



**Commonwealth of Massachusetts
Department of Public Health**

***Proposed Revisions to Determination of Need
Regulation 105 CMR 100.000***

**Nora J. Mann, Esq.
Director, Determination of Need Program**

September 12, 2018



Transfers of Ownership

SUMMARY OF CURRENT STANDARD

Current Regulation provides that Transfers of Ownership are exempt from factors 2, 5, and 6

SUMMARY OF PROPOSED CHANGE

Amendment would subject transfers of ownership to factor 2.



Consolidated Projects

SUMMARY OF CURRENT STANDARD

Current regulation defines and prohibits "disaggregation" as the method to require that projects be consolidated into one Application and to prevent Applicants from dividing up projects.

SUMMARY OF PROPOSED CHANGE

All capital expenditures that would require plan review or DoN and that are reasonably foreseeable within a 12-month period of time (Federal Fiscal Year) must be added together within each Facility. If those expenditures, when added together, exceed the relevant threshold, they must be filed together, along with any DoN for ASC or for DoN Required Equipment and Services in a single Consolidated application.



Consolidated Projects

SUMMARY OF CURRENT STANDARD

Current regulation defines and prohibits "disaggregation" as the method to require that projects be consolidated into one Application and to prevent Applicants from dividing up projects.

SUMMARY OF PROPOSED CHANGE

Facility includes satellites.
The amended regulation clarifies the different capital expenditure triggers for each of out- and in-patient expenditures.



Consolidated Projects

SUMMARY OF CURRENT STANDARD

Current regulation defines and prohibits "disaggregation" as the method to require that projects be consolidated into one Application and to prevent Applicants from dividing up projects

SUMMARY OF PROPOSED CHANGE

Addresses implementation of Consolidation from the effective date moving forward.

5



Standard Condition

SUMMARY OF CURRENT STANDARD

Currently the regulation contains 17 Standard Conditions with which the Holder must comply.

SUMMARY OF PROPOSED CHANGE

Adds a Standard Condition which requires Holders to comply with other requirements relative to the Commonwealth's Cost Growth Benchmark.

6



Amendments to Approved Projects

SUMMARY OF CURRENT STANDARD

The Regulation currently requires a review of all immaterial, minor, and significant changes proposed by a Holder.

SUMMARY OF PROPOSED CHANGE

Removes Immaterial and Minor Changes from DPH review and approval.
Significant Changes would still require DPH review and Commissioner or PHC approval.

7



Organizational Changes

SUMMARY OF CURRENT STANDARD

The applicability of certain DoN factors, Standard, and Other Conditions is included in sections specific to the type of DoN application.

For example, 100.735, *Transfers of Ownership*, includes subsections listing a subset of Factors applicable to this application type, and a subset of the Standard Conditions applicable to this application type

SUMMARY OF PROPOSED CHANGE

The updated regulation references the DoN factors and the type of Applications to which they are applicable as well as the Standard (or Other) Conditions and their applicability to different types of DoN application types within the relevant sections so that the information is in a single place.

8



Definition of Filing/Submission Date

SUMMARY OF CURRENT STANDARD

The Filing Date is the date an application is sent into DPH and the Submission Date defined as is the date an application is deemed substantially complete.

SUMMARY OF PROPOSED CHANGE

Filing Date will be defined as the date a substantially complete Application is deemed to be on file with the Department

Submission Date will be the date an application is submitted to the DPH.

9



Definition of Patient Panel

SUMMARY OF CURRENT STANDARD

An Applicant's or Holder's Patient Panel is made up of those patients seen over the course of the last 36 months.

SUMMARY OF PROPOSED CHANGE

Patient Panel definition clarified by adding that:

- health system Applicants must use the aggregate patient panel from each of its affiliated health care facilities, and
- applications for new facilities with no existing patient panel must use the anticipated patient panel; and
- for transfers of ownership, the patient panel includes both the Applicant and facility/entity being acquired.

10



Ambulatory Surgery Capacity

SUMMARY OF CURRENT STANDARD

The regulation required that any Ambulatory Surgery Center had to be an ACO.

SUMMARY OF PROPOSED CHANGE

The amended regulation clarifies the nature of the relationship – that the ASC needs to be affiliated with or participate in a Certified ACO.

11



Next Steps

- Following this initial presentation, a public hearing and comment period will be held.
- At a subsequent meeting of the Public Health Council, we will review of public comments and request approval of the proposed amendments.

12



Questions?
