	0 pts

719
 720 Where an applicant proposes to close a hospital(s) as part of its application, data from the hospital(s) to
 721 be closed shall be excluded from this calculation.

722 (c) A qualifying project shall be awarded points as set forth in the following table in accordance with
 723 its impact on inpatient capacity. If an applicant proposes to close a hospital(s), points shall only be
 724 awarded if (i) closure of that hospital(s) does not create a bed need in any hospital group as a result of its
 725 closing; (ii) the applicant stipulates that the hospital beds to be closed shall not be transferred to another
 726 location or facility; and (iii) the utilization (as defined by the average daily census over the previous 24-
 727 month period prior to the date that the application is submitted) of the hospital to be closed is at least
 728 equal to 50 percent of the size of the proposed hospital (as defined by the number of proposed new
 729 licensed beds).

	<u>Impact on Capacity</u>	<u>Points Awarded</u>
730	Closure of hospital(s)	25 pts
731	Closure of hospital(s) which creates a bed need	-15 pts

732
 733
 734
 735
 736 (d) A qualifying project will be awarded points based on the percentage of the applicant's historical
 737 market share of inpatient discharges of the population in an area which will be defined as that area
 738 circumscribed by the proposed hospital locations defined by all of the applicants in the comparative review
 739 process under consideration. This area will include any zip code completely within the area as well as any
 740 zip code which touches, or is touched by, the lines that define the area included within the figure that is
 741 defined by the geometric area resulting from connecting the proposed locations. In the case of two
 742 locations or one location or if the exercise in geometric definition does not include at least ten zip codes,
 743 the market area will be defined by the zip codes within the county (or counties) that includes the proposed
 744 site (or sites). Market share used for the calculation shall be the cumulative market share of the
 745 population residing in the set of above-defined zip codes of all currently licensed Michigan hospitals under
 746 common ownership or control with the applicant, which are in the same health service area.

	<u>Percent</u>	<u>Points Awarded</u>
747	% of market share	% of market share served x 30 (total pts. awarded)

748
 749
 750
 751
 752 The source for calculations under this criterion is the MIDB.
 753
 754

755 | **Section 4413. Review standards for comparative review of a limited access area**

756

757 | Sec. 4413. (1) Any application subject to comparative review, under Section 22229 of the Code,
758 being Section 333.22229 of the Michigan Compiled Laws, or under these standards, shall be grouped and
759 reviewed comparatively with other applications in accordance with the CON rules.

760

761 (2) Each application in a comparative group shall be individually reviewed to determine whether the
762 application has satisfied all the requirements of Section 22225 of the Code, being Section 333.22225 of
763 the Michigan Compiled Laws and all other applicable requirements for approval in the Code and these
764 standards. If the Department determines that two or more competing applications satisfy all of the
765 requirements for approval, these projects shall be considered qualifying projects. The Department shall
766 approve those qualifying projects which, when taken together, do not exceed the need, as defined in
767 Section 22225(1) of the Code, being Section 333.22225(1) of the Michigan Compiled Laws, and which
768 have the highest number of points when the results of subsection (3) are totaled. If two or more qualifying
769 projects are determined to have an identical number of points, then the Department shall approve those
770 qualifying projects, when taken together, that do not exceed the need, as defined in Section 22225(1) in
771 the order in which the applications were received by the Department based on the date and time stamp
772 placed on the application by the Department when the application is filed.

773

774 (3)(a) A qualifying project will be awarded points based on the percentile ranking of the applicant's
775 uncompensated care volume as measured by percentage of gross hospital revenues as set forth in the
776 following table. For purposes of scoring, the applicant's uncompensated care will be the cumulative of all
777 currently licensed Michigan hospitals under common ownership or control with the applicant. The source
778 document for the calculation shall be the most recent Cost Report submitted to MDCH for purposes of
779 calculating disproportionate share hospital payments. If a hospital under common ownership or control
780 with the applicant has not filed a Cost Report, then the related applicant shall receive a score of zero.

781

782	<u>Percentile Ranking</u>	<u>Points Awarded</u>
783	90.0 – 100	25 pts
784	80.0 – 89.9	20 pts
785	70.0 – 79.9	15 pts
786	60.0 – 69.9	10 pts
787	50.0 – 59.9	5 pts

788

789 Where an applicant proposes to close a hospital as part of its application, data from the closed hospital
790 shall be excluded from this calculation.

