

(c) Once an application has been submitted to the Department, no subsequent submission of information shall be accepted, unless specifically requested in writing by the Department, the State Health Planning Board or the local advisory board(s). Any questions and subsequent responses shall be forwarded by the State Health Planning Board or the local advisory board(s) to the Department on a timely basis.

(d) An applicant or principal(s) shall submit a single application for beds or services subject to batching requirements and shall not submit more than one application for a given site in a given batch. Violations of this rule will result in a determination that all applications submitted by the applicant and/or principal in the given batch will be deemed not accepted for processing.

Case Notes

Denial of application for certificate of need to operate medical center hospice was not unreasonable when based on lack of area need. Matter of Community Medical Center/HHP, 95 N.J.A.R.2d (HLT) 27.

8:33-4.6 Modification of applications

(a) Under no circumstances shall an application be modified or altered to change the number or category of inpatient beds, proposed services, equipment subject to a planning regulation, or change in site after the application submission deadline date. An applicant desiring to make such a modification or alteration shall be required to withdraw the application from the current cycle and submit a new application for the next cycle.

(b) Modifications not specified in (a) above, such as changes in square footage and change in cost, shall be permitted if such changes are in response to completeness questions from the Department and made prior to submission of the application to the review process.

8:33-4.7 Deferral of applications

(a) An applicant may request in writing a deferral for up to a total of six months or, for batched applications, deferral into the next applicable batch for that service. If the applicant fails to notify the Department in writing to reactivate the application within this time frame, a new application shall be required.

(b) The local advisory board, the State Health Planning Board, or the Department may defer an individual certificate of need application where the application is not competitive or comparatively reviewed with other applications. Where projects are competitive or comparatively reviewed, the local advisory board, the State Health Planning Board, or the Department may defer the entire batch. In the case of an application or batch of applications proposed for more than one local advisory board planning region, one local advisory board may not defer without concurrence of all other local advisory boards reviewing the application or batch of applications. In the instance of projects which are

the subject of a capital cap, only the Commissioner may defer any or all applications in the batch. The State Health Planning Board may recommend deferral of the entire capital batch to the Commissioner. The basis for any deferral shall be specified in writing to the applicant. The period of deferral of an individual certificate of need application or a batch of certificate of need applications may not exceed six months.

(c) An applicant may revise the deferred project costs to account for inflation and may be requested by the Department to submit additional updated information prior to reactivation of the application.

1. Reactivated applications with no changes or with only a change in cost may continue in the review process from the point of deferral unless the applicant is required to submit new information in response to a change in the applicable requirements.

2. Reactivated applications with any change in project scope shall be treated as a new application and shall follow the review process beginning with submission of the application to the Department, except that if the application is modified in a non-substantive way, that is, if the modification were proposed separately, it would either not require certificate of need review or would require only an expedited review, the application may continue from the point of deferral.

(d) When a deferral is requested by the local advisory board, it shall confirm that request in writing to the Department and such requests will be reflected in the official record of the application(s).

(e) The Department shall not accept any requests for a deferral from the applicant once the State Health Planning Board or any standing committee of the State Health Planning Board authorized to make recommendations to the Board on the disposition of certificate of need applications has made its recommendation.

8:33-4.8 Withdrawal of applications

An applicant may submit a written request for withdrawal of its application prior to final action by the Commissioner. The certificate of need filing fee shall not be returned in the event of a withdrawn application. Once an action has been taken by the Commissioner, the application shall not be withdrawn.

8:33-4.9 General criteria for review

(a) No certificate of need shall be issued unless the action proposed in the application for such certificate is necessary to provide required health care in the area to be served, can be economically accomplished and maintained, shall not have an adverse economic or financial impact on the delivery of health care services in the region or Statewide, and shall contribute to the orderly development of adequate and

effective health care services. In making such determinations there shall be taken into consideration:

1. The availability of facilities or services which may serve as alternatives or substitutes;
2. The need for special equipment and services in the area;
3. The possible economies and improvement in services to be anticipated from the operation of joint central services;
4. The adequacy of financial resources and sources of present and future revenues;
5. The availability of sufficient manpower in the several professional disciplines; and
6. Other applicable requirements which are specified in any health planning rule adopted by the Department.

