

1 MICHIGAN DEPARTMENT OF ~~COMMUNITY HEALTH~~ AND HUMAN SERVICES

2
3 CERTIFICATE OF NEED REVIEW (CON) STANDARDS FOR
4 NEONATAL INTENSIVE CARE SERVICES/BEDS AND SPECIAL NEWBORN NURSING SERVICES
5

6 (By authority conferred on the CON Commission by Section 22215 of Act No. 368 of the Public Acts of
7 1978, as amended, and sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as amended, being
8 sections 333.22215, 24.207 and 24.208 of the Michigan Compiled Laws.)
9

10 **Section 1. Applicability**

11
12 Sec. 1. (1) These standards are requirements for the approval of the initiation, replacement,
13 relocation, expansion, or acquisition of neonatal intensive care services/beds and the delivery of neonatal
14 intensive care services/beds under Part 222 of the Code. Further, these standards are requirements for
15 the approval of the initiation or acquisition of special care nursery (SCN) services. Pursuant to Part 222 of
16 the Code, neonatal intensive care services/beds and special newborn nursing services are covered
17 clinical services. The Department shall use these standards in applying Section 22225(1) of the Code,
18 being Section 333.22225(1) of the Michigan Compiled Laws and Section 22225(2)(c) of the Code, being
19 Section 333.22225(2)(c) of the Michigan Compiled Laws.
20

21 **Section 2. Definitions**

22
23 Sec. 2. (1) As used in these standards:

24
25 (a) "Certificate of Need Commission" or "Commission" means the Commission created pursuant to
26 Section 22211 of the Code, being Section 333.22211 of the Michigan Compiled Laws.

27 (b) "Code" means Act No. 368 of the Public Acts of 1978 as amended, being Section 333.1101 et
28 seq. of the Michigan Compiled Laws.

29 (c) "Comparative group" means the applications which have been grouped for the same type of
30 project in the same planning area and are being reviewed comparatively in accordance with the CON
31 rules.

32 (d) "Department" means the Michigan Department of ~~Community Health~~ AND HUMAN SERVICES
33 (MDCHMDHHS).

34 (e) "Department inventory of beds" means the current list for each planning area maintained on a
35 continuous basis by the Department of licensed hospital beds designated for NICU services and NICU
36 beds with valid CON approval but not yet licensed or designated.

37 (f) "Existing NICU beds" means the total number of all of the following:

38 (i) licensed hospital beds designated for NICU services;

39 (ii) NICU beds with valid CON approval but not yet licensed or designated;

40 (ii) NICU beds under appeal from a final decision of the Department; and

41 (iii) proposed NICU beds that are part of an application for which a proposed decision has been
42 issued, but is pending final Department decision.

43 (g) "Hospital" means a health facility licensed under Part 215 of the Code.

44 (h) "Infant" means an individual up to 1 year of age.

45 (i) "Licensed site" means in the case of a single site hospital, the location of the facility authorized by
46 license and listed on that licensee's certificate of licensure; or in the case of a hospital with multiple sites,
47 the location of each separate and distinct inpatient unit of the health facility as authorized by license and
48 listed on that licensee's certificate of licensure.

49 (j) "Live birth" means a birth for which a birth certificate for a live birth has been prepared and filed
50 pursuant to Section 333.2821(2) of the Michigan Compiled Laws.

51 (k) "Maternal referral service" means having a consultative and patient referral service staffed by a
52 physician(s), on the active medical staff, that is board certified, or eligible to be board certified, in
53 maternal/fetal medicine.

54 (l) "Medicaid" means title XIX of the social security act, chapter 531, 49 Stat. 620, 1396 to 1396w-5.

55 (m) "Neonatal intensive care services" or "NICU services" means the provision of any of the following
56 services:

57 (i) constant nursing care and continuous cardiopulmonary and other support services for severely ill
58 infants;

59 (ii) care for neonates weighing less than 1,500 grams at birth, and/or less than 32 weeks gestation;

60 (iii) ventilatory support beyond that needed for immediate ventilatory stabilization;

61 (iv) surgery and post-operative care during the neonatal period;

62 (v) pharmacologic stabilization of heart rate and blood pressure; or

63 (vi) total parenteral nutrition.

64 (n) "Neonatal intensive care unit" or "NICU" means a specially designed, equipped, and staffed unit of
65 a hospital which is both capable of providing neonatal intensive care services and is composed of licensed
66 hospital beds designated as NICU. This term does not include unlicensed SCN beds.

67 (o) "Neonatal transport system" means a specialized transfer program for neonates by means of an
68 ambulance licensed pursuant to Part 209 of the Code, being Section 333.20901 et seq.

69 (p) "Neonate" means an individual up to 28 days of age.

70 (q) "Perinatal care network," means the providers and facilities within a planning area that provide
71 basic, specialty, and sub-specialty obstetric, pediatric and neonatal intensive care services.

72 (r) "Planning area" means the groups of counties shown in Appendix B.

73 (s) "Planning year" means the most recent continuous 12 month period for which birth data is
74 available from the Vital Records and Health Data Development Section.

75 (t) "Qualifying project" means each application in a comparative group which has been reviewed
76 individually and has been determined by the Department to have satisfied all of the requirements of
77 Section 22225 of the Code, being Section 333.22225 of the Michigan Compiled Laws, and all other
78 applicable requirements for approval in the Code and these standards.

79 (u) "Relocation of the designation of beds for NICU services" means a change within the same
80 planning area in the licensed site at which existing licensed hospital beds are designated for NICU
81 services.

82 (v) "Special care nursery services" or "SCN services" means provisions of ~~the services identified in~~
83 ~~subsections (i) through (v)~~ for infants with problems that are expected to resolve rapidly and who would
84 not be anticipated to need subspecialty services on an urgent basis. THESE SERVICES INCLUDE:

85 (i) Care for low birth weight infants BORN greater than or equal to 32 weeks gestation AND/OR
86 weighing GREATER THAN OR EQUAL TO 1,500grams or more and/or greater than or equal to 32 weeks
87 gestation;

88 (ii) enteral tube feedings;

89 (iii) cardio-respiratory monitoring to document maturity of respiratory control or treatment of apnea;

90 (iv) extended care following an admission to a neonatal intensive care unit for an infant not requiring
91 ventilatory support; or

92 (v) provide mechanical ventilation or continuous positive airway pressure or both for a brief duration
93 (not to exceed 24 hours combined).

94
95 Referral to a higher level of care should occur for all infants who need pediatric surgical or medical
96 subspecialty intervention. Infants receiving transitional care or being treated for developmental maturation
97 may have formerly been treated in a neonatal intensive care unit in the same hospital or another hospital.
98 For purposes of these standards, SCN services are special newborn nursing services.

99 ~~—(i) Care for low birth weight infants weighing 1,500grams or more and/or greater than or equal to 32~~
100 ~~weeks gestation;~~

101 ~~—(ii) enteral tube feedings;~~

102 ~~—(iii) cardio-respiratory monitoring to document maturity of respiratory control or treatment of apnea;~~

103 ~~—(iv) extended care following an admission to a neonatal intensive care unit for an infant not requiring~~
104 ~~ventilatory support; or~~

105 ~~—(v) provide mechanical ventilation or continuous positive airway pressure or both for a brief duration~~
106 ~~(not to exceed 24 hours combined).~~

107 (w) "WELL NEWBORN NURSERY SERVICES" MEANS PROVIDING THE FOLLOWING SERVICES
108 AND DOES NOT REQUIRE A CERTIFICATE OF NEED:

109 (i) THE CAPABILITY TO PERFORM NEONATAL RESUSCITATION AT EVERY DELIVERY;

110 (ii) EVALUATE AND PROVIDE POSTNATAL CARE FOR STABLE TERM NEWBORN INFANTS;

111 (iii) STABILIZE AND PROVIDE CARE FOR INFANTS BORN AT 35 TO 37 WEEKS' GESTATION
112 WHO REMAIN PHYSIOLOGICALLY STABLE; AND

113 (iv) STABILIZE NEWBORN INFANTS WHO ARE ILL AND THOSE BORN LESS THAN 35 WEEKS
114 OF GESTATION UNTIL THEY CAN BE TRANSFERRED TO A HIGHER LEVEL OF CARE FACILITY.

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

116 117 **Section 3. Bed need methodology**

118
119 Sec. 3. (1) The number of NICU beds needed in a planning area shall be determined by the following
120 formula:

121 (a) Determine, using data obtained from the Vital Records and Health Data Development Section, the
122 total number of live births which occurred in the planning year at all hospitals geographically located within
123 the planning area.

124 (b) Determine, using data obtained from the Vital Records and Health Data Development Section, the
125 percent of live births in each planning area and the state that were less than 1,500 grams. The result is
126 the very low birth weight rate for each planning area and the state, respectively.

127 (c) Divide the very low birth weight rate for each planning area by the statewide very low birth weight
128 rate. The result is the very low birth weight rate adjustment factor for each planning area.

129 (d) Multiply the very low birth weight rate adjustment factor for each planning area by 0.0045. The
130 result is the bed need formula for each planning area adjusted for the very low birth weight rate.

131 (e) Multiply the total number of live births determined in subsection (1)(a) by the bed need formula for
132 the applicable planning area adjusted for the very low birth weight adjustment factor as determined in
133 subsection (1)(d).

134
135 (2) The result of subsection (1) is the number of NICU beds needed in the planning area for the
136 planning year.

137 138 **Section 4. Requirements to initiate NICU services**

139
140 Sec. 4. Initiation of NICU services means the establishment of a NICU at a licensed site that has not
141 had in the previous 12 months a licensed and designated NICU or does not have a valid CON to initiate a
142 NICU. The relocation of the designation of beds for NICU services meeting the applicable requirements of
143 Section 6 shall not be considered as the initiation of NICU services/beds.

144
145 (1) An applicant proposing to initiate NICU services by designating hospital beds as NICU beds shall
146 demonstrate each of the following:

147 (a) There is an unmet bed need of at least 15 NICU beds based on the difference between the number
148 of existing NICU beds in the planning area and the number of beds needed for the planning year as a
149 result of application of the methodology set forth in Section 3.

150 (b) Approval of the proposed NICU will not result in a surplus of NICU beds in the planning area
151 based on the difference between the number of existing NICU beds in the planning area and the number
152 of beds needed for the planning year resulting from application of the methodology set forth in Section 3.

153 (c) A unit of at least 15 beds will be developed and operated.

154 (d) For each of the 3 most recent years for which birth data are available from the Vital Records and
155 Health Data Development Section, the licensed site at which the NICU is proposed had either: (i) 2,000 or
156 more live births, if the licensed site is located in a metropolitan statistical area county; or (ii) 600 or more
157 live births, if the licensed site is located in a rural or micropolitan statistical area county and is located
158 more than 100 miles (surface travel) from the nearest licensed site that operates or has valid CON
159 approval to operate NICU services.

160
161 **Section 5. Requirements to replace NICU services**
162

163 Sec. 5. Replacement of NICU beds means new physical plant space being developed through new
164 construction or newly acquired space (purchase, lease or donation), to house existing licensed and
165 designated NICU beds.
166

167 (1) An applicant proposing replacement beds shall not be required to be in compliance with the
168 needed NICU bed supply determined pursuant to Section 3 if an applicant demonstrates all of the
169 following:

170 (a) the project proposes to replace an equal or lesser number of beds designated by an applicant for
171 NICU services at the licensed site operated by the same applicant at which the proposed replacement
172 beds are currently located; and

173 (b) the proposed licensed site is in the same planning area as the existing licensed site and in the
174 area set forth in Section 22229 of the Code, being Section 333.22229 of the Michigan Compiled Laws, in
175 which replacement beds in a hospital are not subject to comparative review.
176

177 **Section 6. Requirements for approval to relocate NICU beds**
178

179 Sec. 6. An applicant proposing to relocate the designation for NICU services shall demonstrate
180 compliance with all of the following:

181 (1) The applicant is the licensed site to which the relocation of the designation of beds for NICU
182 services is proposed.
183
184

185 (2) The applicant shall provide a signed written agreement that provides for the proposed increase,
186 and concomitant decrease, in the number of beds designated for NICU services at the 2 licensed sites
187 involved in the proposed relocation. A copy of the agreement shall be provided in the application.
188

189 (3) The existing licensed site from which the designation of beds for NICU services proposed to be
190 relocated is currently licensed and designated for NICU services.
191

192 (4) The proposed project does not result in an increase in the number of beds designated for NICU
193 services in the planning area unless the applicable requirements of Section 4 or 5 have also been met.
194

195 (5) The proposed project does not result in an increase in the number of licensed hospital beds at the
196 applicant licensed site unless the applicable requirements of the CON Review Standards for Hospital
197 Beds have also been met.
198

199 (6) The proposed project does not result in the operation of a NICU of less than 15 beds at the
200 existing licensed site from which the designation of beds for NICU services are proposed to be relocated.
201

202 (7) If the applicant licensed site does not currently provide NICU services, an applicant shall
203 demonstrate both of the following:

204 (a) the proposed project involves the establishment of a NICU of at least 15 beds; and
205 (b) for each of the 3 most recent years for which birth data are available from the Vital Records and
206 Health Data Development Section, the applicant licensed site had either: (i) 2,000 or more live births, if the
207 licensed site is located in a metropolitan statistical area county; or (ii) 600 or more live births, if the
208 licensed site is located in a rural or micropolitan statistical area county and is located more than 100 miles
209 from the nearest licensed site that operates or has valid CON approval to operate NICU services/beds. If
210 the applicant licensed site has not been in operation for at least 3 years and the obstetrical unit at the
211 applicant licensed site was established as the result of the consolidation and closure of 2 or more
212 obstetrical units, the combined number of live births from the obstetrical units that were closed and

213 relocated to the applicant licensed site may be used to evaluate compliance with this requirement for
214 those years when the applicant licensed site was not in operation.

215
216 (8) If the applicant licensed site does not currently provide NICU services or obstetrical services, an
217 applicant shall demonstrate both of the following:

218 (a) the proposed project involves the establishment of a NICU of at least 15 beds; and

219 (b) the applicant has a valid CON to establish an obstetrical unit at the licensed site at which the
220 NICU is proposed. The obstetrical unit to be established shall be the result of the relocation of an existing
221 obstetrical unit that for each of the 3 most recent years for which birth data are available from the Vital
222 Records and Health Data Development Section, the obstetrical unit to be relocated had either: (i) 2,000 or
223 more live births, if the obstetrical unit to be relocated is located in a metropolitan statistical area county; or
224 (ii) 600 or more live births, if the obstetrical unit to be relocated is located in a rural or micropolitan
225 statistical area county and is located more than 100 miles from the nearest licensed site that operates or
226 has valid CON approval to operate NICU services.

227
228 (9) The project results in a decrease in the number of licensed hospital beds that are designated for
229 NICU services at the licensed site at which beds are currently designated for NICU services. The
230 decrease in the number of beds designated for NICU services shall be equal to or greater than the
231 number of beds designated for NICU services proposed to be increased at the applicant's licensed site
232 pursuant to the agreement required by this subsection. This subsection requires a decrease in the
233 number of licensed hospital beds that are designated for NICU services, but does not require a decrease
234 in the number of licensed hospital beds.

235
236 (10) Beds approved pursuant to Section 7(2) shall not be relocated pursuant to this section, unless the
237 proposed project involves the relocation of all beds designated for NICU services at the applicant's
238 licensed site.

239 **Section 7. Requirements for approval to expand NICU services**

240
241
242 Sec. 7. (1) An applicant proposing to expand NICU services at a licensed site by designating
243 additional hospital beds as NICU beds in a planning area shall demonstrate that the proposed increase
244 will not result in a surplus of NICU beds based on the difference between the number of existing NICU
245 beds in the planning area and the number of beds needed for the planning year resulting from application
246 of the methodology set forth in Section 3.

247
248 (2) An applicant may apply and be approved for NICU beds in excess of the number determined as
249 needed for the planning year in accordance with Section 3 if an applicant can demonstrate that it provides
250 NICU services to patients transferred from another licensed and designated NICU. The maximum
251 number of NICU beds that may be approved pursuant to this subsection shall be determined in
252 accordance with the following:

253 (a) An applicant shall document the average annual number of patient days provided to neonates or
254 infants transferred from another licensed and designated NICU, for the 2 most recent years for which
255 verifiable data are available to the Department.

256 (b) The average annual number of patient days determined in accordance with subsection (a) shall
257 be divided by 365 (or 366 for a leap year). The result is the average daily census (ADC) for NICU services
258 provided to patients transferred from another licensed and designated NICU.

259 (c) Apply the ADC determined in accordance with subsection (b) in the following formula: $ADC +$
260 $2.06 \sqrt{ADC}$. The result is the maximum number of beds that may be approved pursuant to this subsection
261 ~~up to 5 beds at each licensed site.~~

262 **Section 8. Requirements for approval to acquire a NICU service**

265 Sec. 8. Acquisition of a NICU means obtaining possession and control of existing licensed hospital
266 beds designated for NICU services by contract, ownership, lease or other comparable arrangement.
267

268 (1) An applicant proposing to acquire a NICU shall not be required to be in compliance with the
269 needed NICU bed supply determined pursuant to Section 3 for the planning area in which the NICU
270 subject to the proposed acquisition is located, if the applicant demonstrates that all of the following are
271 met:

272 (a) the acquisition will not result in an increase in the number of hospital beds, or hospital beds
273 designated for NICU services, at the licensed site to be acquired;

274 (b) the licensed site does not change as a result of the acquisition, unless the applicant meets
275 Section 6; and,

276 (c) the project does not involve the initiation, expansion or replacement of a covered clinical service,
277 a covered capital expenditure for other than the proposed acquisition or a change in bed capacity at the
278 applicant facility, unless the applicant meets other applicable sections.
279
280

281 **Section 9. Requirements to initiate, acquire, or replace SCN services**
282

283 Sec. 9. An applicant proposing SCN services shall demonstrate each of the following, as applicable,
284 by verifiable documentation:

285
286 (1) All applicants shall demonstrate the following:

287 (a) A board certified neonatologist serving as the program director.

288 (b) The hospital has the following capabilities and personnel continuously available and on-site:

289 (i) the ability to provide mechanical ventilation and/or continuous positive airway pressure for up to
290 24 hours;

291 (ii) portable x-ray equipment and blood gas analyzer;

292 (iii) pediatric physicians and/or neonatal nurse practitioners; and

293 (iv) respiratory therapists, radiology technicians, laboratory technicians and specialized nurses with
294 experience caring for premature infants.

295
296 (2) Initiation of SCN services means the establishment of an SCN at a licensed site that has not had
297 in the previous 12 months a designated SCN or does not have a valid CON to initiate an SCN.

298 (a) In addition to the requirements of Section 9(1), an applicant proposing to initiate an SCN service
299 shall have a written consulting agreement with a hospital which has an existing, operational NICU. The
300 agreement must specify that the existing service shall, for the first two years of operation of the new
301 service, provide the following services to the applicant hospital:

302 (i) receive and make recommendations on the proposed design of SCN and support areas that may
303 be required;

304 (ii) provide staff training recommendations for all personnel associated with the new proposed
305 service;

306 (iii) assist in developing appropriate protocols for the care and transfer, if necessary, of premature
307 infants;

308 (iv) provide recommendations on staffing needs for the proposed service; and

309 (v) work with the medical staff and governing body to design and implement a process that will
310 annually measure, evaluate, and report to the medical staff and governing body the clinical outcomes of
311 the new service, including:

312 (A) mortality rates;

313 (B) morbidity rates including intraventricular hemorrhage (grade 3 and 4), retinopathy of prematurity
314 (stage 3 and 4), chronic lung disease (oxygen dependency at 36 weeks gestation), necrotizing
315 enterocolitis, pneumothorax, neonatal depression (apgar score of less than 5 at five minutes); and

316 (C) infection rates.

317 (b) SCN services shall be provided in unlicensed SCN beds located within the hospital obstetrical
318 department or NICU service. Unlicensed SCN beds are not included in the NICU bed need.

319
320 (3) Replacement of SCN services means new physical plant space being developed through new
321 construction or newly acquired space (purchase, lease or donation), to house an existing SCN service.

322 (a) In addition to the requirements of Section 9(1), an applicant proposing a replacement SCN service
323 shall demonstrate all of the following:

324 (i) The proposed project is part of an application to replace the entire hospital.

325 (ii) The applicant currently operates the SCN service at the current licensed site.

326 (iii) The proposed licensed site is in the same planning area as the existing licensed site.

327
328 (4) Acquisition of an SCN service means obtaining possession and control of an existing SCN service
329 by contract, ownership, lease or other comparable arrangement.

330 (a) In addition to the requirements of Section 9(1), an applicant proposing to acquire an SCN service
331 shall demonstrate all of the following:

332 (i) The proposed project is part of an application to acquire the entire hospital.

333 (ii) The licensed site does not change as a result of the acquisition, unless the applicant meets
334 subsection 3.
335

336 **Section 10. Additional requirements for applications included in comparative reviews.**
337

338 Sec. 10. (1) Any application subject to comparative review under Section 22229 of the Code, being
339 Section 333.22229 of the Michigan Compiled Laws, or under these standards, shall be grouped and
340 reviewed comparatively with other applications in accordance with the CON rules.
341

342 (2) Each application in a comparative review group shall be individually reviewed to determine
343 whether the application has satisfied all the requirements of Section 22225 of the Code, being Section
344 333.22225(1) of the Michigan Compiled Laws, and all other applicable requirements for approval in the
345 Code and these standards. If the Department determines that one or more of the competing applications
346 satisfies all of the requirements for approval, these projects shall be considered qualifying projects. The
347 Department shall approve those qualifying projects which, taken together, do not exceed the need, as
348 defined in Section 22225(1), and which have the highest number of points when the results of subsection
349 (2) are totaled. If 2 or more qualifying projects are determined to have an identical number of points, the
350 Department shall approve those qualifying projects which, taken together, do not exceed the need, as
351 defined in Section 22225(1), which are proposed by an applicant that operates a NICU at the time an
352 application is submitted to the Department. If 2 or more qualifying projects are determined to have an
353 identical number of points and each operates a NICU at the time an application is submitted to the
354 Department, the Department shall approve those qualifying projects which, taken together, do not exceed
355 the need, as defined in Section 22225(1), in the order in which the applications were received by the
356 Department, based on the submission date and time, as determined by the Department when submitted.

357 (a) A qualifying project will have points awarded based on the geographic proximity to NICU services,
358 both operating and CON approved but not yet operational, in accordance with the following schedule:
359

<u>Proximity</u>	<u>Points Awarded</u>
Less than 50 Miles to NICU service	0
Between 50-99 miles to NICU service	1
100+ Miles to NICU service	2

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371 (b) A qualifying project will have points awarded based on the number of very low birth weight infants
372 delivered at the applicant hospital or the number of very low birth weight infants admitted or refused
373 admission due to the lack of an available bed to an applicant's NICU, and the number of very low birth
374 weight infants delivered at another hospital subsequent to the transfer of an expectant mother from an
375 applicant hospital to a hospital with a NICU. The total number of points to be awarded shall be the
376 number of qualifying projects. The number of points to be awarded to each qualifying project shall be
377 calculated as follows:

378 (i) Each qualifying project shall document, for the 2 most recent years for which verifiable data are
379 available, the number of very low birth weight infants delivered at an applicant hospital, or admitted to an
380 applicant's NICU, if an applicant operates a NICU, the number of very low birth weight infants delivered to
381 expectant mothers transferred from an applicant's hospital to a hospital with a NICU, and the number of
382 very low birth weight infants referred to an applicant's NICU who were refused admission due to the lack
383 of an available NICU bed and were subsequently admitted to another NICU.

384 (ii) Total the number of very low birth weight births and admissions documented in subdivision (i) for
385 all qualifying projects.

386 (iii) Calculate the fraction (rounded to 3 decimal points) of very low birth weight births and admissions
387 that each qualifying project's volume represents of the total calculated in subdivision (ii).

388 (iv) For each qualifying project, multiply the applicable fraction determined in subdivision (iii) by the
389 total possible number of points.

390 (v) Each qualifying project shall be awarded the applicable number of points calculated in subdivision
391 (iv).

392 (c) An applicant shall have 1 point awarded if it can be demonstrated that on the date an application
393 is submitted to the Department, the licensed site at which NICU services/beds are proposed has on its
394 active medical staff a physician(s) board certified, or eligible to be certified, in maternal/fetal medicine.

395 (d) A qualifying project will have points awarded based on the percentage of the hospital's indigent
396 volume as set forth in the following table.

397

398	Hospital	
399	Indigent	Points
400	<u>Volume</u>	<u>Awarded</u>
401		
402	0 - <6%	0.2
403	6 - <11%	0.4
404	11 - <16%	0.6
405	16 - <21%	0.8
406	21 - <26%	1.0
407	26 - <31%	1.2
408	31 - <36%	1.4
409	36 - <41%	1.6
410	41 - <46%	1.8
411	46% +	2.0
412		

413 For purposes of this subsection, indigent volume means the ratio of a hospital's indigent charges to its
414 total charges expressed as a percentage as determined by the Hospital and Health Plan Reimbursement
415 Division pursuant to Section 7 of the Medical Provider manual. The indigent volume data being used for
416 rates in effect at the time the application is deemed submitted will be used by the Department in
417 determining the number of points awarded to each qualifying project.

418

419 (3) Submission of conflicting information in this section may result in a lower point reward. If an
420 application contains conflicting information which could result in a different point value being awarded in
421 this section, the Department will award points based on the lower point value that could be awarded from
422 conflicting information. For example, if submitted information would result in 6 points being awarded, but
423 other conflicting information would result in 12 points being awarded, then 6 points will be awarded. If the
424 conflicting information does not affect the point value, the Department will award points accordingly. For
425 example, if submitted information would result in 12 points being awarded and other conflicting information
426 would also result in 12 points being awarded, then 12 points will be awarded.

427

428 **Section 11. Requirements for Medicaid participation**

429

430 Sec. 11. An applicant for NICU services and SCN services shall provide verification of Medicaid
431 participation. An applicant that is a new provider not currently enrolled in Medicaid shall certify that proof
432 of Medicaid participation will be provided to the Department within six (6) months from the offering of
433 services if a CON is approved.

434

435 **Section 12. Project delivery requirements and terms of approval**

436

437 Sec. 12. An applicant shall agree that, if approved, the NICU and SCN services shall be delivered in
438 compliance with the following terms of approval:

- 439 (1) Compliance with these standards.
440
- 441 (2) Compliance with the following applicable quality assurance standards for NICU services:
442 (a) An applicant shall coordinate its services with other providers of obstetrical, perinatal, neonatal
443 and pediatric care in its planning area, and other planning areas in the case of highly specialized services.
444 (b) An applicant shall develop and maintain a follow-up program for NICU graduates and other infants
445 with complex problems. An applicant shall also develop linkages to a range of pediatric care for high-risk
446 infants to ensure comprehensive and early intervention services.
447 (c) If an applicant operates a NICU that admits infants that are born at a hospital other than the
448 applicant hospital, an applicant shall develop and maintain an outreach program that includes both case-
449 finding and social support which is integrated into perinatal care networks, as appropriate.
450 (d) If an applicant operates a NICU that admits infants that are born at a hospital other than the
451 applicant hospital, an applicant shall develop and maintain a neonatal transport system.
452 (e) An applicant shall coordinate and participate in professional education for perinatal and pediatric
453 providers in the planning area.
454 (f) An applicant shall develop and implement a system for discharge planning.
455 (g) A board certified neonatologist shall serve as the director of neonatal services.
456 (h) An applicant shall make provisions for on-site physician consultation services in at least the
457 following neonatal/pediatric specialties: cardiology, ophthalmology, surgery and neurosurgery.
458 (i) An applicant shall develop and maintain plans for the provision of highly specialized
459 neonatal/pediatric services, such as cardiac surgery, cardiovascular surgery, neurology, hematology,
460 orthopedics, urology, otolaryngology and genetics.
461 (j) An applicant shall develop and maintain plans for the provision of transferring infants discharged
462 from its NICU to another hospital, as necessary for the care of an infant no longer requiring NICU services
463 but unable to be discharged home.
464
- 465 (3) Compliance with the following applicable quality assurance standards for SCN services:
466 (a) An applicant shall coordinate its services with other providers of obstetrical, perinatal, neonatal
467 and pediatric care in its planning area, and other planning areas in the case of highly specialized services.
468 (b) An applicant shall develop and implement a system for discharge planning.
469 (c) A board certified neonatologist shall serve as the SCN program director.
470 (d) The hospital continues to have the following capabilities and personnel continuously available and
471 on-site:
472 (i) The ability to provide mechanical ventilation and/or continuous positive airway pressure for up to
473 24 hours;
474 (ii) portable x-ray equipment and blood gas analyzer;
475 (iii) pediatric physicians and/or neonatal nurse practitioners; and
476 (iv) respiratory therapists, radiology technicians, laboratory technicians and specialized nurses with
477 experience caring for premature infants.
478
- 479 (4) Compliance with the following access to care requirements:
480 (a) The NICU and SCN services shall participate in Medicaid at least 12 consecutive months within
481 the first two years of operation and continue to participate annually thereafter.
482 (b) The NICU and SCN services shall not deny NICU and SCN services to any individual based on
483 ability to pay or source of payment.
484 (c) The NICU and SCN services shall provide NICU and SCN services to any individual based on
485 clinical indications of need for the services.
486 (d) The NICU and SCN services shall maintain information by payor and non-paying sources to
487 indicate the volume of care from each source provided annually.
488 (e) Compliance with selective contracting requirements shall not be construed as a violation of this
489 term.
490
- 491 (5) Compliance with the following monitoring and reporting requirements:

492 (a) The NICU and SCN services shall participate in a data collection network established and
493 administered by the Department or its designee. The data may include, but is not limited to, annual
494 budget and cost information, operating schedules, through-put schedules, and demographic, diagnostic,
495 morbidity and mortality information, as well as the volume of care provided to patients from all payor
496 sources. The applicant shall provide the required data on a separate basis for each licensed site; in a
497 format established by the Department; and in a mutually agreed upon media. The Department may elect
498 to verify the data through on-site review of appropriate records.

499 (i) The SCN services shall provide data for the percentage of transfers to a higher level of care,
500 hours of life at the time of transfer to a higher level of care, admissions to the SCN at less than 32 weeks
501 gestation, number of admissions requiring respiratory support greater than 24 hours in duration, number
502 of admissions to SCN, and rates of morbidity including: intraventricular hemorrhage (grade 3 and 4),
503 retinopathy of prematurity (stage 3 and 4), chronic lung disease (oxygen dependency at 36 weeks
504 gestation), necrotizing enterocolitis, and pneumothorax.

505 (b) The NICU and SCN services shall provide the Department with timely notice of the proposed
506 project implementation consistent with applicable statute and promulgated rules.

507
508 (6) The agreements and assurances required by this section shall be in the form of a certification
509 agreed to by the applicant or its authorized agent.

510
511 **Section 13. Department inventory of beds**

512
513 Sec. 13. The Department shall maintain a listing of the Department inventory of beds for each planning
514 area.

515
516 **Section 14. Effect on prior CON review standards; comparative reviews**

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518 Sec. 14. (1) These CON review standards supercede and replace the CON Review Standards for
519 Neonatal Intensive Care Services/Beds approved by the Commission on ~~December 12,~~
520 ~~2013~~SEPTEMBER 25, 2014 and effective on ~~March 3, 2014~~DECEMBER 22, 2014.

521
522 (2) Projects reviewed under these standards shall be subject to comparative review except for:

523 (a) Replacement beds meeting the requirements of Section 22229(3) of the Code, being Section
524 333.22229(3) of the Michigan Compiled Laws;

525 (b) The designation of beds for NICU services being relocated pursuant to Section 6 of these
526 standards; or

527 (c) Beds requested under Section 7(2).

528 (d) SCN services requested under Section 9.

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Rural Michigan counties are as follows:

Alcona	Gogebic	Ogemaw
Alger	Huron	Ontonagon
Antrim	Iosco	Osceola
Arenac	Iron	Oscoda
Baraga	Lake	Otsego
Charlevoix	Luce	Presque Isle
Cheboygan	Mackinac	Roscommon
Clare	Manistee	Sanilac
Crawford	Montmorency	Schoolcraft
Emmet	Newaygo	Tuscola
Gladwin	Oceana	

Micropolitan statistical area Michigan counties are as follows:

Allegan	Hillsdale	Mason
Alpena	Houghton	Mecosta
Benzie	Ionia	Menominee
Branch	Isabella	Missaukee
Chippewa	Kalkaska	St. Joseph
Delta	Keweenaw	Shiawassee
Dickinson	Leelanau	Wexford
Grand Traverse	Lenawee	
Gratiot	Marquette	

Metropolitan statistical area Michigan counties are as follows:

Barry	Jackson	Muskegon
Bay	Kalamazoo	Oakland
Berrien	Kent	Ottawa
Calhoun	Lapeer	Saginaw
Cass	Livingston	St. Clair
Clinton	Macomb	Van Buren
Eaton	Midland	Washtenaw
Genesee	Monroe	Wayne
Ingham	Montcalm	

Source:

75 F.R., p. 37245 (June 28, 2010)
Statistical Policy Office
Office of Information and Regulatory Affairs
United States Office of Management and Budget

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The planning areas for neonatal intensive care services/beds are the geographic boundaries of the group of counties as follows:

<u>Planning Areas</u>	<u>Counties</u>
1	Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, Wayne
2	Clinton, Eaton, Hillsdale, Ingham, Jackson, Lenawee
3	Barry, Berrien, Branch, Calhoun, Cass, Kalamazoo, St. Joseph, Van Buren
4	Allegan, Ionia, Kent, Lake, Mason, Montcalm, Muskegon, Newaygo, Oceana, Ottawa
5	Genesee, Lapeer, Shiawassee
6	Arenac, Bay, Clare, Gladwin, Gratiot, Huron, Iosco, Isabella, Midland, Mecosta, Ogemaw, Osceola, Oscoda, Saginaw, Sanilac, Tuscola
7	Alcona, Alpena, Antrim, Benzie, Charlevoix, Cheboygan, Crawford, Emmet, Grand Traverse, Kalkaska, Leelanau, Manistee, Missaukee, Montmorency, Otsego, Presque Isle, Roscommon, Wexford
8	Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, Schoolcraft