791

792 (b) A qualifying project will be awarded points based on the statewide percentile rank of the
793 applicant's Medicaid volume as measured by percentage of gross hospital revenues as set forth in the
794 following table. For purposes of scoring, the applicant's Medicaid volume will be the cumulative of all
795 currently licensed Michigan hospitals under common ownership or control with the applicant. The source
796 documents for the calculation shall be the Cost Report submitted to MDCH for purposes of calculating
797 disproportionate share hospital payments. If a hospital under common ownership or control with the
798 applicant has not filed a Cost Report, then the related applicant shall receive a score of zero.

798

799	<u>Percentile Rank</u>	<u>Points Awarded</u>
800	87.5 – 100	20 pts
801	75.0 – 87.4	15 pts
802	62.5 – 74.9	10 pts
803	50.0 – 61.9	5 pts
804	Less than 50.0	0 pts

805

806 Where an applicant proposes to close a hospital as part of its application, data from the closed hospital
807 shall be excluded from this calculation.

808 (c) A qualifying project shall be awarded points as set forth in the following table in accordance with
809 its impact on inpatient capacity in the health service area of the proposed hospital site.

<u>Impact on Capacity</u>	<u>Points Awarded</u>
Closure of hospital(s)	15 pts
Move beds	0 pts
Adds beds (net)	-15 pts
or	
Closure of hospital(s) or delicensure of beds which creates a bed need	
or	
Closure of a hospital which creates a new Limited Access Area	

822 (d) A qualifying project will be awarded points based on the percentage of the applicant's market
823 share of inpatient discharges of the population in the limited access area as set forth in the following table.
824 Market share used for the calculation shall be the cumulative market share of Michigan hospitals under
825 common ownership or control with the applicant.

<u>Percent</u>	<u>Points Awarded</u>
% of market share	% of market share served x 15 (total pts awarded)

831 The source for calculations under this criterion is the MIDB.

832 (e) A qualifying project will be awarded points based on the percentage of the limited access area's
833 population within a 30 minute travel time of the proposed hospital site if in a metropolitan statistical area
834 county, or within 60 minutes travel time if in a rural or micropolitan statistical area county as set forth in the
835 following table.

<u>Percent</u>	<u>Points Awarded</u>
% of population within 30 (or 60) minute travel time of proposed site	% of population covered x 15 (total pts awarded)

842 (f) All applicants will be ranked in order according to their total project costs as stated in the CON
843 application divided by its proposed number of beds in accordance with the following table.

<u>Cost Per Bed</u>	<u>Points Awarded</u>
Lowest cost	10 pts
2nd Lowest cost	5 pts
All other applicants	0 pts

850 | **Section 4514. Requirements for approval -- acquisition of a hospital**

851 |
852 | Sec. 4514. (1) An applicant proposing to acquire a hospital shall not be required to be in compliance
853 with the needed hospital bed supply for the hospital group in which the hospital subject to the proposed
854 acquisition is assigned if the applicant demonstrates that all of the following are met:

- 855 (a) the acquisition will not result in a change in bed capacity,
- 856 (b) the licensed site does not change as a result of the acquisition,
- 857 (c) the project is limited solely to the acquisition of a hospital with a valid license, and
- 858 (d) if the application is to acquire a hospital, which was proposed in a prior application to be
859 | established as an LTAC OR IRF hospital and which received CON approval, the applicant also must meet

860 the requirements of Section 6(2). Those hospitals that received such prior approval are so identified on
861 the Department inventory of beds.

862 (2) The applicant shall comply with the following requirements, as applicable:

863 (a) The existing licensed hospital shall have an average adjusted occupancy rate of 40 percent or
864 above.

865 (b) If the existing licensed hospital does not have an average adjusted occupancy rate of 40 percent
866 or above, the applicant shall agree to all of the following:

867 (i) The hospital to be acquired will achieve an annual adjusted occupancy of at least 40% during any
868 consecutive 12-month period by the end of the third year of operation after completion of the acquisition.
869 Annual adjusted occupancy shall be calculated as follows:

870 (a) Calculate the number of adjusted patient days during the most recent, consecutive 12-month
871 period for which verifiable data is available to the Department.

872 (b) Divide the number of adjusted patient days calculated in (a) above by 365 (or 366 if a leap year).

873 (c) If the hospital to be acquired does not achieve an annual adjusted occupancy of at least 40
874 percent, as calculated in (b) above, during any consecutive 12-month period by the end of the third year of
875 operation after completion of the acquisition, the applicant shall relinquish sufficient beds at the existing
876 hospital to raise its adjusted occupancy to 60 percent. The revised number of licensed beds at the
877 hospital shall be calculated as follows:

878 (i) Calculate the number of adjusted patient days during the most recent, consecutive 12-month
879 period where verifiable data is available to the Department, and divide by .60.

880 (ii) Divide the result of subsection (i) above by 365 (or 366 if the 12-month period includes a leap
881 year) and round up to the next whole number or 25, whichever is larger. This is the maximum number of
882 beds that can be licensed at the existing licensed hospital site after acquisition.

883 (d) Subsection (2) shall not apply to excluded hospitals.

884

885 **Section 4615. Requirements for approval – all applicants**

886

887 | Sec. 4615. (1) An applicant shall provide verification of Medicaid participation. An applicant that is a
888 new provider not currently enrolled in Medicaid shall certify that proof of Medicaid participation will be
889 provided to the Department within six (6) months from the offering of services if a CON is approved.

890

891 (2) The applicant certifies all outstanding debt obligations owed to the State of Michigan for Quality
892 Assurance Assessment Program (QAAP) or Civil Monetary Penalties (CMP) have been paid in full.

893

894 (3) The applicant certifies that the health facility for the proposed project has not been cited for a state
895 or federal code deficiency within the 12 months prior to the submission of the application. If a state code
896 deficiency has been issued, the applicant shall certify that a plan of correction for cited state deficiencies
897 at the health facility has been submitted and approved by the Bureau of Health Systems within the
898 Department of Licensing and Regulatory Affairs. If a federal code deficiency has been issued, the
899 applicant shall certify that a plan of correction for cited federal deficiencies at the health facility has been
900 submitted and approved by the Centers for Medicare and Medicaid Services. If code deficiencies include
901 any unresolved deficiencies still outstanding with the Department of Licensing and Regulatory Affairs or
902 the Centers for Medicare and Medicaid Services that are the basis for the denial, suspension, or
903 revocation of an applicant's health facility license, poses an immediate jeopardy to the health and safety of
904 patients, or meets a federal conditional deficiency level, the proposed project cannot be approved without
905 approval from the Bureau of Health Systems or, if applicable, the Centers for Medicare and Medicaid
906 Services.

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Counties assigned to each health service area are as follows:

HSA	COUNTIES		
1 - Southeast	Livingston	Monroe	St. Clair
	Macomb	Oakland	Washtenaw
	Wayne		
2 - Mid-Southern	Clinton	Hillsdale	Jackson
	Eaton	Ingham	Lenawee
3 - Southwest	Barry	Calhoun	St. Joseph
	Berrien	Cass	Van Buren
	Branch	Kalamazoo	
4 - West	Allegan	Mason	Newaygo
	Ionia	Mecosta	Oceana
	Kent	Montcalm	Osceola
	Lake	Muskegon	Ottawa
5 - GLS	Genesee	Lapeer	Shiawassee
6 - East	Arenac	Huron	Roscommon
	Bay	Iosco	Saginaw
	Clare	Isabella	Sanilac
	Gladwin	Midland	Tuscola
	Gratiot	Ogemaw	
7 - Northern Lower	Alcona	Crawford	Missaukee
	Alpena	Emmet	Montmorency
	Antrim	Gd Traverse	Oscoda
	Benzie	Kalkaska	Otsego
	Charlevoix	Leelanau	Presque Isle
	Cheboygan	Manistee	Wexford
8 - Upper Peninsula	Alger	Gogebic	Mackinac
	Baraga	Houghton	Marquette
	Chippewa	Iron	Menominee
	Delta	Keweenaw	Ontonagon
	Dickinson	Luce	Schoolcraft

951
 952
 953 Rural Michigan counties are as follows:

954			
955	Alcona	<u>Hillsdale</u>	Oceana
956	Alger	Huron	Ogemaw
957	Antrim	Iosco	Ontonagon
958	Arenac	Iron	Osceola
959	Baraga	Lake	Oscoda
960	Charlevoix	Luce	Otsego
961	Cheboygan	Mackinac	Presque Isle
962	Clare	Manistee	Roscommon
963	Crawford	<u>Mason</u>	Sanilac
964	Emmet	<u>Montcalm</u>	Schoolcraft
965	Gladwin	Montmorency	Tuscola
966	Gogebic	<u>NEWAYGO</u>	

967
 968 Metropolitan statistical area Michigan counties are as follows:

969			
970	Allegan	<u>HILLSDALE</u>	<u>MASON</u>
971	Alpena	Houghton	Mecosta
972	<u>Benzie</u>	<u>IONIA</u>	Menominee
973	Branch	Isabella	<u>Midland</u>
974	<u>Chippewa</u>	Kalkaska	Missaukee
975	Delta	Keweenaw	St. Joseph
976	Dickinson	Leelanau	Shiawassee
977	Grand Traverse	Lenawee	Wexford
978	Gratiot	Marquette	

979
 980 Metropolitan statistical area Michigan counties are as follows:

981			
982	Barry	<u>Ionia</u>	<u>MONTCALM</u> <u>Newaygo</u>
983	Bay	Jackson	Muskegon
984	Berrien	Kalamazoo	Oakland
985	Calhoun	Kent	Ottawa
986	Cass	Lapeer	Saginaw
987	Clinton	Livingston	St. Clair
988	Eaton	Macomb	Van Buren
989	Genesee	<u>MIDLAND</u>	Washtenaw
990	Ingham	Monroe	Wayne

991
 992 Source:

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 994 | 65-75 F.R., p. 82238-37245 (December 27, 2000)
 995 Statistical Policy Office
 996 Office of Information and Regulatory Affairs
 997 United States Office of Management and Budget
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OCCUPANCY RATE TABLE

HOSPITAL GROUP PROJECTED BED ADC		OCCUPANCY RATE	ADJUSTED BED RANGE	
ADC_LOW	ADC_HIGH		BEDS_LOW	BED S_HIGH
30	31	60%	50	52
32	35	61%	53	58
36	39	62%	59	53
40	45	63%	64	72
46	50	64%	72	79
51	58	65%	79	90
59	67	66%	90	102
68	77	67%	102	115
78	88	68%	115	130
89	101	69%	129	147
102	117	70%	146	168
118	134	71%	167	189
135	154	72%	188	214
155	176	73%	213	242
177	204	74%	240	276
205	258	75%	274	344
259	327	76%	341	431
328	424	77%	426	551
425	561	78%	545	720
562	760	79%	712	963
761	895	80%	952	1119

LIMITED ACCESS AREAS

Limited access areas and the hospital bed need, effective ~~September 28, 2012~~ (insert new effective date), for each of those areas are identified below. The hospital bed need for limited access areas shall be changed by the Department in accordance with section 2(1)(w) of these standards, and this appendix shall be updated accordingly.

LIMITED ACCESS AREA	BED NEED	PREDICTED PATIENT DAYS
1 Upper Peninsula	<u>255196</u>	<u>68,55451,102</u>
2 West Northern Lower Peninsula <u>East/Central Northern Lower Peninsula</u>	35,754 <u>84,639</u>	<u>143310</u>
3 West Northern Lower Peninsula <u>East/Central Northern Lower Peninsula</u>	106,135 <u>31,383</u>	<u>383127</u>
4 East Southern Lower Peninsula	131	32,720

Sources:

- 1) Michigan State University
Department of Geography
~~2012 REPORT: Hospital Groups, Determination of Needed Hospital Bed Supply, ACUTE CARE HOSPITAL BED NEED~~ and Limited Access Areas – 2014 UPDATE
August ~~226, 2012~~ 2014
- 2) Section 4 of these standards

ICD-9-CM TO ICD-10-CM Code Translation

ICD-9 CODE	Description	ICD-10 Code	Description
290 through 319	Psychiatric Patients	F01.50-F99	Mental, Behavioral, and Neurodevelopmental Disorders

"ICD-9-CM Code" means the disease codes and nomenclature found in the International Classification of Diseases - 9th Revision - Clinical Modification, prepared by the Commission on Professional and Hospital Activities for the U.S. National Center for Health Statistics.

"ICD-10-CM Code" means the disease codes and nomenclature found in the International Classification of Diseases - 10th Revision - Clinical Modification, National Center for Health Statistics.