(b) It shall be the responsibility of the applicant to adequately and appropriately demonstrate that the proposed project meets the standards set forth in (b) above. It is not incumbent upon the reviewing agencies to demonstrate lack of need.

(c) No certificate of need shall be granted to any facility that, during the course of the application process, fails to provide or fails to contractually commit to provide services to medically underserved populations residing or working in its service area as adjusted for indications of need. In addition, no certificate of need shall be granted to any facility that fails to comply with State and Federal laws regarding its obligation not to discriminate against low income persons, minorities, and disabled individuals.

Amended by R.1993 d.442, effective September 7, 1993.
See: 25 N.J.R. 2171(a), 25 N.J.R. 4129(a).
Amended by R.1996 d.101, effective February 20, 1996.
See: 27 N.J.R. 4179(a), 28 N.J.R. 1228(a).

Case Notes

Reliance on ranking of local advisory board to approve application for certificate of need with highest priority was not unreasonable. Application of Staff Builders Services, 95 N.J.A.R.2d (HLT) 30.

Denial of application for certificate of need to operate medical center hospice was not unreasonable when based on lack of area need. Matter of Community Medical Center/HHP, 95 N.J.A.R.2d (HLT) 27.

Denial of hospital's application to provide home health agency services was unreasonable when alleged shortcomings were also present in other approved applications. Burdette Tomlin v. State Health Planning Board, 95 N.J.A.R.2d (HLT) 13.

8:33-4.10 Specific criteria for review

(a) Each applicant for a certificate of need shall show how the proposed project shall promote access to low income persons, racial and ethnic minorities, women, disabled persons, the elderly, and persons with HIV infections and other persons who are unable to obtain care. In determining the extent to which the proposed service promotes access and availability to the aforementioned populations, the applicant, where appropriate, shall address in writing the following:

1. The contribution of the proposed service in meeting the health related needs of members of medically underserved groups as may be identified in the applicable local health plan and State health planning regulations as deserving of priority;

2. The extent to which medically undeserved populations currently use the applicant's service or similar services in comparison to the percentage of the population in the applicant's service area which is medically undeserved, and the extent to which medically undeserved populations are expected to use the proposed services if approved;

3. The performance of the applicant in meeting its obligation, if any, under any applicable State and Federal regulations requiring provision of uncompensated care, community services, or access by minorities and handicapped persons to programs receiving Federal financial assistance (including the existence of any civil rights access complaints against the applicant);

4. How and to what extent the applicant will provide services to the medically indigent, Medicare recipients, Medicaid recipients and members of medically underserved groups;

5. The extent to which the applicant offers a range of means by which a person will have access and availability to its service (for example, outpatient services, admission by house staff, admission by personal physician);

6. The amount of charity care, both free and below cost service, that will be provided by the applicant. In determining eligibility for this care, the applicant shall use the eligibility categories A and B of the Hill-Burton Act regulations 42 C.F.R. 124.501 et seq.;

7. Access to public or private transportation to the proposed project;

8. As applicable, effective communication between the staff of the proposed project and non-English speaking people and those with speech, hearing, or visual handicaps must be documented; and

9. Where applicable, the extent to which the project will eliminate architectural barriers to care for handicapped individuals.

(b) Each applicant for certificate of need shall demonstrate that the proposed project can be economically accomplished and maintained; that it shall address otherwise unmet needs in a particular municipality, county, and/or regional health planning area; that it shall not have an adverse economic or financial impact on the delivery of health care services; and that projected volume is reasonable. Evaluation of the applications shall include a review of: