

WHAT IS THE CON PROGRAM?

Certificate of Need (CON) is a state regulatory program intended to ensure that only needed services are developed in Michigan.

Michigan's CON program was enacted in 1972 and is administered by the Department of Health & Human Services. The CON program is governed by Part 222 of PA 368 of the Public Acts of 1978, as amended.

Go to www.mi.gov/con for additional information.

WHAT IS COVERED BY THE CON PROGRAM?

An entity (health facility, physician, group practice, etc.) proposing any of the following types of projects must obtain a CON, regardless of the capital expenditure proposed:

- ▶ Increase in the number of licensed beds or the relocation of licensed beds from one site to another.
- ▶ Acquisition of an existing health facility.
- ▶ Begin operation of a new health facility.
- ▶ Initiation, replacement, or expansion of covered clinical services. (See list of Review Standards)
- ▶ Extended care services program (Swing Beds).

In addition, capital expenditure projects (construction, renovation, etc.) that involve a health facility require a CON. The capital expenditure threshold is indexed annually by the Department of Treasury based on the Consumer Price Index.

The threshold effective *January 1, 2020*, is **\$3,375,000** for clinical service areas.

For purposes of CON, a health facility is defined as a:

- ▶ Hospital
- ▶ Psychiatric Hospital or Unit
- ▶ Nursing Home & Hospital Long-Term Care Unit
- ▶ Freestanding Surgical Outpatient Facility
- ▶ HMO (only for limited projects)

Determinations of whether a project requires CON approval, whether a project complies with applicable requirements, or whether other requirements apply, must be obtained *in writing* from the Department.

REVIEW STANDARDS

The CON Commission, an 11-member independent body appointed by the Governor, has approved CON Review Standards for determining the need and ongoing quality assurance standards for the following:

- ▶ Air Ambulance Services (Helicopters)
- ▶ Cardiac Catheterization Services
- ▶ Computed Tomography (CT) Scanner Services
- ▶ Hospital Beds
- ▶ Magnetic Resonance Imaging (MRI) Services
- ▶ Megavoltage Radiation Therapy (MRT) Services
- ▶ Neonatal Intensive Care Units (NICU)
- ▶ Nursing Home/Hospital Long-Term Care Unit Beds
- ▶ Open Heart Surgery Services
- ▶ Positron Emission Tomography(PET)Scanner Services
- ▶ Psychiatric Beds and Services
- ▶ Surgical Services
- ▶ Transplantation Services: Bone Marrow, Including Peripheral Stem Cell; Heart/Lung & Liver
- ▶ Urinary Lithotripter Services

The CON Commission is responsible for developing and approving Review Standards used by the Department to regulate covered health facilities and services. The Commission is not involved in making decisions in the review of CON applications.

REVIEW TYPES

Nonsubstantive

Projects not requiring a full review, requiring less information, and processed more quickly. Examples of projects that may be reviewed on a nonsubstantive basis are equipment replacements and addition of mobile host sites.

Substantive

Projects requiring a full review, but on an individual basis, such as initiation of an MRI service.

Comparative

Applications competing for project types for which the need is limited: beds, and transplantation services (excluding pancreas). Applications subject to Comparative Review must be filed on the first working day of February, June, or October of each year.

HOW DOES THE CON PROCESS WORK?

- ▶ An applicant files a Letter of Intent (LOI) with the Department. Based on LOI information, the Department notifies the applicant of required application forms for the project.
- ▶ The applicant files completed application with the Department.
- ▶ Within 15 days of receipt of an application, the Department reviews it for completeness and requests any necessary additional information.
- ▶ The applicant has 15 days to submit the requested information to the Department.
- ▶ The Department deems the application complete and determines the review type.
- ▶ A proposed decision is issued within the deadlines for each review type:
 - Nonsubstantive - 45 days
 - Substantive -120 days
 - Comparative - 150 days
- ▶ If the proposed decision is an approval, a final decision is issued by the Department Director within five (5) days.
- ▶ If the proposed decision is a disapproval, the applicant has 15 days to request a hearing.
- ▶ If a hearing is not requested, a final decision is issued by the Department Director.
- ▶ If requested, the hearing must begin within 90 days, unless waived by the applicant.
- ▶ The final decision is issued by the Department Director following the hearing.
- ▶ Letters of Intent, nonsubstantive and substantive applications can be filed online as well as amendments, emergency CONs and swing bed applications. In addition, the application fee can be paid online. Potential comparative applications must be filed by submitting a paper copy only. For more information, visit www.mi.gov/con.

Certificate of Need Activity

During FY 2019, the Department has continued to make process improvements in both the CON Evaluation Section and CON Policy Section.

The Evaluation Section implemented a validation process in the CON Annual Survey for Physician Volume Files related to CT, Cardiac Catheterization, MRT, and Surgical Services to ensure the physician volume files are correct and match the service utilization data entered in the survey. As a result, the 2018 CON Annual Survey had very few errors from providers and the Department was able to publish the survey reports earlier than the previous years. The Section completed a statewide compliance review of all facilities providing MRI and PET Scanner services. The Section also facilitated several webinars to provide up-to-date information on revised CON standards, CON reporting requirements and application processes, and participated in an educational event sponsored by the Department, "Bring Your Child to Work Day", featuring CON related facts in a game format for the children at the CON Booth, which was awarded 3rd place.

The Policy Section assisted the Commission to make the necessary modifications to the CON Review Standards to better reflect practice, improve quality, and add clarity to the standards; revised Cardiac Catheterization Services to better reflect current practice; updated the weights and reduced the maintenance volume for MRT Services; added replacement requirements to Open Heart Surgery Services to current providers to replace their service to a new location and discontinue service at the previous location; and added requirements for an existing adult inpatient psychiatric service requesting to initiate a child/adolescent inpatient psychiatric service in an over-bedded child/adolescent planning area to provide more access to psychiatric beds for child/adolescent patients.

CON FEE STRUCTURE

Project Costs:	Fee:
\$0 to \$500,000	\$ 3,000
\$500,000 or more but less than \$4,000,000	\$ 8,000
\$4,000,000 or more but less than \$10,000,000	\$ 11,000
\$10,000,000 or more	\$ 15,000
	Additional Fee:
Comparative or Complex Review	\$ 3,000
Expedited Review	\$ 1,000
Amendment Request or LOI Waiver	\$ 500
Annual Survey (per Facility per Covered Service)	\$ 100

DEPARTMENT OF HEALTH & HUMAN SERVICES

Certificate of Need CONTACT INFORMATION

CON Evaluation Section

517-241-3344-Phone
517-241-2962-Fax

CON Policy Section (Commission)

517-335-6708-Phone
517-241-1200-Fax

OTHER CON RELATED REGULATORY AGENCIES

Bureau of Community & Health Systems-
MDLARA
517-335-1980

State Licensing Division-MDLARA
517-241-1970

Health Facilities Engineering Section-MDLARA
517-241-3408

Bureau of Fire Services-MDLARA
517-241-8847

Radiation Safety Section-MIOSHA-MDLEO
517-284-7820

MDLARA=Michigan Department of Licensing & Regulatory Affairs
MDLEO=Michigan Department of Labor & Economic Opportunity

CON WEB SITE
www.mi.gov/con



Gretchen Whitmer, Governor

Robert Gordon, Director

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Services and Program Provider

Michigan's Certificate of Need Program



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