Notice of Public Hearing

Pursuant to Section 22215 of Public Act 306 of 1969, as amended, the Michigan Department of Health and Human Services (MDHHS) will hold a hearing on Certificate of Need (CON) Review Standards.

Date: Thursday, November 3, 2022

Time: 9:30 a.m.

Topic: Public Hearing for Psychiatric Beds and Services, Positron Emission Tomography (PET) Scanner Services, and Neonatal Intensive Care Services/Beds (NICU) and Special Newborn Nursing Services

Location: South Grand Building
333 S. Grand Avenue, 1st Floor
Conference Room 1A
Lansing, MI 48933

Virtual: **Members of the public may attend virtually**
Feel free to join from your PC, Mac, Linux, iOS or Android:
https://us06web.zoom.us/j/83838931679

Or by Telephone:
USA (216) 706-7005
USA (866) 434-5269 (US Toll Free)
Conference code: 1567580

■ ■ ■

CERTIFICATE OF NEED (CON) REVIEW STANDARDS FOR PSYCHIATRIC BEDS AND SERVICES

The proposed language changes include the following:

1. Section 2(1): Modified/added definitions as follows:

   (g) "COMMON OWNERSHIP AND CONTROL," AS DEFINED BY THE DEPARTMENT, MEANS ANY LICENSED PSYCHIATRIC HOSPITAL OR UNIT DETERMINED TO BE OWNED BY THE SAME LEGAL ENTITY AS EVIDENCED BY THE SAME CORPORATE IDENTIFICATION NUMBER (CID) ISSUED BY THE MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS, CORPORATE DIVISION, AND/OR THE SAME FEDERAL EMPLOYER IDENTIFICATION NUMBER (EIN). THE PARENT CORPORATION IN A PARENT-SUBSIDIARY RELATIONSHIP DOES NOT OWN OR CONTROL THE LICENSED PSYCHIATRIC HOSPITALS OR UNITS OF THE SUBSIDIARY IF THEY HAVE SEPARATE CID AND/OR EIN FROM THE SUBSIDIARY.

2. New Section 5(6): Added exception for hospitals in areas currently meeting or exceeding bed need that can demonstrate an unmet need through inability to place child/adolescent patients requiring inpatient psychiatric treatment:

(6) AN APPLICANT SHALL NOT BE REQUIRED TO BE IN COMPLIANCE WITH SUBSECTION (1) IF THE APPLICANT DEMONSTRATES IN ITS CON APPLICATION COMPLIANCE WITH ALL OF THE FOLLOWING:

(a) THE NUMBER OF EXISTING CHILD/ADOLESCENT PSYCHIATRIC BEDS IN THE PLANNING AREA IS EQUAL TO OR EXCEEDS THE BED NEED;

(b) THE APPLICANT IS AN EXISTING HOSPITAL LICENSED UNDER PART 215 OF THE CODE PROPOSING TO INITIATE CHILD/ADOLESCENT INPATIENT PSYCHIATRIC SERVICES WITH 10 CHILD/ADOLESCENT BEDS;

(c) THERE IS AN UNMET NEED FOR CHILD/ADOLESCENT PSYCHIATRIC BEDS AS DEMONSTRATED BY SUBMISSION OF DOCUMENTATION BY THE APPLICANT SATISFACTORY TO THE DEPARTMENT SHOWING ALL OF THE FOLLOWING:

(i) WITHIN THE PREVIOUS 12 MONTHS, A SUFFICIENT NUMBER OF CHILD/ADOLESCENT PATIENTS, AS DEFINED IN APPENDIX A, WERE EVALUATED IN THE EMERGENCY DEPARTMENT OF THE APPLICANT HOSPITAL AND/OR ANY OTHER HOSPITAL LOCATED WITHIN 30 RADIAL MILES OF THE PROPOSED SITE OF THE CHILD/ADOLESCENT PSYCHIATRIC BEDS IF THE PROPOSED SITE IS LOCATED IN A METROPOLITAN STATISTICAL AREA COUNTY, OR WITHIN 90 RADIAL MILES IF THE PROPOSED SITE IS LOCATED IN A RURAL OR MICROPOLITAN STATISTICAL AREA COUNTY; AND

(ii) EACH CHILD/ADOLESCENT PATIENT UNDER SUBSECTION 6(c)(i) REQUIRED AN INPATIENT PSYCHIATRIC HOSPITAL ADMISSION BUT WAS NOT ADMITTED TO AN INPATIENT PSYCHIATRIC BED LOCATED WITHIN 30 MINUTES DRIVE TIME OF THE PROPOSED SITE WITHIN 36 HOURS AFTER COMING TO THE EMERGENCY ROOM OF THE HOSPITAL(S) UNDER SUBSECTION 6(c)(i); AND

(iii) FOR THOSE PATIENTS NOT ADMITTED TO AN INPATIENT PSYCHIATRIC BED, THE APPLICANT MUST DEMONSTRATE THEY ATTEMPTED PLACEMENT AT A MINIMUM OF 6 FACILITIES OVER AT LEAST A 36-HOUR PERIOD TO SECURE ADMISSION OF THE PATIENT TO A CHILD/ADOLESCENT PSYCHIATRIC BED OR THE CHILD/ADOLESCENT PATIENT LEFT THE HOSPITAL AGAINST MEDICAL ADVICE BEFORE EXPIRATION OF THE 36-HOUR PERIOD. (d) ALL HOSPITALS WHOSE CHILD/ADOLESCENT EMERGENCY DEPARTMENT DATA ARE USED UNDER SUBSECTION 6(c) HAVE COMPLETED THE REQUIRED DEPARTMENTAL FORM(S), INCLUDING SIGNATURE BY AN AUTHORIZED REPRESENTATIVE, VERIFYING ALL OF THE FOLLOWING:

(i) THE LICENSED HOSPITAL SITE IS ADMITTING PATIENTS REGULARLY AS OF THE DATE THE APPLICATION IS SUBMITTED TO THE DEPARTMENT; AND

(ii) THE LICENSED HOSPITAL SITE IS LOCATED WITHIN 30 RADIAL MILES OF THE PROPOSED CHILD/ADOLESCENT INPATIENT PSYCHIATRIC UNIT IF THE PROPOSED SITE IS LOCATED IN A METROPOLITAN STATISTICAL AREA COUNTY, OR WITHIN 90 RADIAL MILES IF THE PROPOSED SITE IS LOCATED IN A RURAL OR MICROPOLITAN STATISTICAL AREA COUNTY; AND

(iii) THE LICENSED HOSPITAL SITE HAS NOT COMMITTED DATA TO AN APPLICATION FOR BEDS UNDER THIS SUBSECTION WITHIN 5 YEARS OF THE FILING DATE OF THE CON APPLICATION UNLESS THE CHILD/ADOLESCENT PSYCHIATRIC SERVICE APPROVED UNDER THAT APPLICATION IS NO LONGER IN SERVICE; AND

(e) THE APPLICANT HOSPITAL DOES NOT HAVE LICENSED CHILD/ADOLESCENT BEDS APPROVED UNDER THIS SUBSECTION.

3. New Section 7(4) and Section 7(5): Restricts ability to relocate beds approved under Section 5(6) until they have been licensed and operationalized for at least 5 years:

   (4) THE INPATIENT PSYCHIATRIC HOSPITAL OR UNIT FROM WHICH THE BEDS ARE BEING RELOCATED, SHALL NOT HAVE ANY PSYCHIATRIC BEDS OF THE SAME TYPE THAT WERE APPROVED UNDER SECTION 8(3) AND ARE NOT YET LICENSED AND OPERATIONAL.

   (5) IF THE BEDS BEING RELOCATED WERE APPROVED UNDER SECTION 5(6), THEN THE BEDS MUST HAVE BEEN LICENSED AND OPERATIONAL FOR AT LEAST 5 YEARS AS OF THE DATE THE APPLICATION IS SUBMITTED TO THE DEPARTMENT, AND THE BEDS MUST BE RELOCATED TO A HOSPITAL LICENSED UNDER PART 215.

4. Section 8(3): Added restriction to relocation of beds approved under Section 8(3) until the high occupancy beds have been licensed and operationalized:

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

   (a) The number of existing adult or child/adolescent psychiatric beds in the planning area is equal to or exceeds the bed need.

   (b) The beds are being added at the existing licensed site.

   (c) The average occupancy rate for the applicant's facility was at least 75% for facilities with 19 beds or less and 80% for facilities with 20 beds or more, as applicable, during the most recent, consecutive 12-month period, as of the date of the submission of the application, for which verifiable data are available to the Department.

   (i) For a facility with flex beds,

   (A) calculate the average occupancy rate as follows:

   (1) For adult beds:

   (a) Adult bed days are the number of licensed adult beds multiplied by the number of days they were licensed during the most recent consecutive 12-month period.

   (b) Flex bed days are the number of licensed flex beds multiplied by the number of days the beds were used to serve a child/ adolescent patient.

   (c) Subtract the flex bed days from the adult bed days and divide the adult patient days of care by this number, then multiply the result by 100.

   (d) THE HIGH OCCUPANCY BEDS APPROVED PURSUANT TO SUBSECTION

(3) MUST BE LICENSED AND OPERATIONAL AT THE SAME LICENSED SITE AS THE PROPOSED PROJECT. THE APPLICANT SHALL NOT RELOCATE ANY EXISTING PSYCHIATRIC BEDS OF THE SAME TYPE FROM THIS LICENSED INPATIENT PSYCHIATRIC HOSPITAL OR UNIT, PRIOR TO THE HIGH OCCUPANCY BEDS BEING LICENSED AND OPERATIONAL.

5. Section 8(11): Modified requirements to initiate a new child/adolescent psychiatric service for the receiving licensed inpatient psychiatric hospital or unit for consistency with regard to updated Section 2(1) and the added definition of "common ownership and control":

   (11) An applicant proposing to initiate a new child/adolescent psychiatric service, as the receiving licensed inpatient psychiatric hospital or unit under Section 7(678), shall demonstrate that it meets all of the requirements of this subsection and shall not be required to be in compliance with the bed need if the application meets all other applicable CON review standards and agrees and assures to comply with all applicable project delivery requirements.

   (a) The approval of the proposed new inpatient psychiatric beds shall not result in an increase in the number of licensed inpatient psychiatric beds in the planning area.

   (b) The applicant meets the requirements of subsections (4), (5), and (6) above.

   (c) The applicant is requesting a minimum of 10 child/adolescent psychiatric beds to a maximum of 20 beds.

   (d) The applicant:

   (i) ~~is related through common ownership, in whole or in part, or through common control,~~HAS AN AGREEMENT with an acute-care hospital that has an emergency department that provides 24-hour emergency care services and where child/adolescent patients with a psychiatric and/or developmental disability diagnosis present at an average of at least 100 visits per year for each of the three most recent years in which there is data verifiable by the Department; and

6. Section 11(3): Added subsection to award 3 points for certain number of bariatric rooms based on size of proposed project:

   (l) A QUALIFYING PROJECT WILL BE AWARDED THREE (3) POINTS IF THE PROPOSED PROJECT INCLUDES BARIATRIC ROOMS AS FOLLOWS: A PROJECT PROPOSING 0-49 BEDS WILL ~~RESULT~~INCLUDE ~~IN~~ AT LEAST ONE (1) BARIATRIC ROOM OR A PROJECT PROPOSING 50 OR MORE BEDS WILL ~~RESULT~~INCLUDE ~~IN~~ AT LEAST TWO (2) BARIATRIC ROOMS. "BARIATRIC ROOM" MEANS THE CREATION OF PATIENT ROOM(S) INCLUDED AS PART OF THE CON PROJECT, AND IDENTIFIED ON THE FLOOR PLANS, THAT ARE DESIGNED TO ACCOMMODATE THE NEEDS OF BARIATRIC PATIENTS WEIGHING OVER 350 POUNDS. THE BARIATRIC PATIENT ROOMS SHALL HAVE A LARGER ENTRANCE WIDTH FOR THE ROOM AND BATHROOM TO ACCOMMODATE OVER-SIZED EQUIPMENT, AND SHALL INCLUDE A MINIMUM OF A BARIATRIC BED, BARIATRIC TOILET, BARIATRIC WHEELCHAIR, AND A DEVICE TO ASSIST PATIENT MOVEMENT (SUCH AS A PORTABLE OR BUILT IN LIFT). IF AN IN-ROOM SHOWER IS NOT INCLUDED IN THE BARIATRIC PATIENT ROOM, THE MAIN/CENTRAL SHOWER ROOM THAT IS LOCATED ON THE SAME FLOOR AS THE BARIATRIC PATIENT ROOM(S) SHALL INCLUDE AT LEAST ONE (1)

SHOWER STALL THAT HAS AN OPENING WIDTH AND DEPTH THAT IS LARGER THAN MINIMUM MI CODE REQUIREMENTS.

7. New Appendix A: Required number of patients to document for those applying under Section 5(6) and criteria for updating the required number of patients to be documented every 2 years:

   APPENDIX A

   (1) UNTIL CHANGED BY THE DEPARTMENT, THE NUMBER OF PATIENTS REQUIRED TO BE DOCUMENTED UNDER SECTION 5(6)(c) SHALL BE 170.

   (2) THE DEPARTMENT SHALL AMEND APPENDIX A EVERY TWO YEARS BY REVISING THE NUMBER OF PATIENTS IN SUBSECTION (1) IN ACCORDANCE WITH THE FOLLOWING STEPS:
   (a) STEPS FOR DETERMINING THE NUMBER OF PATIENTS REQUIRED TO BE DOCUMENTED UNDER SECTION 5(6)(c):
   (i) MULTIPLY 10 BEDS BY MINIMUM OCCUPANCY FOR CHILD/ADOLESCENT BEDS TO DETERMINE THE AVERAGE DAILY CENSUS.
   (ii) MULTIPLY THE AVERAGE DAILY CENSUS CALCULATED IN (2)(a)(i) BY 365 TO CALCULATE THE PATIENT DAYS.
   (iii) CALCULATE THE AVERAGE LENGTH OF STAY FOR THE PREVIOUS THREE (3) YEARS USING THE THREE (3) MOST RECENTLY AVAILABLE CON ANNUAL SURVEYS BY DIVIDING THE TOTAL PATIENT DAYS FOR THE THREE (3) YEARS BY TOTAL DISCHARGES FOR THE SAME THREE (3) YEARS.
   (iv) DIVIDE THE PATIENT DAYS CALCULATED IN (2)(a)(ii) BY THE AVERAGE LENGTH OF STAY CALCULATED IN (2)(a)(iii) TO DETERMINE THE NUMBER OF PATIENTS REQUIRED TO BE COMMITTED UNDER SECTION 5(6)(c)(i).

8. Other technical edits.

■ ■ ■

CERTIFICATE OF NEED (CON) REVIEW STANDARDS FOR PSYCHIATRIC BEDS AND SERVICES ADDENDUM FOR SPECIAL POPULATION GROUPS

The proposed language changes include the following:

8. Updated definition for “Medical psychiatric unit” in Addendum for Special Population Groups, Section 1(4):

   (d) “Medical psychiatric unit” means a unit PRIMARILY designed for psychiatric patients (adult or child/adolescent as applicable) who have A MEDICAL CONDITION REQUIRING TREATMENTS SUCH AS ~~also been diagnosed with a medical illness requiring hospitalization, e.g.,~~ patients who may be on dialysis, require wound care or need intravenous or tube feeding. IF THE UNIT IS LOCATED IN A FREESTANDING PSYCHIATRIC HOSPITAL LICENSED ONLY UNDER 1974 PA 258, CHAPTER 1, THE

PATIENT MUST NOT REQUIRE ACUTE CARE HOSPITALIZATION. IF THE UNIT IS LOCATED WITHIN A HOSPITAL THAT IS ALSO LICENSED UNDER 1978 PA 368, ARTICLE 17, THE PATIENT MAY REQUIRE ACUTE CARE HOSPITALIZATION.

■ ■ ■

CERTIFICATE OF NEED (CON) REVIEW STANDARDS FOR POSITRON EMISSION TOMOGRAPHY (PET) SCANNER SERVICES

The proposed language changes include the following:

1. Section 13(1): Modified methodology for computing the projected PET data units.

   (a)Combine the number of cancer cases for lung (site codes C340-C349), esophagus (site codes C150-C159), colorectal (site codes C180-C209), lymphoma (morphology codes 9590-9729), melanoma (morphology codes 8720-8790), PROSTATE (SITE CODE C619), NEUROENDOCRINE TUMORS (SMALL INTESTINE: SITE CODES C170-C179; PANCREAS: SITE CODES C250-C259; AND INTESTINAL TRACT, NOS: SITE CODE C260; WHICH HAVE ANY OF THE FOLLOWING MORPHOLOGY CODES: 8240/3, 8574/3, 8249/3, 8246/3, 8013/3, 8041/3, 8151/3, 8152/3, AND 8150/3), and head & neck [site codes C000-C148, C300-C329, C410, C411, C470 or C490 excluding C440-C444 (skin of head and neck), and additional codes approved by national coverage determination]. Use the name “combined” for this grouping.

2. Other technical edits.

■ ■ ■

CERTIFICATE OF NEED (CON) REVIEW STANDARDS FOR NEONATAL INTENSIVE CARE SERVICES/BEDS (NICU) AND SPECIAL NEWBORN NURSING SERVICES

The proposed language changes include the following:

1. Section 9(1): Clarified meaning of “continuously available and on-site”:

   (b) The hospital has the following capabilities and personnel continuously available and on-site, 24 HOURS PER DAY/7 DAYS PER WEEK:

2. Other technical edits.

■ ■ ■

Oral comments may be presented during the hearing on Thursday, November 3, 2022, or submitted in writing by sending an email to the following email address: MDHHS-ConWebTeam@michigan.gov

Please submit written comments no later than 5:00 p.m., Thursday, November 10, 2022.

If you have any questions or concerns, please contact Kenny Wirth at wirthk4@michigan.gov.